The Ethics of Refugee Repatriation

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Summary

“Refugee repatriation” refers to the voluntary or forcible return of refugees back to the countries or regions from which they fled. It is broadly accepted that a state acts wrongly in forcibly repatriating refugees back to countries that remain unsafe. This is true for refugees fleeing war, persecution, environmental disasters, extreme poverty, and a range of other life-threatening conditions. What is less clear is whether a state acts wrongly in deporting refugees whose lives would no longer be at risk in their home countries, and who can obtain their basic rights. For example, it is not clear if Turkey and Germany would be justified in deporting back Syrian refugees if conditions sufficiently improved in Syria. It is additionally not clear whether humanitarian organizations ought to help refugees repatriate before retuning is safe, as when the United Nations helped Somali refugees repatriate from Kenya. Finally, it is not clear whether refugees have a right to repatriate to their home countries, and whether they have a right to return to the specific homes they left behind. For example, there is widespread debate over whether Palestinian refugees have a right to return to the homes they left in 1948 and 1967. Addressing these and other debates is essential for establishing ethical immigration policies and establishing the rights of refugees, organizations, and states.

Keywords

refugees, repatriation, right of return, immigration, persecution, membership, autonomy

States have many legal duties toward refugees. Under international law, states have a duty to grant asylum to refugees fleeing persecution due to their religion, ethnicity, social identity, or political opinion. States also have many moral duties toward refugees. It is morally obligatory (according to a range of philosophers) for states to grant asylum to those fleeing general violence or extreme poverty, even if international law does not require such asylum (Gibney, [2004](#B20); Miller, [2016](#B36); Sitlz, [2019](#B53)).

The question of what moral duties states hold toward refugees is hotly debated, but there is some consensus. For example, it is widely accepted that states act wrongly in deporting individuals back to areas where they will face certain death or basic violations of their rights. Take the case of Yusung, a young man living in North Korea when his father defected. Soon after, Yusung was interrogated by North Korean authorities, and he fled for his life to South Korea (Liberty in North Korea, [2019](#B31)). This case is ethically clear cut: it seems clear he should not be deported back to North Korea, at least any time soon.

Or consider the case of Nunahar and Abdul, a Rohingya couple who went into hiding in their homes in Myanmar in 2017. Soldiers forced their way into their home, abducted their 16-year-old daughter, and shot dead their son. The couple fled to Bangladesh, and it would be clearly wrong for the Bangladeshi government to deport them back to Myanmar (Medicines Sans Frontier, [2019](#B35)).

While it is clear that Yusong, Munahar, and Abdul should not be deported immediately, there is less consensus on whether they should be deported in the future. The Bangladeshi government might one day claim that life in Myanmar is safe, and so Nunahar and Adbul can return home. If this day comes, it is not clear if Nunahar and Abdul will have a moral right to remain in Bangladesh. More generally, it is not clear when refugees have a right to remain in their adopted states, and when is it permissible to force them to return. Nor is it clear whether refugees always have a right to return to the countries from which they fled, or whether it is acceptable to require that they remain indefinitely in the countries which provided them asylum.

In addressing these complex questions, let us presume that “host states”—those states taking in refugees—have a moral duty to grant at least temporary asylum to those fleeing life-threatening conditions, and conditions where basic liberties are undermined. In other words, states ought to accept those fleeing extreme destitution, famine, general violence, and environmental catastrophes, in addition to those fleeing persecution. If states hold such a duty, what rights do refugees hold after asylum is no longer required?

1. Why Refugees Have a Right to Remain

There are many reasons we might suppose all or some refugees have a moral right to remain, and states ought to protect this right by granting them permanent residency visas.

1.1 Persecution

One reason is applicable to those fleeing persecution in particular. Refugees who flee persecution seem to have a unique right to remain, a right not held by refugees fleeing general violence, environmental catastrophes, extreme famine, and other life and liberty-undermining conditions.

This “Persecution View,” as I shall call it, has been defended using this argument:

1. All have a right to be accepted as a citizen by a government.
2. One is not accepted as a citizen if one’s basic rights are undermined by one’s own government because of one’s political, religious, ethnic, or social identity.
3. When this occurs, the only remedy is citizenship elsewhere.
4. Therefore, all those persecuted because of their political, religious, ethnic, or social identities have a right to citizenship elsewhere.
5. With citizenship comes the right to remain.
6. Therefore, those persecuted because of their political, religious, ethnic, or social identities have a right to remain.[[1]](#footnote-1)

The above argument does not imply that only those fleeing persecution have a right to remain; maybe others do too. For example, those fleeing famine might be given asylum in a country for many years, making good friends, close colleagues, strong professional ties, and other links to the society around them. It would be wrong to force someone to leave a country they have developed strong links toward. It remains the case that only those persecuted because of their political, religious, ethnic, or social identity have a right to citizenship the moment they enter a safe state. At least, that is what the Persecution View holds.

This view, though not reflected in the policies of most low-income states – where citizenship is generally denied to those fleeing persecution and other wrongs (Albert, [2010](#B2)) – is consistent with 21st-century legal practices of most high-income democracies. In high-income democracies, those who can prove they were persecuted because of their political, religious, ethnic, or social identity have a legal right to asylum, and generally have a right to apply for citizenship after 5 years of holding asylum. Those fleeing other sorts of life-threatening conditions, such as famine or general violence, also have a right to asylum, but obtaining citizenship is more difficult, and returning home is often required once conditions are safe. For example, “subsidiary protection” in the European Union grants asylum to individuals who are fleeing general violence, but obtaining citizenship in many European Union states is more difficult if one has obtained such protection, as compared to those who have fled persecution. Such is the case in Italy, where those with subsidiary protection must live in the country for 10 years before qualifying for citizenship, while those who are refugees fleeing persecution need only live in the country for 5 years (Associazione per gli Studi Giuridici sull’Immigrazione, [2021](#B3)). Similarly, the United States generally grants citizenship to refugees who have been resettled to the United States after fleeing persecution, but grants only “Temporary Protection Status” to other groups of individuals, requiring them to repatriate once doing so is deemed safe. Such was the case when the United States deemed it safe for Haitian refugees to return in 2018.[[2]](#footnote-2)

