*Refugee Repatriation: Ethics and Practice*

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At 7:12 pm on March 13th, 2012, a man began screaming on Kenya Airlines flight 101. Two British Border Control officers shoved him forcefully into his seat, handcuffing him. “Mugabe will kill me!” he cried out.

The woman sitting to my left looked concerned. “Don’t worry,” an officer told her, “they always stop screaming when the flight lifts off.” The man in handcuffs heard this, and said, “I will continue screaming until you get me off this flight.” The border officer shook his head. “Trust me,” he told the woman next to me, “they always stop screaming.”

The man threatened self-harm, but nobody responded. He instead threatened to scream the entire flight, but he was ignored. Finally, as a last resort, he threatened to defecate in his seat. Officials quickly unlocked his handcuffs, and escorted him off the flight.

Everyone relaxed.

Though this event had transfixed the passengers, a similar incident unfolded moments later and passed without notice. A second man, wearing no handcuffs, started making a low moaning noise. He was ignored by the border agents, who were some distance away, and was sitting between two unarmed civilians, one holding a clipboard, the other saying, “It will be fine.” He did not believe her, and continued to make the moaning noise, his voice increasing in volume, his eyes staring at the seatback pocket, and his body shaking in discomfort. He was eventually escorted by the civilians off the flight.

While the screaming man on my flight was being deported, given that he was subject to considerable force, the second man was likely repatriating, accompanied by staff members of an organization or the UN.[[1]](#footnote-1)

Around the world, refugees often repatriate with the help of an organization or the UN, with millions repatriating to Cote d’Ivoire, Iraq, Afghanistan, and dozens of other countries over the last four years. Some return because they cannot access residency status, work visas, or social services. Others return because, if they remain, they will be forced into enclosed refugee camps, or detention centers where they are told when to eat, drink, sit and stand. Some return because, though they can live outside camps or detention, they struggle to access sufficient nutrition or medical care. In returning home, they are not officially deported – nobody physically forces them onto a flight – but they do find their lives too difficult to stay, and so seek help from organizations who pay for transport, arrange travel documentation, and at times accompany them on the journey home.[[2]](#footnote-2)

Such organizations struggle to determine whether they ought to help refugees return home. They feel they face a dilemma: On the one hand, helping with return is ethical because otherwise refugees will remain in detention, camps, or poverty. On the other hand, helping with return may be wrong, precisely because refugees are returning involuntarily, given that those who remain will be forced into detention, camps, or a life of poverty. It may be wrong to help with involuntary repatriation, especially if the risks of return are substantial.

In an attempt to better understand this dilemma, I spent a year in East Africa, the Middle East, and South-east Asia, interviewing 162 refugees and migrants who had repatriated, or were about to repatriate, from Israel. I chose to focus on their cases partly because non-governmental organizations (NGOs) in Israel claimed to be especially ethical when helping with return, taking steps that differ from those of organizations in other countries. I wished to find out if they had truly succeeded in ensuring an ethical return. Initially, there were reasons to believe they had. Unlike organizations in other countries, NGOs in Israel spent a significant amount of time interviewing each refugee to ensure they were not coerced into returning. NGOs also had resources to travel regularly to countries of origin, finding out about the conditions refugees faced after returning, and relaying this information to refugees still in Israel. Importantly, they took no government funds, relying on private donors alone to avoid acting as an arm to the government’s immigration goals. Some were also active in lobbying for a more just refugee policy, and so refused to assist with returns that were the result of this unjust policy, such as helping refugees return from detention.

I quickly learned, while in South Sudan in 2012, that many refugees had returned to avoid detention. But even if this is true, the NGO's actions may have been ethical. It may have been better to help them return than force refugees to remain in detention. A dilemma remained despite the NGO’s best of intentions and resources. As such, the case illustrates the depth of the dilemma, and the need for a philosophical analysis.

This book provides this analysis, drawing upon original fieldwork to understand the context of dilemmas arising in repatriation, and solving these dilemmas using the tools of analytical philosophy. In doing so, the book provides the first rigorous set of ethical guidelines for organizations and governments helping with repatriation. In Section 1 below I describe more precisely what repatriation is and why it matters. In Sections 2 and 3 I provide a brief history of repatriation since WWII, and the repatriation occurring in Israel since 2010. I then describe seven primary dilemmas arising in repatriation, and the fieldwork I conducted to understand their dilemmas.

1. What is repatriation?

Repatriation refers to refugees moving to the countries from which they or their parents fled. Some refugees are returning to a place they call home, and which they have lived in recently. Others are returning to a place they do not call home, having fled as young children decades prior. Some are not returning at all, moving to a country they have never seen, their parents having fled before they were born. The book refers to all three types of repatriation, focusing particularly on those repatriating with the help of organizations using no coercion, merely providing free transport, at times providing stipends, travel documentation, and accompaniment on journeys.

Such repatriation is often enthusiastically embraced by governments hoping to avoid deportation, while still decreasing the number of refugees within their borders.[[3]](#footnote-3) Repatriation has a ring of legitimacy, especially if organized by separate humanitarian organizations, or a separate wing of the government uninvolved in deportations. Those who help with repatriation may not agree with the government's sentiment, but they argue that helping is better than doing nothing at all.

These agents have referred to their activities as “repatriation facilitation.”[[4]](#footnote-4) I adopt this term, referring to those helping with return as “repatriation facilitators.” They are non-armed actors, and distinguish themselves from the border officials handcuffing individuals on flights, or the doctors injecting psychiatric drugs into those who resist.[[5]](#footnote-5) I focus on those holding clipboards and pens rather than guns or needles.

