

## Why Do Dispositions Matter? A Response to [Efthymiou \(2024\)](#)

By Eleonora Milazzo

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Dimitrios Efthymiou's (2024) article warns us against taking the fulfilment of admission quotas at face value. Political and policy attention in the EU often focuses on ensuring that Member States do their share, yet numbers alone do not tell the whole story about the nature of states' commitment to refugee protection.

As Efthymiou argues, Member States may meet their assigned admission quotas, defined on the basis of their capacity, while not being genuinely committed to providing protection to all who have a right to it. The result is an ephemeral protection regime that is not grounded in the recognition of displaced people's moral claims and may therefore fail applicants depending on their origin or on political expediency.

Efthymiou points out that a serious dilemma arises here. If the only way to secure participation in the protection system is to allow states to selectively choose which groups or categories to admit, should we accept opportunistic preferences for the sake of protecting more people, or insist on robust, non-discriminatory protection at the risk of reducing admission numbers (ibid, 10)?

The scenario Efthymiou describes is vividly present today, as EU Member States' willingness to take on relocation quotas sits at the heart of the EU's Pact on Migration and Asylum. Poland has made it clear that it will not accept additional asylum seekers under the Pact, arguing that its capacity is already overstretched by hosting nearly two million Ukrainian refugees. Prime Minister Donald Tusk stressed that Poland "cannot take on an additional burden" and is already doing more than expected, positing this as the central reason for rejecting new relocation quotas and related obligations ([Belga News Agency 2025](#)).

Poland's stance since the activation of the Temporary Protection Directive and its prompt response to displacement from Ukraine have been acknowledged as pioneering. Yet, they contrast with Poland's reluctance to accept refugees from other countries, a pattern discussed at length in policy and academic debates, including considerations of cultural affinity, geographical proximity, and strategic interest.

More broadly, these debates have highlighted disparities in refugee protection in the EU. Activating the Temporary Protection Directive for Ukrainians, and not, for example, for Syrians, has arguably produced a *de facto* two-tier protection system. Efthymiou's article acknowledges the normative problems underlying this debate and makes at least two substantial contributions.

First, he makes a compelling case that "a (state's) disposition to selectively protect only certain refugees undermines the very concept of refuge" (Efthymiou 2024, 7). Crucially, this remains the case even if a state meets its quota and the overall number protected is high. To navigate this issue, he proposes a "robust" account of refugee protection (ibid, 2). Protection is robust if it is backed by the right disposition, i.e. a genuine commitment to extend protection irrespective of origin, causes of displacement, or political convenience (ibid, 7). Importantly, a genuine disposition to refugee admission and rights is necessary for robust protection because it signals the predictability and stable nature of states' commitment to protect.

Second, rather than rejecting less-than-ideal solutions, Efthymiou offers a realistic yet normatively grounded account of what is acceptable in the "here and now" and what near-ideal scenario we might aim for when conditions allow (Ackerly et al. 2021). While he suggests that, in the long-term, policy should aim to preserve robustness and not try to increase protection numbers at the expenses of the quality of protection, he also conclusively argues for a nuanced, context-sensitive response to non-compliance and to the numbers-versus-robustness dilemma. Compromise and balancing competing priorities might be necessary and even preferable in some circumstances but do not erase or undermine the commitment to robust refugee protection (Efthymiou 2024, 12-13; 17). His analysis offers a concrete way to theorise and navigate dilemmas in moments when migration is highly salient, where strategic engagement or principled restraint can yield better long-term results when windows of opportunity open (Ruhs et al. 2019).

While I fully sympathise with Efthymiou's arguments and approach, in this commentary I ask whether a genuine disposition towards refugee protection is necessary and consider whether we could treat dispositions as facilitating compliance and increasing feasibility instead. First, I explain why it would be helpful to hear more about the role of dispositions in upholding the duty to protect, pointing to both descriptive and normative reasons. Second, I suggest that the solution to navigate the dilemma seems to point more to rules and safeguards, leaving dispositions as morally desirable, but not necessary for the achievement of robust and fair refugee regime.

## What is the role of disposition in upholding the state's duty to protect?

Efthymiou proposes that a state must meet two basic conditions to provide genuine refugee protection, which he calls robust protection. First, this protection must be “equally available to all types of refugees in nearby worlds and, in that sense, to all those in need of refuge” (Efthymiou 2024, 5). Admission cannot be conditional on individual characteristics. Second, protection requires a genuine disposition towards prospective refugees. The relevant disposition concerns the reasons for protection: these cannot be reducible to geopolitical interests, inducements, or threats. They must track the core purpose of refuge, or else protection will falter or unjustly discriminate across refugee groups. The right disposition therefore appears as a necessary condition for robust protection.

Central to Efthymiou's argument is the conception of refugee protection as a rich good. A rich good is 1) one that we enjoy at the hands of others and that is central to living a good life; 2) one that requires the provision of a corresponding 'thin' good, i.e. a minimally specified, generalisable good; and 3) one that must be provided for the right reasons and with the right disposition (ibid, 5).

The guiding parallel Efthymiou uses to characterise refugee protection as a rich good is love. Love is central to living a good life; it comes with the thin good of care; and it is defined by the right disposition. The mere act of care does not amount to love if it lacks the requisite disposition. While we can exit contractual relations of care if they cease to serve our interests, when we love someone, we care for them even when circumstances change because our act of care is sustained by a disposition of love.

On Efthymiou's view, so too with states and refugee protection. For protection to be robust, performing the act of protection or meeting assigned quotas is not sufficient. States must also act upon the right reasons, i.e. with a disposition that renders protection unconditional with respect to circumstances or the identity of the person fleeing (ibid). For Efthymiou, the disposition necessary for robust protection is akin to love in a relationship of care: it is love, and not a merely the act of care that makes care reliable, predictable, and lasting. An appropriate, genuine disposition to the moral claims to protection is therefore necessary for robust (and so reliable) protection.