The Persecution View, though plausible, faces a number of moral objections. The first objection is to the first premise: that all have a right to citizenship somewhere. If someone is wealthy enough, perhaps citizenship is not all that important. Being a stateless billionaire in Sweden is probably better than being a homeless citizen of the Central African Republic. What matters is whether certain rights are protected, such as the right to healthcare, sufficient food, employment, freedom from violence, and so forth. Even if one thinks that citizenship does have intrinsic value, or thinks it is a good proxy for other sorts of rights, it seems that one can lack meaningful citizenship even if one is not persecuted. One lacks meaningful citizenship if one’s vote counts for little—as for many in the Central African Republic—and if one lacks basic necessities because of widespread corruption. If what matters is whether one lacks meaningful citizenship, and one can lack meaningful citizenship without persecution, then persecution is a poor way of establishing who has a right to citizenship elsewhere. If so, then many individuals have a right to new citizenship upon obtaining asylum, and it would be wrong to require that they repatriate in the future.

A revised view would therefore look like this:

1. All have a right to citizenship somewhere.
2. One is not truly a citizen if one lacks basic rights in their home state.
3. When this occurs, the only remedy is citizenship elsewhere.
4. Therefore, all those whose basic rights are not protected in their home states have a right to citizenship elsewhere.
5. With citizenship comes the right to remain.
6. Therefore, all those whose basic rights are not protected in their home states have a right to remain elsewhere, and requiring them to repatriate is morally impermissible.[[3]](#footnote-3)

Even this revised argument might be rejected by some. In particular, some might reject the above argument’s third premise, that the only remedy for losing one’s citizenship is citizenship elsewhere. Another potential remedy is merely providing the rights of citizenship—the right to vote, the right to employment, the right to welfare assistance, and so forth—and revoking these rights once these rights can be provided in one’s country of origin. However, if what really matters is true membership, then such temporary measures may be insufficient. This is because true membership might require being able to remain and participate without the fear of later being deported once returning is safe. More specifically, there might be value in refugees being able to remain into the future when remaining helps them plan their lives. The next argument focuses on the value of such planning.

1.2 Plans

This theory begins with the premise that those without basic rights in their home countries suffer from a particular challenge: the challenge of fulfilling plans requiring cooperation with others. It is difficult to marry, work, or form friendships if one is constantly escaping persecution and disaster (Goodin, [1991](#B23), pp. 153–157; Nine, [2018](#B39); Stilz, [2011](#B51), pp. 582–587, [2013](#B52), pp. 336–341). Moreover, even if one does not actually leave one’s country, the fact that one might leave could undermine a range of important cooperative relationships. For example, a small businesswoman facing persecution in her home country may struggle to find an investor, as the investor may be uncertain if she will be around to generate a profit later on. A farmer suffering from severe malnutrition will struggle to obtain a loan to buy seeds, as the lender may be uncertain if the farmer will survive until next season and pay him back. A student will struggle to obtain employment if an employer fears the student will flee bombs and terrorists at the first opportunity (Gerver, [2021](#B19)).

When refugees do manage to reach another country, they can face similar challenges. Refugees abroad struggle to plan for the future if they might one day be forced to repatriate. Even if they are never actually forced to repatriate, the uncertainty is enough to make planning difficult. For example, Eritrean refugees in Israel throughout the 2010s lived on short-term visas that they needed to renew every 3 to 6 months. Many faced prolonged detention, but even those who were free from detention struggled to access credit, housing, and the types of jobs requiring training. Creditors, landlords, and employers were uncertain that Eritreans would be permitted to remain, and so were unsure whether Eritreans would be able to pay back loans, pay rent, or continue working in the future. As a result, Eritreans struggled to plan for the future: they struggled to work in long-term jobs, accept training for such jobs, and fulfill plans to open businesses requiring credit. For refugees to have the ability to work and start businesses, they must be confident that they can remain, and others must be confidence that refugees will remain. In other words, when refugees are given visas that extend into a period when returning is safe, they can enter cooperative relationships when returning is unsafe (Gerver, [2021](#B19)).

This raises a question: Why is planning for the future so important? One reason is instrumental. Being able to fulfill one’s plans to grow crops or get a job helps put food on the table. Another reason is intrinsic. There is intrinsic value in being able to plan and fulfill these plans. There is value in planning to get a loan, and then successfully getting this loan and paying it back. The pride that comes with being viewed as creditworthy is not reducible to the material benefits that creditworthiness provides. More generally, the pride of being someone others can rely on, and fulfilling one’s plans as a result, is not reducible to the material benefits one gains as a result (Gerver, [2021](#B19)).

Importantly, being able to cooperate with others can strengthen the community one is a member of. The more refugees can be certain they can remain, the more citizens can confidently hire refugees, knowing they will remain. These citizens will then benefit from refugees’ labor, and might otherwise not have. The more citizens can confidently invest in refugee-owned businesses, vote for refugee candidates, marry refugees, and befriend refugees, the more they can benefit from refugees’ ideas, love, and commitments.

There is an additional value in refugees being able to plan for the future, articulated by Rebecca Buxton. Buxton argues that refugees being able to plan for the future, rather than facing deportation once returning is safe, avoid facing the “compounding of injustice” (Buxton, in press).