Some of these facilitators are part of the government, such as one official in the Assisted Voluntary Return Unit in Israel's Ministry of Interior. He insisted on his neutral status. “I’m not involved in deportations at all,” he explained, “I want them to leave Israel happy.”[[6]](#footnote-6) In Spain, a government civil servant similarly emphasized that she was uninvolved in deportation, and merely helping refugees access a smooth form of repatriation.[[7]](#footnote-7) In addition to government officials, government-employed social workers may assist unaccompanied minors return to their countries of origin. Judges may have a role in determining if an adult can repatriate, if the adult has a mental illness and lacks the capacity to make decisions on their own behalf.[[8]](#footnote-8) Sometimes private companies provide repatriation, as in the United States where hospitals pay private firms to facilitate the return of patients without the legal right to remain.[[9]](#footnote-9)

There are also NGOs and intra-governmental organizations (IGOs) who help with repatriation, such as the International Organization of Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).[[10]](#footnote-10) These bodies, and many more, make repatriation either possible or easier, and have contributed to millions of refugees repatriating over the last decade alone.

These refugees repatriating raise questions overlooked in public dialogue on migration. One question is empirical: it is not clear what happens to refugees after they return home. Another question is philosophical: it is not clear what repatriation facilitators ought morally to do. While the government acts wrongly detaining refugees,[[11]](#footnote-11) perhaps repatriation facilitators do not. An assisted coerced return seems better than an unassisted deportation or a life in detention. Nor is it clear that helping with uncoerced return is always permissible. Even if a refugee is returning without any coercion, it might be wrong to help a person take a risk to their lives, however voluntary their choice may be. The criteria for when repatriation is wrong are different from the criteria for when deportation is wrong.

This book establishes such criteria. In doing so, I shall avoid committing myself to a particular theory of whom states should not deport. Instead, I aim to consider whether, in cases where nearly all agree that deportation is wrong, helping with repatriation is right.

Of course, there is much debate over when deportation is wrong and this may, by extension, impact when repatriation is wrong. I shall assume, for simplicity, that deportation is wrong when deportees' life will be at immediate risk in their home countries, whether from violence, extreme poverty, or a natural disaster. This claim is supported by a range of philosophers who, though disagreeing on who states can deport, agree that deporting migrants to all life-threatening conditions is wrong.[[12]](#footnote-12) States are similarly beginning to recognize that it is wrong to deport individuals to countries where they will likely die of hunger or general violence, even if they have not fled persecution.[[13]](#footnote-13) For simplicity, I will call all individuals “refugees” if their life will be threatened if they return, regardless of why. I further elaborate on this theory, and defend it against recent objections, in Appendix A.[[14]](#footnote-14)

Though I assume deportations to life-threatening conditions are wrong, this assumption is not central to the book. Those disagreeing with this assumption can still accept my general conclusions. For example, in Chapter 2 I conclude that assisting refugees repatriate from detention is wrong if this causes the government to increase its use of detention. If you think that only those fleeing persecution have a right to asylum, then this conclusion is only relevant for those fleeing persecution. If you think that only those fleeing violence have a right to asylum, then this conclusion is only relevant for those fleeing violence. My goal is not to consider who deserves asylum but whether, if someone deserves asylum, it is wrong to help them repatriate.

This question has been largely overlooked in today’s debates on immigration. Debates tend to focus on who states should admit, rarely than who states should help return.[[15]](#footnote-15) The few academics addressing return assume return must always be voluntary.[[16]](#footnote-16) It remains unclear whether voluntary returns are always ethical when the risks of return are substantial. And it remains unclear whether involuntary returns should be provided if voluntary return is not possible. To address these questions, we must ask not only what returns are just in the abstract, but what particular actors ought to do when governments are pressuring refugees to leave.

My focus on individual actors, though rare in discussions on immigration, is not entirely unheard of. There are debates over whether individual smugglers ought to transport refugees across borders. There are debates over whether individual citizens ought to resist unjust immigration laws, such as by hiring those without permits. There are debates over whether individual migrants ought to cross borders without authorization, and whether these migrants are permitted to use violence in the process.[[17]](#footnote-17) Outside of immigration ethics, there are debates over when individual organizations should help populations in need, and whether working with corrupt governments is justified to help these populations.[[18]](#footnote-18) There are debates over how individual civil servants ought to respond when faced with difficult dilemmas, and how much discretion such civil servants should have.[[19]](#footnote-19) All of these debates shift our gaze from the state in the abstract onto concrete actors, asking what these actors ought to do. I take the same approach in exploring when repatriation assistance is ethical.

2. A brief history of repatriation

This question has been especially relevant since WWII, when in 1943 the United Nations Relief and Rehabilitation Organization (UNRRO) assisted roughly seven million individuals return home as war raged on. It is not clear if UNRRO acted ethically, given that refugees’ return may have been unsafe. Following the end of WWII 20 million refugees refused to repatriate, afraid to live in the Soviet-controlled Eastern Bloc, and the UNRRO’s successor organization helped only 73,000 individuals return home between 1946 and 1952.[[20]](#footnote-20) When UNHCR was formally established soon after, rates of repatriation steadily rose, culminating in ten million individuals returning to the newly-created Bangladesh between 1971 and 1972. Throughout the late 1970s and 1980s UNHCR focused on repatriation within Africa, as African governments became increasingly unwilling to host refugee populations.[[21]](#footnote-21) In 1983, for example, UNHCR helped an estimated 35,000 Ethiopian refugees repatriate from Djibouti, where they could no longer access aid or work permits.[[22]](#footnote-22)

With the end of the Cold War UNHCR announced that the “decade of repatriation” had begun.[[23]](#footnote-23) Throughout the 1990s rates of repatriation increased, with over twelve million refugees repatriating between 1991 and 1997.[[24]](#footnote-24) One reason for the increase was refugees’ greater ability to return home, as when one million refugees were able to return to Ethiopia and Eritrea with a change in government in 1991.[[25]](#footnote-25) Many refugees, however, struggled to access basic necessities in their countries of asylum, giving then little choice but to return home.