Here it would be helpful to hear a bit more about the role and value of disposition in upholding the state's duty to protect refugees.

By his own admission Efthymiou defends a highly demanding conception of robustness. On this reading, any protection that is conditional on factors and interests different from the moral claims of asylum seekers can falter and, therefore, is not robust.

He concedes that “auxiliary mechanisms of compliance” might be needed (ibid, 8). He also considers the objection that robustness might instead be achieved by designing protection schemes that reward states for acting for moral reasons and thus leverage their rational self-interest (ibid, 14-15). His reply, however, is that even within a system that rewards compliance with protection duties, protection remains conditional on rewards and punishments and so can falter. States' compliance may still lack the right disposition and, therefore, the protection system does not “truly provide refuge but only offers conditional protection” (ibid, 15).

On a descriptive level, this account of robustness raises several questions. For example, how should we assess the dispositions of states that do admit refugees broadly? Such states are constrained by geography, bounded by legal rules, or to some extent respond to the incentives embedded in the international refugee protection regime. How do we assess whether their acts of protection are grounded in the right disposition when they are not openly discriminatory or selective (as in Poland's response to displacement from Ukraine)? Also, can we have anything like robust *qua* unconditional protection when such protection is provided and embedded within a system that rewards moral behaviour by states?

According to Efthymiou's demanding account of robustness, the answer is likely negative, but it would be helpful to know more about how we can distinguish and make sense of dispositions in a context where refugee protection is, by design, provided within a global and European protection system.

Clarifying these conceptual aspects might also help shed light on the normative implications of treating disposition as necessary for robust protection. Consider again the love analogy. Love as an emotion or disposition cannot be commanded; hence it cannot be the object of a duty. At the same time, however, we may have an enforceable duty to act benevolently or to provide care regardless of how we feel.

Refugee protection, like care and unlike love, is a duty, and states must uphold it in predictable and reliable ways irrespective of their dispositions.<sup>1</sup> As an alternative to Efthymiou's admittedly demanding account of robustness, we could think of disposition as facilitating conditions that favour compliance with the duty to protect and lower feasibility thresholds. But protection itself must be robustly provided regardless of dispositions.

The implication of this alternative interpretation of the role of dispositions is that enforcing the duty to protect through sanctions or rewards does not necessarily render protection conditional or instrumental; rather, it renders the duty enforceable even when the requisite dispositions are absent. Even if a right-reasoned protection is morally preferable, it may be difficult to think of a robust, reliable refugee regime as necessitating genuine dispositions rather than robust institutional guarantees.

In this sense, we could say, *contra* Efthymiou, that building a system that facilitates and ensures compliance regardless of dispositions is fundamentally different from saying that protection is merely conditional on incentives or wholly dependent on opportunistic reasons.

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<sup>1</sup> Here it is worth clarifying that I understand the dispositions Efthymiou talks about in relation to states to be akin to practical concerns or collective wishes, but not affective or moral attitudes, which would be problematic to attribute to states. See Beaton (2025).

## How do dispositions help us navigate the dilemma?

Efthymiou highlights a scenario in which a state fails to provide protection for the right reasons while still meeting its quotas. Dispreferred refugees are then protected only because that state offloads its responsibility to other states willing to accept offsets (ibid, 12). Even if every refugee finds protection through such offsets, he argues, the system is not robust because protection lacks the right reasons.

He highlights that this is a problem for robustness but also hints at how the system's unfairness might undermine protection even further. Allowing a state to 'pay off' responsibilities while choosing preferred categories of refugees creates "compounding and downstream effects": once selectivity is normalised, other states follow suit, picking which groups to admit for protection, narrowing the scope of admission, and making protection more limited, conditional, and uncertain.

This is a convincing discussion of the dilemma that shows how a lack of fairness undermines protection, but whether dispositions are necessary for the achievement of proper protection remains unclear.

Efthymiou refers to "preferences" which can be fixed or entrenched to various degrees (ibid, 11), determining how hard the dilemma we face is. Assuming that we can trace these preferences back to dispositions, Efthymiou here seems to take them as enabling or constraining factors.

When it comes to easing the tension between admission numbers and robustness, Efthymiou points to a system of incentives, sanctions, and rewards to discourage responsibility offloading based on discriminatory or opportunistic preferences (ibid, 12). He concludes that "(...) the overarching goal over time should be clear: ensuring robust protection and integration for the largest possible number of refugees by ensuring that all members are nearly fully compliant with their duties, and not creating via tradeable quotas for refugee protection and integration regions within the EU where such protection and integration comes at the cheap and disproportionately" (ibid, 13).

This leaves us with the question of whether this also means that dispositions, after all, have only reinforcing effect, but are not necessary for robustness. If the point is to ensure universal, predictable, and reliable protection, then the question of whether a state acts from the right disposition might seem secondary to whether institutions secure non-selective access and stable protection.

For that same reason, robust protection, understood as universal, stable, and predictable, should not be irreconcilable with a system of rewards and incentives that function regardless (or almost regardless) of states' dispositions and preferences.

States' dispositions may facilitate compliance, but easing the dilemma requires upholding the state's duty to protect and fair redistributive rules. Both empirically and normatively, robust protection may therefore depend less on cultivating specific dispositions and more on reliable safeguards against discriminatory preferences towards refugees or unfair practices among states.

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### **About the “Dilemmas” project**

This commentary contributes to the ‘Dilemmas’ project at the EUI’s Migration Policy Centre. Dilemmas analyses and debates fundamental ethical dilemmas in policy-making on migration and refugee protection.

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