In general, the compounding of injustice occurs when an agent X interacts with the injustice faced by Y, and in doing so increases or magnifies the harm that Y faces as a result of the initial injustice. For example, Deborah Hellman presents the hypothetical scenario of a woman who is a victim of domestic violence, and is statistically more likely to die young as a result. If a life insurance company charged her greater premiums as a result, the company would be interacting with the injustice she faced, compounding the harm from domestic violence by causing her to face higher life insurance premiums (Hellman, 2017, pp. 3–4). When states use refugees’ reasons for fleeing in assessing whether they can remain—requiring those fleeing violence to return once violence ends—the state compounds the injustice that refugees initially experienced. This is because refugees initially experienced unjust violence, causing a range of harms – including the undermining of life plans – and when a state decides to institute mere temporary protection, it further prevents refugees from making plans for the future. To avoid prolonging the harm arising from the injustice of displacement, the state ought to provide permanent residency, rather than requiring that refugees return once returning is safe (Buxton, in press).

Some might reject the above plans-based arguments, either rejecting the claim that all without basic rights have a right to asylum, or rejecting the claim that all such individuals have a right to remain indefinably in a country of asylum. For example, some might reject the claim that an individual without access to basic healthcare in the United States, and so lacking a basic right, has a right to asylum in Canada to obtain medical care; more importantly, it seems especially controversial to claim this person has a right to remain indefinitely in Canada once medical treatment is no longer needed.

These above two criticisms—the first relating to who has a right to asylum, and the second relating to who has a right to remain—are compelling. The first can be dealt with fairly swiftly, but if one is convinced by the second criticism, then an alternative view is necessary.

The first concern can be dealt with if we accept that, while all those without basic rights have a right to asylum, this need not mean that their rights must be protected by all states. Many states are permitted to limit the number of individuals they grant asylum to when the costs of granting asylum would be very high. Were Canada to accept all individuals in the world without basic rights—including Americans unable to obtain health insurance—the costs would be prohibitively high, such that accepting such individuals may impair Canada’s ability to protect the rights of existing citizens or perhaps even the individuals they grant asylum to. If there is some limit to the costs that states must bear in granting asylum, states are permitted to select some refugees for asylum and not others. In determining who they select, they could prioritize those more at risk of rights violations before those less at risk of rights violations, or perhaps those most likely to benefit from asylum, or a combination of these two considerations. For example, an individual lacking basic healthcare, basic security, and basic nutrients in South Sudan should be given asylum in Canada before an American who only lacks basic healthcare, given that the South Sudanese individual is both more at need and would benefit the most from asylum.[[4]](#footnote-4) This approach is radical in one sense—it recognizes that many individuals should be considered for asylum; but it is not radical in another—it recognizes that many individuals do not have a right to asylum, because states simply lack the capacity to accept all individuals who lack basic rights.

If states do not have an obligation to accept all refugees—defined as all those without basic rights—then this raises the question of whether the refugees who are accepted have a right to remain indefinitely.[[5]](#footnote-5) Imagine that an individual without healthcare in their home country is deemed most in need of asylum and most able to benefit. Do they have a right to remain indefinitely in their adopted country? Some claim they would have a right to remain if their autonomy would otherwise be undermined. I now address this claim.

1.3 Autonomy

According to Adam Hosein ([2019](#B24)), the claim that planning one’s life is important is not enough to explain why refugees have a right to remain. While planning is certainly valuable for the reasons articulated above, a policy being valuable it is not enough to establish that anyone has a right to this policy. We need a broader theory to explain why the ability to plan is a right. According to Hosein, the ability to plan is a right for reasons related to autonomy.

This autonomy-based argument begins with a general premise about states: it is widely accepted that states severely limit the autonomy of all those subject to the state’s directives. For example, whenever you drive a car, pay taxes, recycle, and partake in a range of activities, you are forced to follow a range of laws, and you will face fines and sometimes imprisonment in violating these laws. If your autonomy is undermined, and if one is wronged when one’s autonomy is undermined in the absence of a good justification, then some justification is required for states to avoid wronging their citizens. One justification is that directives enhance autonomy in one way: they allow those subject to the state’s directives to plan their lives (Hosein, [2019](#B24), pp. 128–129). For example, in being forced to drive on the right side of the road in the United States, you can plan to drive without facing an accident, and in being forced to pay taxes that contribute to overall security, you can plan your life without facing insecurity. At least, you have a greater ability to plan your life than in the absence of these laws.

While the ability to plan one’s life might not be sufficient to justify the state’s directives, it is necessary, and so if you are subject to the state’s directives and not able to plan your life, you are seriously wronged. To be able to plan your life while living under the state’s directives, you need to know that you can remain, and the longer you live under the state’s directives, the more it is important to remain to ensure that your total autonomy is greater than had you not faced the state’s directives. For example, if you will live in a state for 10 years, you will face autonomy-undermining directives for a long time, and such long-term infringements on your autonomy require an especially long period of being able to plan your life to “make up” for the long-term infringements (Hosein [2019](#B24), p. 130). In other words, if you are forced to live every day for 10 years without the confidence that you can remain, then you are forced to live for 10 years without the ability to plan your life, and if you are also subject to taxation and a range of other autonomy-undermining directives during that time, then your total autonomy is likely reduced compared to a world where you are not subject to such directives. Or, even if your total autonomy is not less than in a world without such directives, it is not sufficiently enhanced to justify such directives. Put another way: the longer you are subject to the state’s directives, the greater your claim to remain in the state to plan your life, so that the state’s directives sufficiently enhance your autonomy as to be justified.

The above explains why refugees who require long-term asylum have special rights to remain, a right perhaps not held—or held only weakly—for those refugees requiring only short-term asylum.