UNHCR continued helping with repatriation into the 2000s, focusing particular attention on millions returning from Iran and Pakistan to Afghanistan.[[26]](#footnote-26) It helped far fewer refugees return from 2010 onwards, but will likely help more in the years to come. Not only are conditions for refugees deteriorating in Pakistan and Iran, compelling two million to return between 2015 and 2018, conditions are similarly deteriorating in other parts of the globe.[[27]](#footnote-27) Over one million Somali refugees were told by the Kenyan government they will be required to repatriate, leading UNHCR to help tens of thousands to repatriate to Somalia in the last year alone.[[28]](#footnote-28) UNHCR has more recently begun planning the repatriation of Syrian refugees, given that refugees are struggling to access asylum in wealthier countries, and are often forced to remain in enclosed camps in poorer countries.[[29]](#footnote-29)

UNHCR assists not only refugees return home, but Internally Displaced Persons (IDPs). It helped IDPs returning from regions within Afghanistan to Kabul in 2002, IDPs returning from regions within DR Congo to Ituri in 2007, and IDPs returning from regions within Sri Lanka to Ampara in 2009.[[30]](#footnote-30) Indeed, UNHCR helps far more IDPs return annually than refugees, as the majority of those fleeing disasters remain within their home states. For example, it helped 2.9 million IDPs return home in 2010 and 3.2 million in 2011, while helping only 197,000 refugees return in 2010 and 532,000 in 2011.[[31]](#footnote-31) When UNHCR helps IDPs repatriate, it faces similar ethical dilemmas to those arising with refugee repatriation, including the dilemma of whether to assist with return that is involuntary and unsafe.

In addition to UNHCR, the International Organization for Migration (IOM) helps with large-scale repatriations, assisting an estimated 1.3 million individuals repatriate since 1979. Its rates of assistance are steadily increasing, with 31,270 individuals returning home via IOM in 2011, 43,786 in 2014, and 98,403 in 2016.[[32]](#footnote-32) Of those it helps, at least some are returning to life-threatening conditions, as in 2002 when it assisted refugees repatriate from the island of Naru to Afghanistan, and in 2003 when it helped refugees repatriate from Belgium to Iraq.[[33]](#footnote-33) Importantly, IOM assists migrants repatriate to countries without sufficient nutrition or healthcare. Such migrants, I assume, are refugees with a moral right to remain in the host state, even if no legal right to remain. If this is true, then when IOM helps them repatriate they are engaging in morally problematic assistance.

Governments often provide their own repatriation, rather than relying on UNHCR and IOM. The Israeli government began providing repatriation from 2012 and UK government began providing repatriation from 2015. The German government’s repatriation is far older, dating back to the 1970s, and was especially active in the 1990s when it informed Bosnian refugees they were required to return home.[[34]](#footnote-34) It will likely become increasingly active in the future, as Germany has announced that all Syrian refugees will be required to eventually repatriate.[[35]](#footnote-35) If this repatriation is similar to that of Bosnian refugees, refugees will face a choice between deportation if they remain and a grant if they return.

In many cases, repatriation is not facilitated by a single organization or government agency. Instead, multiple organizations and agencies are involved in repatriation, each taking on a slightly different task. In Kenya wealthy donor states fund UNHCR, UNHCR interviews refugees to ensure their return is informed, and the Danish Refugee Council facilitates the return itself.[[36]](#footnote-36) In Spain the government funds repatriation, and the Young Men’s Christian Association (YMCA) has facilitated the return itself.[[37]](#footnote-37) The EU has a similar model, allocating approximately €1.7 billion to member states since 2008, and member states paying IOM to facilitate repatriation on their behalf. [[38]](#footnote-38)

Sometimes a state provides funding, a charity provides repatriation, and a given government agency publicizes the repatriation. This occurred in the UK, where the government paid the charity Refugee Action to facilitate return,[[39]](#footnote-39) and the Home Office used a controversial method publicizing this return: it placed billboards on vans around the UK, telling migrants to “Go home or face arrest.”[[40]](#footnote-40) Refugee Action condemned the billboards, they were eventually taken down,[[41]](#footnote-41) but the Home Office ceased Refugee Action’s funding shortly after, providing repatriation itself.[[42]](#footnote-42)

3. Repatriation from Israel

Though repatriation is common globally, it was uncommon in Israel until 2010, when a small number of refugees began returning home to South Sudan with the help of an NGO. Most who returned knew little about the region they were repatriating to, having fled as children during the Second Sudanese Civil War, fought mainly between the Sudanese government and southern Sudanese forces.[[43]](#footnote-43) Throughout the 1980s and 1990s they had arrived in Egypt, where they faced xenophobic attacks at work and on the street, but also felt remaining was safer than returning. They continued living in Egypt into 2005, when southern and northern Sudanese forces signed the Comprehensive Peace Agreement (CPA). The CPA allowed for a referendum for an independent South Sudan in 2011, but they were uncertain whether independence would bring security, or whether independence would be established at all.

The same year as the 2005 CPA, Egyptian police opened fire on protesters sitting in front of the UN offices, killing fifty-three refugees,[[44]](#footnote-44) and encouraging eleven youths to pay smugglers to take them across the Sinai desert and up to the border fence with Israel.[[45]](#footnote-45) Once there, they crossed through a small opening in the fence, stepped into Israeli territory, and were eventually granted temporary residency permits. Others soon followed and, though an unknown number were immediately deported back to Egypt,[[46]](#footnote-46) hundreds were allowed to stay when sympathetic border soldiers refused to deport them. The soldiers instead drove them to the Negev desert in the south of Israel, dropped them off at a bus station, and told them to find organizations that assisted refugees.