This argument can be summarized as such:

1. A state issuing laws infringes on the autonomy of residents.
2. Undermining autonomy is wrong in the absence of a good justification.
3. One justification for infringing autonomy via laws is that such laws significantly increase total autonomy by helping individuals plan their lives.
4. Those forcibly subject to the state’s laws for many years only have significantly greater autonomy to plan their lives if they have the ability to remain.
5. Therefore, those forcibly subject to the state’s laws for many years are wronged unless they have a right to remain.
6. Refugees who are fleeing conditions that will not improve for many years are forcibly subject to the state-of-asylum’s directives for many years.
7. Therefore, those refugees fleeing conditions that will not improve for many years have a right to remain.
8. Refugees who are fleeing conditions that will only last a short amount of time will be forcibly subject to the state’s laws for only a short amount of time.
9. If one is forcibly subject to the state’s laws for only a short amount of time, then one’s total autonomy can be significantly greater than in a world without these laws, even if one lacks a right to remain.
10. Therefore, refugees fleeing conditions that will only last a short amount of time are not necessarily wronged if they lack a right to remain.[[6]](#footnote-6)

The above argument is compelling, because it accounts not only for the importance of being able to plan’s one’s life, but also for the unique position that long-term refugees are in: the longer they require asylum without the right to remain, the more they are subject to state laws that infringe on their autonomy, and the greater moral reason to grant them permanent residency to access the autonomy to plan their lives.

Hosein’s argument focuses on the length of time refugees require asylum, but his general reasoning suggests that some refugees have a right to remain not in virtue of how long they require asylum, but how much their autonomy is undermined in a short amount of time.

For example, some refugees are forced by states of asylum into small enclosed spaces, either detained or kept in refugee camps. Even if refugees only remain in detention or camps for a short amount of time, because they can safely return home shortly after, the state cannot claim that autonomy was not particularly infringed by the state. The state cannot claim that refugees were just subject to short-term infringement of autonomy via its usual laws. Refugees were not subject to usual laws, like being forced to pay taxes and drive on the right side of the road, but to far more autonomy-undermining laws via forced encampment. If so, we might build on Hosein’s general argument, and claim that the more autonomy is undermined during asylum, the more the state must increase refugees’ autonomy via other means, and the more the state has an obligation to grant permanent residency to ensure autonomy was sufficiently increased. Of course, permanent residency may be insufficient to compensate refugees for unjust infringements on their autonomy, such as prolonged detention and encampment, and would not justify such infringements on their autonomy. However, permanent residency would at least entail partial compensation for the infringement of autonomy and—more importantly—deportation would not be justified simply because refugees have lived for only a short amount of time in the country. A short amount of time in the country can still entail a significant total infringement on autonomy, such that permanent residency is owed.

2. Who Has a Duty to Protect the Right to Remain?

The previous section presented various arguments in defense of some or all refugees obtaining permanent residency, rather than being forced to return home. Regardless of which arguments you found compelling, you will likely accept this: it is wrong to force refugees back to countries where their lives will certainly be at risk from persecution. This section considers what it means to force refugees back to unsafe countries.

Sometimes states seem to force refugees back to unsafe countries because they deny refugees access to the job market, deny them sufficient welfare provisions, and/or threaten to detain them in an enclosed refugee camp. If refugees choose to repatriate because they feel they have no reasonable alternative, then it seems their choice to return is not voluntary. They have therefore been wronged by the government.

More specifically, we might accept this:

1. If X threatens to commit a wrong against Y unless Y Φ-es, and Y Φ-es as a result, then X wrongly forces Y to Φ.
2. It is wrong for the government to deny refugees employment opportunities, welfare provisions, and freedom from detention.
3. Therefore, when the government threatens to deny refugees employment, welfare, and freedom unless they repatriate, and refugees repatriate as a result, the government wrongly forces refugees to repatriate.

This argument is relevant for a range of governments around the world. The governments of Bangladesh, Kenya, Greece, Turkey, Israel, Australia, and many more require at least some refugees to remain in enclosed camps, only able to leave if they repatriate home. These governments also deny refugees work visas, and some—such as Kenya and Bangladesh—fail to provide resources to access education, sufficient nutrition, and adequate healthcare (Barnett & Finnemore, 2004, p. 106; Corlette, [2005](#B13); Frelick, [2016](#B26)). When these governments pressure refugees to repatriate by threatening to continue denying them basic necessities unless they repatriate, these governments wrong the refugees they threaten.

One potential problem with the above argument is that (2) is potentially false. A government does not wrong a refugee if it denies them a given benefit it cannot afford to provide. For example, even if the Kenyan government wrongs refugees when constraining their freedom of movement, it is not clear it must provide welfare provisions if it cannot afford such provisions. If it could only afford such provisions with aid from high-income states—such as Canada, Australia, Japan, and so forth—then these other high-income states potentially have a duty to provide such aid. If these high-income states fail to provide aid, then these states are committing a wrong, rather than the Kenyan government. In committing a wrong toward these refugees, these wealthy states are essentially implying the following message to refugees: “If you remain in Kenya, we will continue to deny you aid.”

There is another problem with the argument. It is too narrow in scope: X does not only wrongfully force Y to Φ whenever X threatens a wrong unless Y Φ-es. She also wrongfully forces Y to Φ if she wrongs Y, and this wrong is the reason that Y Φ-es. For example, if Jeremy steals Shual’s inhaler, and as a result Shual must go the hospital, then it seems that Jeremy has forced Shual to go to the hospital. This is true even though Jeremy did not threaten to steal Shual’s inhaler unless she went to the hospital: he took her inhaler whether she went to the hospital or not. It is enough that Jeremy’s action was the reason that she went to the hospital for us to claim that Jerome forced Shual to go to the hospital. If a state wrongly refuses to provide welfare provisions to refugees, and refugees return as a result, this state forces refugees to return. For example, if Canada and Japan ought to send aid to refugees in Kenya, but do not and refugees repatriate as a result, these states force refugees to return. It does not matter whether or not they issue a threat.

To account for the above observations, we can revise the Forced Return Argument:

1. If X threatens to commit a wrong against Y or does commit a wrong against Y, and Y Φ-es as a result, then X wrongly forces Y to Φ.
2. Many governments wrongly deny refugees employment opportunities, deny them welfare provisions, and threaten to detain them.
3. Therefore, when governments threaten to deny employment, welfare, and freedom to refugees, or do deny these goods, the refugees who repatriate as a result are wrongfully forced by these governments into repatriating.

The above general argument accounts for both the circumstances of refugees, and the agents that are culpable for refugees being forced to return. States are culpable if they deny or threaten to deny resources that they ought to provide, contributing to involuntary returns as a result.

3. The Duties of Humanitarian Organizations

The above arguments focus on states, but raise perplexing dilemmas for nonstate actors. When states fail to ensure refugees are given various rights, as when high-income countries fail to assist the Kenyan government to host refugees, the United Nations Refugee Agency (UNHCR) often steps in to help such refugees. The agency has become increasingly involved in the provision of both aid to refugees throughout low-income countries and increasingly involved with repatriation itself. Nongovernmental organizations (NGOs) have played a similar role, often working alongside UNHCR to provide transport for refugees wishing to return to home countries when conditions in host states have become unbearable. A number of scholars have raised serious ethical concerns with how UNHCR and NGOs—who we can just call “organizations”—have facilitated repatriation. These scholars note that refugees often choose to return because conditions have become life threatening in host states, or at least because refugees are denied welfare provisions, employment rights, and freedom from enclosed camps (Barnett, [2001](#B5); Bradley, [2013](#B8); Crisp & Long, [2016](#B14)). If refugees are returning to unsafe home countries to avoid the lack of rights in host states, then they are not returning voluntarily. They therefore cannot give their voluntary consent to organizations to repatriate.

This is a problem, because voluntary consent is necessary for valid consent, the sort of consent that can grant permission to others. For example, a patient’s consent to her surgeon must be voluntary for the surgeon to perform an operation; without such consent, the surgeon would be acting impermissibly in conducting the operation. If refugees’ consent to organizations is invalid, then it seems organizations act impermissibly in helping with repatriation.

This argument can be summarized as follows:

1. Organizations should only help refugees repatriate if they can obtain their valid consent for this repatriation. This refers to the sort of consent that gives permission to organizations to help refugees repatriate.
2. To give valid consent to repatriate, refugees must be consenting voluntarily.
3. To consent voluntary, refugees must have a reasonable alternative to repatriation.
4. Therefore, when refugees lack a reasonable alternative to repatriation, organizations ought not help refugees repatriate.

The first premise might strike some as odd. Organizations often claim they are engaging in humanitarian aid when providing refugees transport home. When an agent gives humanitarian aid to another, she need not obtain her valid consent. For example, if someone sees a homeless person on the street, she need not obtain this homeless person’s valid consent to merely put food next to him. Similarly, if I transfer money to someone’s account, in today’s legal framework I need not obtain their valid consent. They can always give me the money back, but the initial transfer is my choice alone. Organizations similarly need not obtain valid consent to hand over a free airplane, train, or bus ticket back to home countries.

Though organizations may be engaging in humanitarian assistance, they are still engaging in high-risk assistance. When providing someone a high-risk resource, one must be certain the individual accepting this resource has consented to its provision. For example, hospitals are legally and morally obligated to obtain a patient’s valid consent when giving them treatment that entails merely handing over a free-but-risky pill. They must obtain a patient’s valid consent because patients have a right to not be placed in a position of risk, and the moment they are given the pill they are placed in a position of risk. They therefore must consent to not be placed in this position before it is ethical to give them a pill. When organizations give refugees free flights to high-risk countries, they are placing refugees in a position of risk, and ought to first obtain refugees’ valid consent.

The first premise of the argument, then, is sound. What of the second? This premise is false. It is not true that valid consent must always be voluntary.

The reason for this is related to consent’s function. Consent’s function is to give individual’s autonomy over their lives by successfully giving others permission they otherwise would not have. For example, if I consent to you entering my home, I give you permission to enter my home. To give consent that successfully gives permission, one need not necessarily be giving the consent voluntarily; it is enough that the agent obtaining consent cannot stop the coercion that leads to the consent and cannot provide any better option. For example, imagine a woman—let’s call her Abebi—is running from a gang and knocks on the door of Bineylum. Bineylum tells her, “I will let you into my home and give you protection, but there are risks in doing so: my roof is not secure, some of my electrical fixtures might be faulty, and the gang might still break its way into the home.” If Abebi consents to this risky arrangement, she is not consenting voluntarily if the only alternative is death from the gang, but she is nonetheless still giving her valid consent. This is because she is receiving the only option Bineylum could possibly provide, assuming Bineylum cannot provide any other option that will better protect Abebi. When organizations help refugees return home, they can similarly obtain refugees’ valid consent if this is the only option organizations could possibly provide, and they cannot provide any option that will better ensure refugees’ safety (Gerver, [2018](#B17), Chapter. 2).

For an example of organizations obtaining valid consent from refugees in this way, consider a case from 1991. That year NGOs working in the mountainous region between Iraq and Turkey tried to help refugees obtain asylum in Turkey, but consistently failed, and so agreed to help refugees repatriate to Iraq (Long, [2013](#B34), p. 107). Though refugees were essentially coerced by the Turkish government into repatriating, because they had no alternative, they could still give their valid consent to NGOs helping them repatriate.

While the case of NGOs in Turkey is one of successfully obtaining valid consent, other cases do not entail such valid consent. Sometimes organizations can provide an option that will better protect refugees, but do not. For example, sometimes organizations could lobby for refugees’ rights in a host country, or could work to resettle refugees to safer countries, and have a duty to provide both options. They might have such a duty because they can easily provide such options, or because as humanitarian organizations they have a duty to protect refugees in the most effective way possible, and improved conditions in host states or resettlement are more effective ways of providing protection. If organizations do not fulfill their duties to provide refugees with options other than repatriation, then they are denying options that refugees have a right to receive from these organizations. They therefore fail to obtain refugees’ valid consent.

4. The Right to Return

If a refugee is forced to return home they are wronged, but if they wish to return home, do they have a right to do so? I shall not provide a decisive answer to this question, and instead outline some key arguments in support of the claim that refugees have a right to return to the country and property from which they fled. At least, they have a pro tanto right to do so.