Organizations sometimes met the refugees at the bus station, but so did kind strangers. Nyandeng, who arrived in Israel when she was a teenager in 2007, remembers her first day:

At the station, an Ethiopian woman came and asked what we were doing there....She bought me and my siblings and mother food and gave us money to take the bus to Jerusalem and said we should call her if we had no place to go and we would stay with her. We took a taxi and my mother told the driver to take us to a church – it didn’t matter which one. He took us to a guesthouse and there was a man there, at reception. My mother told him we needed help. Without thinking he gave us a room for free with food.[[47]](#footnote-47)

Soon after, Nyandeng and her younger sister and brother began attending school, and her mother found a job at one of the dozens of hotels employing East African refugees as cleaners. They rented an apartment in Naharia, a town in the north of Israel, but as the months passed they failed to gain any official residency status. There were 1,000 other asylum seekers in the country by 2007 and, like them, Nyandeng's mother could not legally work. They eventually received limited rights when, a year later, the High Court of Justice ordered that the government provide temporary residency status to all asylum seekers, and allow them to apply for refugee status. Nyandeng’s family and others received three-month visas, and freedom from arrest. They still never received refugee status, as the government had yet to establish a Refugee Status Determination (RSD) procedure. Under such a procedure, common in developed countries, refugees undergo intensive interviews with government officials, providing evidence that they fled persecution due to their ethnic, political, religious or social identity.

One reason that refugees like Nyandeng and her family could not access full residency rights was that they were not Jewish. Had they been Jewish, they would have qualified for citizenship under Israel’s Law of Return. The Law, which dates back to Israel’s creation in 1948, aims to ensure that every Jew has a state they can call home and which they can turn to in need. The logic behind this law is that, because Jews failed to access asylum during the Holocaust, a Jewish state is necessary to provide protection to Jews fleeing persecution, and ensure that Jews have access to a state that protects their interests. Were Israel to accept a significant number of non-Jewish refugees, then Israel would no longer have a Jewish majority, the Jewish character of the state would be undermined, and the Law of Return itself would no longer be accepted. Indeed, this general policy of maintaining a Jewish majority is a reason Israel refuses to allow the return of Palestinian refugees, those who had fled territory currently under Israeli control. For example, Palestinian refugees who once lived in Jerusalem and fled to Jordan in 1948 cannot return to Jerusalem and obtain residency permits in this city. When Sudanese refugees crossed into Israel, they were viewed in the same light as Palestinians: a threat to the Jewish majority, and so a threat to the Law of Return.[[48]](#footnote-48)

This threat was dismissed by activists hoping to help refugees like Nyandeng. Such activists emphasized that, even if African asylum seekers were given refugee status, they needn’t stay indefinitely, but only until it was safe to return home. Even if they did stay indefinitely, they would comprise a small percentage of the overall population, and so Jews would maintain a majority. Importantly, some activists claimed this would have no repercussions on Palestinian refugees who wished to return to their former homes currently under Israeli control. Palestinian refugees were one issue, they stated, and African refugees another.[[49]](#footnote-49)

These activists failed to persuade policymakers to grant full residency status to Sudanese refugees, but refugees still faced superior conditions in Israel compared to Egypt. As a result, more refugees began arriving. By 2010 there were approximately 1,200 southern Sudanese in the country, and approximately 35,000 other asylum seekers from Eritrea and Sudan. All had crossed over from Egypt since 2005, and their claims for asylum were never heard, their legal status remaining in limbo.[[50]](#footnote-50) Given their precarious position, in 2010 some wished to return home.

They asked an NGO in Jerusalem for help returning. The NGO, called the International Christian Embassy (ICE), offered southern Sudanese refugees free flights to Juba, a stipend worth $1,500, and the necessary documents to enter Sudanese territory.[[51]](#footnote-51) The organization worked with officials in the United Nations High Commissioner for Refugees (UNHCR) and the Hebrew Immigrant Aid Society (HIAS), a refugee rights organization.[[52]](#footnote-52) Several dozen refugees returned, finding jobs soon after, and the project was deemed a success. Another NGO, Operation Blessing International (OBI), took over the project in 2011, still working with UNHCR and HIAS. When OBI took over, many Darfur refugees from northern Sudan also wished to repatriate. They, too, accepted OBI’s free flight to Juba, paying for their own buses or flights to Darfur. By 2012, OBI and HIAS had helped 900 individuals repatriate.

In 2011 South Sudan became an independent country. A year later the Israeli government announced that return to South Sudan was safe, as the country was no longer part of Sudan. OBI continued helping with return, and the Ministry of Interior also set up its own repatriation program, called Operation Returning Home (ORH).[[53]](#footnote-53) It was supposedly voluntary, but the Ministry of Interior threatened to detain anyone who stayed. In response, South Sudanese activists organized protests, and raised a court petition, but it was rejected by the court and all were ordered into detention.[[54]](#footnote-54)

“It was so strange,” one aid worker recalls. “When refugees found out they would be detained, they just stopped protesting, all at once. They went out, bought the nicest clothes, and boarded the flight back.”[[55]](#footnote-55) After return, at least twenty-two individuals were killed or died of a disease within a year, representing at least 2% of returnees.[[56]](#footnote-56) When I travelled to South Sudan in December 2013, civil war broke out two days later, and I learned of an additional five who were killed, representing approximately 3.7% of my sample of 136 returnees to South Sudan.[[57]](#footnote-57) The exact mortality rate was likely higher, as I never reached the most insecure areas, and most returnees were never contacted by researchers or aid workers after returning.

Many of the NGO staff members helping with return were uncertain if their actions were ethical. Based on the data I collected, they faced seven moral dilemmas, prevalent in repatriation globally.

4. Seven dilemmas

Below is an overview of these dilemmas, described in greater depth in the seven main chapters of this book.