What is a pro tanto right? When X has a pro tanto right to Φ, then there are weighty moral reasons for others to provide X with the means to Φ, but these reasons can sometimes be overturned when competing considerations arise. For example, there is a pro tanto right to healthcare in a given state, but the state might deny healthcare to a given individual if it lacks the funds to treat all. Though pro tanto rights are not absolute, they are important, and ought to be respected in the absence of competing rights. In the context of refugees, there are a number of arguments in support of refugees’ pro tanto right to return to the general territory from which they fled, and to the specific property they left behind.

One argument begins with a premise described in the previous section: individuals generally depend on being in a specific place to plan their lives. This is why refugees often have a right to remain in their countries of asylum, and also explains why refugees are wronged when they are initially displaced. They are wronged because essential plans they created were undermined, and being able to continue one’s plans is essentially for living an autonomous life. At least, being able to continue one’s plans is essential when one’s plans do not infringe on some basic distributive rights: a millionaire might not have a right to continue her expensive plans when others are in grave need, but a farmer likely has a right to continue her plans to sow crops to live a minimally decent life.

When refugees are displaced—when they are forced to leave their homes and cross borders into a state with a very different culture and set of laws—they are forced to discontinue the life they planned in their previous region, and so their autonomy is significantly undermined. Assuming that all humans have a right to certain minimal levels of autonomy, then all humans have a right to not be forcibly displaced from their territory. When returning to a general territory is essential for continuing one’s plans, then one has a right to return to a general territory. This can explain straightforward cases, as when a refugee can immediately return to the general geographical area from which they fled and continue the plans they began prior to fleeing. For example, Tutsi refugees fleeing Rwanda in 1993 had a right to return following the genocide against Tutsi citizens of Rwanda; this right could be grounded in their general right to continue the lives they had planned prior to fleeing.

In reality, it is rare that returning will allow refugees to continue the plans they had prior to fleeing, because a great deal of time has passed. Rwandan refugees who fled in the 1960s usually returned only in the 1990s (Prunier, [1995](#B46)). Even in such cases, some plans can continue. This is especially true if refugees return together, rekindling lost ties by rejoining family members and friends who had been displaced to various countries, and recreating farms, places of worship, and cooperatives interrupted due to displacement. Return can also be essential for continuing life plans dependent on a certain natural environment unique to the land one has been displaced from. More generally, planning one’s life means being able to continue living a life with a certain “fabric,” to use the words of Victor Tadros ([2017](#B55), p. 379), and when a broad geographical region is essential for this fabric, this grounds at least a pro tanto right to return to this broad geographical region.

The above concerns the interests of refugees to continue their life plans, but there are arguments that appeal not only to these plans, but to the way return can provide redress and encourage responsibility. Consider a compelling argument made by Megan Bradley: in cases where individuals were forcibly displaced by a given state, this state can acknowledge responsibility for its actions by permitting displaced refugees to return (Bradley, [2019](#B9)). In other words, even when refugees’ life plans cannot be continued by returning home, perhaps because too much time has lapsed, permitting return communicates to returnees that they have been wronged in being displaced, and that the government acknowledges this wrong.

Such acknowledgment can occur even if the government in power is different than the government which forced refugees to leave. In such cases, the general state as a collective entity can begin to redress the wrongs committed by the previous government in the name of the state (Bradley, [2019](#B9), pp. 171–172). Doing so may serve as a type of promise to refrain from forcibly displacing this population in the future, and to welcome them back as full and equal citizens. For example, South Africa welcomed back refugees displaced from Apartheid, and Bosnia welcomed back refugees displaced by ethnic cleansing. Both were taking actions that expressed an acknowledgment of the wrongs committed by previous governments, and the start of a promise to change laws, education, and rhetoric to protect previously oppressed populations.

For return to have this effect—for it to redress past wrongs and entail a promise to refrain from such wrongs in the future—it must include more than a permission to re-enter a state or geographical location; it must include the provision of equal rights to citizenship for returnees (Bradley, [2019](#B9), p. 168). In some cases, this will entail giving rights to returnees that they never had before, as when the vote was extended to all after Apartheid. When the goal of return is to redress past wrongs and ensure a better future, returnees should sometimes be given access to the houses they were forced to leave during displacement. Only then will the wrong of displacement be partly counteracted. For example, when Bosnia permitted refugees to return it promised the right to access property that refugees had fled from, hoping to counter some of the effects of ethnic cleansing committed during the war (Bradley, [2019](#B9), p. 167). In other cases, return should not entail the return of precise property lost, because the distribution of property prior to displacement was unjust. If a goal of return is to ensure a better future, resorting to the distribution of property prior to displacement may fail to fulfill this goal. For example, while Rwanda provided some access to lost property for returnees, it included widespread redistribution of property as well, hoping to counter the food insecurity that contributed to the outbreak of genocide in 1993.[[7]](#footnote-7)

The above are general arguments in support of the right of return and benefits that can arise when refugees can return. However, in some cases a state may claim that, even if return would entail certain benefits, it is not obligatory.

One reason a state might claim return is not obligatory is that refugees left on their own accord. This argument has been raised in the context of Palestinian refugees. Some historians claim that Palestinians in both 1948 and 1967 left because of instructions from Palestinian leaders to do so, rather than because they were forcibly displaced by Zionist forces in 1948 or Israeli forces in 1967. If such Palestinians voluntarily left, then they forfeited their right to live in what was later the territory of Israel. Moreover, if Israel was not responsible for displacement, Israel has no duty (some claim) to permit Palestinians to return to the houses they fled from in either 1948 or 1967 (Tadros, [2017](#B55), p. 387).

Victor Tadros has demonstrated the weakness of the above argument. Not only were many Palestinians forcibly displaced, but even if they were not—even if they left voluntarily—leaving voluntarily is not sufficient to forfeit the right to live in a given piece of territory: one does not forfeit one’s right to live in one’s house by going on vacation, and certainly not when leaving a neighborhood in the midst of a war. One does not even forfeit one’s right to live in a given house if one remains absent for a long time, assuming one has been forced to remain absent. Refugees do not forfeit their rights to return if they have remained absent because they are barred from returning (Tadros, [2017](#B55), pp. 387–390).