4.1 Coercion

The first dilemma concerns coercion. Refugees often return to avoid detention, destitution, deportation, or life in an enclosed camp. If refugees are returning for these reasons, their returns are perhaps coerced.[[58]](#footnote-58) We might suppose humanitarian organizations should not assist with coerced return.[[59]](#footnote-59) Yet organizations defend their assistance by noting that, if refugees do not return, they will remain indefinitely in detention, destitution, or enclosed camps, eventually deported home.

This dilemma is especially acute in mass repatriation programs in developing countries, where the vast majority of repatriation takes place. Refugees in Pakistan and Iran often face detention, poverty, and police brutality, leading millions to repatriate with the help of UNHCR.[[60]](#footnote-60) Somali refugees in Kenya are often forced into enclosed camps and threatened with deportation if they remain.[[61]](#footnote-61) UNHCR has criticized enclosed camps and deportations, but has further expanded its repatriation program, feeling repatriation can be better than no option at all.[[62]](#footnote-62) It is not clear it is.

In Chapter 2 I describe the global prevalence of this dilemma and attempt to resolve it. I conclude that organizations can permissibly help with coerced repatriation if they try to end coercion, do not contribute to coercion, and inform refugees of the risks of returning.

4.2 Misinformation

In Chapter 3 I address a dilemma that arises when organizations and states do not inform refugees of the risks of returning, because they lack information about these risks. It is not clear who has a duty to inform refugees about risks, or whether refugees themselves are responsible for finding such information. I conclude that states and organizations have weighty duties to find information, even when the costs are high.

4.3 Regret

Chapter 4 addresses a dilemma relating to regret. Many refugees returning are informed about the risks, but regret their decision nonetheless, wishing they had remained in their country of asylum. This occurred in 2010 when thousands of refugees returning to Iraq regretted their decisions to return via UNHCR, wishing they had remained in Iran. [[63]](#footnote-63) In such cases, perhaps the UN should stop facilitating return if future returnees will likely feel similar regret. But this claim is controversial: denying someone transport because they might feel regret seems wrongly paternalistic. When I book a flight to an unsafe country, the airline is not required to consider whether I will regret my decision. In Chapter 4 I argue that, though regret is not usually a reason to deny repatriation, sometimes it is.

4.4 Payments

In Chapter 5 I address dilemmas concerning payments. Government agencies often provide generous stipends to refugees agreeing to return home, at times using no coercion at all. We might suppose that such agencies are engaging in a justified form of immigration control, assuming refugees' choices are genuinely voluntary. Yet, perhaps such agencies act unethically because they are encouraging refugees to risk their lives in repatriating. A similar dilemma arises when UNHCR provides stipends to refugees returning home, as when it paid hundreds of dollars to each refugee returning to Afghanistan in the 2010s. I argue that government payments are justified when return is safe and voluntary. When returns are neither safe nor voluntary, because refugees are forced into enclosed camps if they remain, UNHCR payments are justified when they do not contribute to further coercion against refugees.

4.5 Children

In Chapter 6 I address cases involving children. In many cases children’s rights will be at risk if they repatriate, but their parents seek repatriation nonetheless. In such cases it is not clear if parents have a right to return with their children. I argue that they do not, and organizations and states should not provide repatriation assistance in such cases.

4.6 Discrimination

Chapter 7 concerns refugees whose lives will not be at risk if they repatriate. In a range of cases, refugees from unwanted ethnic groups are provided generous return assistance by governments who wish to fulfill the racist preferences of voters. In the case of Israel, those of African descent were given stipends to repatriate, while non-Africans were not. In such cases a dilemma arises: on the one hand such payments may seem morally acceptable, as the government is using no coercion, and many migrants hope to receive money to leave. On the other hand, such payments may be wrong, given the racist motives of governments and voters. I argue that such stipends are wrong, but may still be morally permissible if refugees consent to the stipends and the stipends do not harm others.

4.7 Restitution

The final chapter considers the rights of refugees who have already repatriated. In particular, I consider whether refugees have a right to valuable property restitution when others are in far greater need. It is not clear, for example, whether princes who fled Czechoslovakia had a right to the castles they left behind, or whether South Sudanese refugees who grew wealthy abroad had a right to the land confiscated during their displacement. I argue that such refugees do not have a right to the property they lost, but that states have good reason to return this property nonetheless.

5. Fieldwork for philosophy

In addressing these dilemmas, I will draw upon a range of cases around the globe. I shall also draw upon interviews I conducted in South Sudan, Ethiopia, Uganda, and other countries of origin, where individuals described to me why they arrived in Israel, their reasons for returning from Israel, and the conditions they faced after returning. Their stories serve a similar purpose to medical cases in bioethics, court judgments in jurisprudence, and thought experiments in moral philosophy. The cases serve as the dilemmas we start with which have yet to be addressed in philosophy and public policy.

Philosophers addressing ethical dilemmas typically draw upon cases found in existing empirical literature, rather than cases they learned about through their own fieldwork. I will also refer to existing literature, citing cases of return from around the world. However, there are very few in-depth studies of repatriation; the few that exist tend to describe the aggregate experience of repatriating populations, and often only before return. With some exceptions, studies rarely explore how individuals may have been subject to different injustices both before and after repatriation. I aim to capture this diverse range of cases with my own in-depth empirical research on repatriation from Israel.

A diverse range of cases is useful for normative theorizing. For example, in fictional trolley examples used in moral philosophy, a person must always decide if it is just to kill one person to save five, but the details of each example vary. In one case you see a runaway train about to run over five workmen on a track. You can save the five men by pushing a large bystander onto the track, stopping the train, killing him, but saving the five lives. In another case you also see a runaway train about to kill five workmen, but this time can only save them by pulling a switch, diverting the train onto another track, killing one man standing on the track but saving the five workmen. Many have the intuition that it is morally impermissible to push the large man onto the track in the first case, but perhaps permissible to pull the switch in the second. The variation between cases highlights whether our intuitions change in response to new variables, helping us determine if these variables are normatively significant. I will employ a similar approach when formulating general ethical guideline for repatriation.