Some might claim that refugees forfeit their rights to live in a state if they endorse human rights violations prior to fleeing, and chose to flee with the hope that such violations would occur. For example, when Hutu citizens fled Rwanda during and following the genocide, some endorsed the genocide and fled with the hope that it would be successful. Even if they really were forced to flee and were not culpable in the way that militias were culpable (Rubenstein, [2015](#B47), pp. 87–88), perhaps they forfeited their right to live in Rwanda. They therefore had no right to return.

One response to the above concerns data: it is close to impossible to establish who, precisely, holds wrongful hopes. If the vast majority do not—and are just fleeing because they must, and without much thought about what will happen when they are gone—then no such argument arises. Even if we could establish who had objectionable hopes while fleeing, it is not clear that one’s internal hopes can justify denying the right of return. Internal hopes would not justify initially forcing refugees to flee: it would be wrong, for example, to force a given individual to leave a state merely because they privately wish for some wrongful harm to befall others. If forcing individuals to flee because of their private hopes is insufficient to justify forcing them to flee, then refusing to permit them to return because of their private hopes seems similarly wrong.

Moreover, even if attitudes at least create weighty reasons to deny refugees the right of return, attitudes can change, and can change dramatically. Rwandan Hutus in contemporary Rwanda have dramatically different attitudes than they did in 1993, as a result of intense changes in the education system in Rwanda, widespread radio broadcast messages, and the development of a very strong cultural taboo against appealing to one’s Tutsi or Hutu identity in argumentation (Blouin & Mukand, [2019](#B7); Paluck & Green, [2009](#B42); Staub, [2003](#B50)). If attitudes can change, and society benefits from such changes, and if return can help facilitate such changes, then objectionable attitudes need not create a reason to deny the right of return.

In some cases, attitudes are not private thoughts that can be altered but motivations for committing acts of violence. In such cases, as when Hutu militias sought to return to Rwanda to continue killing Tutsi citizens, no right of return exists. However, even in such cases there are difficult dilemmas that arise. When it is not easy to identify who will commit an act of violence, some states may be tempted to issue a blanket ban on all returning from a given ethnic, religious, or national group—including nonmilitia members. There are very weighty moral reasons to oppose such blanket bans. Just as it would be clearly wrong for the current Rwandan government to force all Hutu members to leave Rwanda in the off chance that some had violent intentions, it would have been wrong for the Rwandan government to refuse to readmit all Hutu citizens on the off chance that some had violent intentions.[[8]](#footnote-8) And, indeed, this is not what the Rwandan government did: it did not use citizens’ Hutu identity as criteria to block the right of return (Adelman, [2008](#B1)).

There is a second claim that a state might raise: perhaps refugees have no right to return because this would dramatically change the demographic makeup of the country, undermining existing residents’ right to self-determination. This argument has been raised in the context of Israel, where granting full rights of return to all Palestinians, including citizenship and voting rights for the Israeli Knesset, would mean that Jews were comprised of a minority within Israel. This would undermine the viability of laws aiming to protect the Jewish identity of the state, such as laws ensuring access to Jewish education and support of Jewish cultural practices. Importantly, current Israeli law ensures that anyone in the world with Jewish descent (described as having at least one Jewish grandparent) can obtain automatic residency and later citizenship in Israel (Peled, [1992](#B43)). One potential justification of this law is that, given the lack of asylum for Jews suffering from persecution throughout history, there is a need for a state that automatically grants residency rights to Jews seeking such residency rights. Were Jews to become a minority in the state of Israel, it is likely the law permitting Jews to access citizenship rights would be overturned. If Jews have a right to some type of country of asylum, and permitting Palestinians to return to their homes would undermine this right, then perhaps Palestinians need not be given the right to return to their homes.

There are a number of problems with the above argument. For one, Israel could simply grant the right of return and deny voting rights to Palestinians; this may be morally impermissible, but it is likely as morally impermissible as simply denying Palestinians the right of return entirely. Granting the right to return while still denying them the vote would be morally better than denying them the right to return and denying them such a vote, which is the current status quo (Tadros, [2017](#B55)).

More importantly, there is no reason to suppose that granting Palestinians both the right to return and the vote would undermine Jews’ right to self-determination. Consider how Israel might respond with regards to Jews’ access to automatic citizenship: Israel could clarify, in a constitution, that Jewish rights to obtain citizenship in what is currently the territory of Israel will be upheld (alongside Palestinian’s right to return and access voting rights and citizenship if they wish). Israel could clarify that this policy will continue regardless of parliamentary decision-making. Indeed, the claim that Israel ought to uphold the rights of any Jews to access Israeli citizenship, regardless of parliamentary decision-making, was supported by the first president of Israel as far back as 1950 (Peled, [1992](#B43), p. 435). Insisting on the provision of this law, irrespective of majority and parliamentary decision-making, could also be consistent with broader principles of democracy and human rights, if we presume that security is central to democracy and human rights, and that the rights of Jews to obtain automatic citizenship in Israel is necessary to ensure Jews’ security. Similar claims could be made with regards to other laws protecting Jewish culture, such as funding for Jewish education. If we think there are strong human rights reasons to protect certain cultures, these can be protected from majority decision-making. Moreover, this is often feasible: if Israel is capable of preventing Palestinians from returning to the region now comprised of the state of Israel, then surely it is capable of permitting Palestinians to return and preventing a majority from undermining certain policies currently in place.