To select cases that were sufficiently varied, I drew upon varied sources on repatriation globally, and conducted varied fieldwork on repatriation from Israel. For the latter, I conducted interviews with refugees who explained to me precisely why they reached Israel, what they experienced in Israel, why they decided to repatriate, who helped them repatriate, and what their conditions were after repatriating. To ensure I had a broad array of cases, I travelled to multiple of towns within countries, and spoke to those living in urban and rural areas, in both safe and unsafe regions.

My first set of interviews took place between 2008 and 2010, when I spoke to NGO staff members in Israel who helped with return, and twelve refugees living in Israel, one of whom was interested in returning. I later travelled to Juba, Aweil, and Wau in South Sudan in March and April 2012, interviewing 27 individuals after they returned from Israel to South Sudan. When I arrived in Juba the Israeli government announced that all were required to repatriate,[[64]](#footnote-64) and almost all remaining South Sudanese in Israel returned by 2012. I travelled to East Africa again to interview these new returnees, first conducting fieldwork in Kampala and Entebbe in 2013, as many had migrated to these cities shortly after returning to South Sudan. While there, I interviewed thirty returnees, the majority children. In August 2013 I again travelled to Israel to interview a government official who was facilitating return,[[65]](#footnote-65) and NGO staff assisting individuals return as of 2013.

That year I travelled to South Sudan a second time, landing on December 13th to interview additional individuals who had returned. Two days later civil war broke out, and I stayed for six more weeks, interviewing 61 returnees who stayed in Juba. Roughly half the individuals I interviewed were Nuer citizens forced by Dinka militias to flee their homes to UN Internally Displaced Persons (IDP) camps. In June 2014 I travelled to Ethiopia, interviewing nine returnees from the Nuer tribe who had fled or migrated to Gambella, a town situated along the border with South Sudan. In February 2018 I travelled to Nairobi, Kenya, re-interviewing a subject I last saw in Israel in 2009, and a subject I last saw fleeing Juba in 2014. I also interviewed an additional subject who had fled South Sudan in 2013.

In total, I interviewed 128 returnees to South Sudan, including forty-eight minors. I also learned of the conditions of eight additional returnees, and so could confirm the conditions of 136 individuals in total, representing approximately 11% of the roughly 1,200 South Sudanese nationals who returned between 2010 and 2014.

To select these subjects, I arrived in each country and called two to five contacts provided to me by repatriation facilitators, volunteers, and friends in Israel. I then used a snowball methodology to interview their acquaintances, their acquaintances’ acquaintances, and so forth, until all links were exhausted. After each interview, I coded responses for subjects’ reasons for returning, including detention or threats to deportation in Israel. I also coded the interviews for properties related to post-return conditions, including whether they had access to food, income, medical care, education, and shelter, and whether they were again displaced. Finally, I recorded the number of subjects who died from illness, ethnic-based killings, or crossfire after returning.

I could not obtain a full list of phone numbers of those who returned and, even if I had, I would not have been able to interview a random sample of this list, as I could not access extremely remote areas. Nonetheless, I strived to interview a diverse range of subjects. I specifically strived to counteract survivorship bias, which arose because I was less able to learn about those who were killed, partly because they could not answer their cell phones, and partly because they were more likely to have returned to insecure areas I could not reach. To counteract this bias, I travelled extensively within each town, and the surrounding rural areas, to meet with returnees who did not have access to a secure healthcare, a cell phone, or a close tarmac road. During the war, I also conducted interviews in and around both UN IDP camps in Juba, including one in the Jebel neighborhood, where ethnic cleansing and fighting were especially widespread. And though I could not interview those who were killed, I attempted to establish a mortality rate. When I learned of a subject who was killed, and who I would have met had they survived, I included them in the sample of 136 subjects whose conditions I could confirm.[[66]](#footnote-66)

In addition to interviewing South Sudanese subjects who returned, I interviewed a smaller sample of other refugees and migrants who repatriated via a distinct NGO called the Center for International Migration and Integration (CIMI). This NGO worked with the International Organization of Migration and a special Voluntary Return unit set up in the Ministry of Interior.[[67]](#footnote-67) The sample included a family of four who had repatriated in 2012 to Sudan, and then fled to Ethiopia; two Eritrean refugees who had accepted money to resettle to Ethiopia; a father and his eight-year-old daughter who repatriated to Ethiopia; and three migrants who repatriated to Nigeria, two to Guinea, one to the Philippines, and fourteen to Thailand. I additionally interviewed a family of four intending to repatriate to Colombia who later changed their mind and remained in Israel. All of these cases are in many ways different than the cases of repatriation to South Sudan, but have certain important similarities – most notably the level of misinformation they received – and so provide useful comparisons.

One might suppose that we cannot rely on the responses of those who returned. They may have misrepresented how much they were coerced to return, how misinformed they were, and how difficult their conditions were after returning, especially if they were not satisfied with their choice. My method of sampling strived to mitigate this possibility. Because I interviewed individuals living in a diverse range of countries and regions, a significant portion were very satisfied with their return, but still recall being misinformed or coerced into returning, later fleeing their homes. If even these individuals recall similar challenges to those who regretted repatriating, this provides stronger evidence as to the accuracy of such testimonials. I also witnessed conditions described by respondents, such as overcrowding, unhygienic latrines, food availability, and soldiers firing into IDP camps. As such, I could corroborate the responses of many interviewees regarding these conditions.

This original data on repatriation from Israel is central to this book. However, I situate it within the broader range of repatriation cases. The case of Israel is not unique because of the dilemmas repatriation facilitators faced. What was unique was the NGOs’ greater financial investment to avoid these dilemmas. If such extraordinary measures failed to succeed, this highlights the depth of the problem and the need for an ethical analysis.

Such ethical analysis is central to this book, which is both philosophical and practical. It is philosophical because it addresses broader questions concerning consent, assistance, and discrimination, questions of interest for philosophers outside the field of immigration. It is practical because these broader questions are relevant for refugees around the world who, though living dramatically different lives, raise similar dilemmas for the agents helping them repatriate. The book describes refugees returning from Pakistan and Myanmar who, though experiencing different types of repatriation, raise similar dilemmas concerning how organizations should respond when coercion is rife. The book describes refugees returning from Norway and Iran who, though facing different types of misinformation, raise similar dilemmas concerning how organizations should respond when misinformation is rife. In focusing on these and other dilemmas, the book moves beyond asking how refugees have been wronged, and asks who is responsible for these wrongs. It moves beyond asking what principles governments should follow, and asks how these principles ought to be applied in practice. It asks not only what practices will improve safety for refugees, but what will respect refugees’ rights when safety cannot be ensured. In doing so, the book provides a comprehensive set of guidelines for those helping refugees, ensuring more ethical and informed repatriation.

1. He was likely escorted by a representative of Refugee Action, a refugee-rights NGO facilitating all repatriation at the time. See International Organization of Migration (IOM), “Return and Reintegration,” accessed on 1 July 2015 from accessed on http://unitedkingdom.iom.int/return-and-reintegration. [↑](#footnote-ref-1)
2. UNHCR Global Trends 2010, accessed on 30 July 2017 at http://www.unhcr.org/en-us/statistics/country/4dfa11499/unhcr-global-trends-2010.html; UNHCR Global Trends 2011, accessed on 30 July 2017 at http://www.unhcr.org/en-us/statistics/country/4fd6f87f9/unhcr-global-trends-2011.html; UNHCR Global Trends 2012, accessed on 30 July 2017 at http://www.unhcr.org.uk/fileadmin/user\_upload/pdf/UNHCR\_Global\_Trends \_2012.pdf; UNHCR Global Trends 2013, accessed on 30 July 2017 at http://www.unhcr.org/en-us/statistics/country/5399a14f9/unhcr-global-trends-2013.html; UNHCR Global Trends 2014, accessed on 30 July 2017 at http://www.unhcr.org/en-us/statistics/country/556725e69/unhcr-global-trends-2014.html; UNHCR Global Trends 2015, accessed on 30 July 2017 at http://www.unhcr.org/en-us/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html; UNHCR Global Trends 2016, accessed on 30 July 2017 at <http://www.unhcr.org/globaltrends2016/>; UNHCR Global Trends 2016, accessed on 23 February 2018 from <http://www.unhcr.org/5943e8a34.pdf> [↑](#footnote-ref-2)
3. The reasons a government may not want to deport are varied. In Israel’s case, various international aid packages and trade benefits are conditional on general human rights in the country. Deportations may be a point against Israel’s human rights record, which can impact its trade status. See European Commission, “Implementation of the European Neighbourhood Policy in 2009: Progress Report Israel,” Brussels, 12 May 2010, accessed on 5 July 2011 at [http://ec.europa.eu/world/enp/pdf/progress2010/sec10\_520\_en.pdf) and](http://ec.europa.eu/world/enp/pdf/progress2010/sec10_520_en.pdf%29and) “Justice, Freedom and Security” section in individual country progress reports: http://ec.europa.eu/world/enp/documents\_en.htm#3. [↑](#footnote-ref-3)
4. UNHCR, “Voluntary Repatriation: International Protection,” 1996: Chapter 3, Section 1. [↑](#footnote-ref-4)
5. Liz Fekete, “Europe’s Shame: a report on 105 deaths linked to racism or government migration and asylum policies,” European Race Bulletin, London: Institute of Race Relations. 1 March 2009; Leanne Weber and Sharon Pickering, “Exporting Risks, Deporting Non-Citizens,” in (ed.) Francis Pakes, *Globalization and the Challenge to Criminology*. Abingdon, UK: Routledge 2013: 110-128. [↑](#footnote-ref-5)
6. Interview with Assisted Voluntary Return (AVR) official, Tel Aviv, 7 August 2013. [↑](#footnote-ref-6)
7. Barak Kalir, “Between 'Voluntary' Return and Soft Deportation," in (eds.) Zana Vathi and Russell King, *Return Migration and Psychosocial Wellbeing*, New York: Routledge 2017: 56-72 at 59. [↑](#footnote-ref-7)
8. For a contemporary discussion on social workers’ roles in helping asylum seekers, See Ravi Kohli, “Social Work with Unaccompanied Asylum-seeking Young People,” Forced Migration Review 12(2002):31-33. See High Court of Justice 4845/12, ASSAF, The Hotline for Migrant Workers and the Association of Civil Rights in Israel vs. The Ministry of Interior and the Ministry of Welfare. [↑](#footnote-ref-8)
9. Philip Cantwell, “Relevant ‘Material': Importing the principles of informed consent and unconscionability in analysing consensual medical repatriations,” Harvard Law and Policy Review 6(2012):249-262; Mark Kuczewski, “Can Medical Repatriation be Ethical? Establishing Best Practices,” American Journal of Bioethics 12(9)(2012):1-5; Lori A Nessel, “The Practice of Medical Repatriation: The Privatization of Immigrant Enforcement and Denial of Human Rights,” Wayne Law Review 55(2009):1725-1756. [↑](#footnote-ref-9)
10. Alex Betts, Gil Loescher, and James Milner, *UNHCR: The Politics and Practice of Refugee Protection, Second Edition*, Abingdon, UK: Routledge 2012. [↑](#footnote-ref-10)
11. Megan Bradley, *Refugee Repatriation: Justice, Responsibility, Redress*, Cambridge: Cambridge University Press 2014; Lauren Fouda, “Compulsory Voluntary Repatriation: Why Temporary Protection for Sudanese Asylum-Seekers in Cairo Amounts to Refoulement,” Georgetown Journal on Poverty Law 10(3)(2007):511; Katy Long, *The Point of No Return: Refugees, Rights, and Repatriation*, Oxford: Oxford University Press 2013. [↑](#footnote-ref-11)
12. Joseph Carens, “Aliens and Citizens: The case for open borders,” The Review of Politics 49(2)(1987):251-273, David Miller, “Immigration: The Case for Its Limits” in (eds.) A. Cohen and C. Wellman, *Contemporary Debates in Applied Ethics*, Malden, MA: Blackwell Publishing 2005: 202. [↑](#footnote-ref-12)
13. Alexander Betts, “Survival Migration: A New Protection Framework,” Global Governance 16(2010): 361-382; European Council on Refugees and Exile, “Complimentary Protection in Europe,” July 2009, accessed on 1 July 2012 at http://www.refworld.org/pdfid/4a72c9a72.pdf; Ruma Mandal, “Protection Mechanisms Outside of the 1951 Conventions ('Complimentary Protection'),” Legal and Protection Policy Research Series, UNHCR 2005. [↑](#footnote-ref-13)
14. There are some exceptions to this rule, which I address in Appendix A. [↑](#footnote-ref-14)
15. Joseph Carens, “Aliens and Citizens: The case for open borders,” The Review of Politics 49(2)(1987):251-273; Matthew Gibney, *The Ethics and Politics of Asylum*, Cambridge: Cambridge University Press 2004; David Miller, “Immigration: The Case for Its Limits” in (eds.) A. Cohen and C. Wellman. *Contemporary Debates in Applied Ethics*, Malden, MA: Blackwell Publishing 2005: 202. [↑](#footnote-ref-15)
16. Megan Bradley’s work is perhaps the most impressive discussion on the philosophy or repatriation, and she addresses the role of UNHCR. However, her focus is mostly on what a just return would entail, rather than the actions that UNHCR should take when a just return is not possible. Katy Long similarly presents a nuanced and rigorous analysis of what an ethical return entails, but does not focus on what actions particular agents should take when a truly just return is not possible. See Bradley 2014 ibid and Long 2013 ibid. [↑](#footnote-ref-16)
17. Javier Hidalgo, “The Duty to Disobey Immigration Law,” Moral Philosophy and Politics 3(2)(2006):1-22; Javier Hidalgo, “The Ethics of People Smuggling,” Journal of Global Ethics 12(3)(2016):311-326; Javier Hidalgo, “Resistance to Unjust Immigration Restrictions,” Journal of Political Philosophy 23(4)(2015):450-470; Julian F. [Müller](http://journals.sagepub.com/author/M%C3%BCller%2C%2BJulian%2BF), “The Ethics of Commercial Human Smuggling,” (forthcoming) European Journal of Political Theory. [↑](#footnote-ref-17)
18. Niheer Dasandi and Lior Erez, “The Donor’s Dilemma: International Aid and Human Rights Violations,” British Journal of Political Science (Forthcoming); Jennifer Rubenstein, *Between Samaritans and States: The political ethics of humanitarian INGOs*, Oxford: Oxford University Press 2015 [↑](#footnote-ref-18)
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20. Katy Long, “When refugees stopped being migrants: Movement, labor and humanitarian protection,” Migration Studies 1(1)(2013):4-26. [↑](#footnote-ref-20)
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23. Sadako Ogato, “Statement by Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, at the International Management Symposium, St. Gallen, Switzerland, 25 May 1992,” accessed on 8 January 2018 from <http://www.unhcr.org/uk/admin/hcspeeches/3ae68faec/statement-mrs-sadako-ogata-united-nations-high-commissioner-refugees-international.html> [↑](#footnote-ref-23)
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25. James Miler and Gil Loescher, “Responding to Protracted Refugee Situations,” Forced Migration Policy Briefing 6, January 2011 at 7. Accessed on 9 January 2018 from <https://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/8011/Milner-Responding-Brief.pdf?sequence=1> [↑](#footnote-ref-25)
26. UNHCR, “Voluntary Repatriation,” February 2009, available at http://www.unhcr.org/49ba2f5e2.pdf [↑](#footnote-ref-26)
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42. Blinder 2017 ibid; Wintour 2013 ibid. [↑](#footnote-ref-42)
43. The Second Sudanese Civil war lasted from 1983 until 2005, leaving approximately two million dead from both the war itself and the consequences of the war, including famine and disease. For a more complete background on the history of South Sudan, see Anders Breidlid, Avelino Androga Said, and Astrid Kristine Breidlid, *A Concise History of South Sudan: New and Revised Edition*. Kampala, Uganda: Fountain Publishers 2014. [↑](#footnote-ref-43)
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58. If they are coerced into returning home, then their returns violate the international law principle of *non-refoulement*, which holds that states ought not force refugees back to countries where their lives will be at risk. But even if their return does not violate any international law, because they are not refugees in the legal sense, their forced return may still be unethical. For an overview on the legal principle of *non-refoulement*, see Jean Allain, “The Jus Cogens Nature of Non-Refoulement,” International Journal of Refugee Law 13(4)(2001):533-558. [↑](#footnote-ref-58)
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65. Interview with head of Voluntary Return Unit, Tel Aviv, 28 July 2013. [↑](#footnote-ref-65)
66. I did not include those I learned about only because they had died, as this would bias my sample in opposite direction, over-representing those who had died. [↑](#footnote-ref-66)
67. Interview with CIMI Director, Jerusalem, 22 September 2011. [↑](#footnote-ref-67)