The above general claim is consistent with historical examples of rights of return. When Rwanda granted all refugees the right to return, it limited the rights of the majority to determine a range of Rwandan laws (Banks, [2007](#B4)). While Rwanda later took this too far—the country does not have free presidential elections (Krist, [2019](#B29))—it indicates that granting the right of return need not undermine existing laws, and so denying return is not justified purely on the grounds that existing laws will be undermined.[[9]](#footnote-9) A similar claim can be made with regards to postapartheid South Africa. When the country transitioned to democratic-decision-making, including permitting all refugees to return, it protected certain key rights from majority rule (Sunstein, [1999](#B54)). The right of return, and expanding the franchise more generally, need not come at the expense of all laws prior to the expanding of the franchise. If so, then a concern for the way that returnees impact laws is often a poor justification for denying the right to return.

The above arguments are consistent with the claim that, in some cases, the impact of returnees on a state could be grounds for limiting the right to return. In cases where return will lead to considerable instability, disadvantaging both current residents of the state and newly arrived returnees, it may be justified to at least limit the rate of return. Moreover, in cases where current residents will likely face considerable security risks that cannot viably be prevented, due to resource constraints, then limiting the number who can return may be justified, as would limiting who can return: those with a history of support for human rights violations can permissibly be blocked from entering if their entrance would cause unavoidable harm to current residents. This may be true even if such individuals have historically been wronged, and only assisting in their return can help redress such wrongs: the rights of returnees ought to be weighed against the rights of others.

If the rights of returnees ought to be weighed against the rights of others, then there might even be cases where blocking returns is justified because returns will destabilize the economy and strain public services in the country of origin. More specifically, slowing down the rate of return may be justified to prevent mass return migration in a given year. However, even in such cases, it may be possible for refugees to not be blocked from returning and instead be given an incentive to not return. For example, Katy Long discusses the case of Liberian and Sierra Leonian refugees in Nigeria who were issued Liberian and Sierra Leonian passports alongside temporary work visas in Nigeria. This was part of a program funded by the UNHCR, and the refugees were availing themselves of international protection without physically returning to the countries from which they fled (Long, [2013](#B34), pp. 206–208). Another form of repatriation without full return involves temporary return alongside transnational migration, as when in 2002 Afghan families were offered by the Iranian government a 3-year work visa in Iran on the condition that they visit Afghanistan first. This program was partly a response to “the Afghan state’s chronic lack of socio-economic capacity,” which made permanent return not viable (Long, [2013](#B34), p. 211). In such cases, refugees are not blocked from returning, but incentivized to not return with the prospect of residency rights in a host country.

5. The Duty to Return

While much debate has focused on whether refugees have a right to return, another question is whether refugees have a duty to return. In a recent chapter addressing this question, Matthew Gibney considers and rejects a number of potential claims supporting the duty of refugees to return.

Two stand out:

1. Refugees have a duty to repatriate owed to their host states.
2. Refugees have a duty to repatriate owed to the state they have left.

The first duty can be defended as such:

1. When one has been given hospitality in another’s home, one has a duty to express gratitude for this hospitality.
2. A truly gracious recipient of hospitality will show respect toward her host by eventually leaving.
3. When refugees are given asylum by their host states, they are given hospitality by their host states.
4. They therefore have a duty to eventually leave once asylum is no longer required.

Gibney rejects the above argument on the grounds that refugees have a right to more than mere hospitality. They have, in a range of cases, a right to citizenship. With citizenship comes the right to remain, rather than repatriate. More importantly, even if refugees are owed mere hospitality, there is more than one way to express gratitude for hospitality: refugees can express gratitude by becoming active participants in the societies that have offered them asylum, striving to improve the welfare of this society. The first claim, then—that refugees owe host states a duty to repatriate—is found wanting.

 The second claim is more promising. The second claim is derived from one of reciprocity. All citizens have special obligations to help benefit the states they are members of. This is because the relationship between citizens and their states is one of reciprocity: states provide benefits and citizens provide benefits back. For example, states provide healthcare and citizens pay taxes. Refugees ought to therefore benefit their home states by eventually repatriating. Gibney quickly dismisses this claim: refugees are precisely those who have fled states that have not benefited them. If they obtain no benefit from their home states, it is not clear why they are obligated to return to such states and assist in its reconstruction. He argues that this is particularly clear for those who are persecuted, but even true for those who have fled general violence or regimes that have since been overthrown; if refugees have fled states that no longer benefit them, they lack duties of reciprocity for benefits obtained (Gibney, [2019](#B21), p. 146).

Gibey’s argument effectively explains why duties of reciprocity should not be taken as a given. However, some refugees may still owe duties of reciprocity to their home states even if no longer benefiting from these states. To see why, it is worth considering what type of reciprocity can exist between different agents.

One type of reciprocity is iterative: X helps Y, and then Y provides a similar level of help in return, and then X returns the favor, and so forth. For example, X buys Y a drink, and then Y buys a drink back, and so forth. Another type of reciprocity is accumulative. For example, X buys Y a drink, and then Y buys a drink back, and after a while X and Y have bought each other drinks for a while such that Y, grateful for the drinks that X has bought Y over the years, buys Y a whole dinner, and maybe Y buys a dinner back, and so forth. If reciprocity can accumulate in the way described above, then we can sometimes take on duties toward others even if others fail in their duties toward us. If X and Y help each other over the years, then even if Y fails to help at one time, X might still have a duty to continue helping Y for some time, given everything that Y has done prior to her failure.

Now, I don’t think that refugees have a relationship with their state the way that X and Y do above. The relationship is not personal, like one of friendship. However, some refugees nonetheless benefit from their state over time, and such benefits can accumulate, even if they no longer benefit once fleeing.

For a rather extreme example of this, consider 1940s Czech royalty who were forced into slave labor with the rise of communism, some fleeing for their lives. Two such individuals were Count Joseph Kinsky and the former prince William Lobkowicz, and they later felt compelled to return to the Czech republic for somewhat self-interested reasons: they wanted their castles back (Gerver, [2018](#B17), p. 194). I do not think they had a right to their castles, but they did have a duty to give back to others what they had received prior to fleeing. The benefits they received prior to fleeing—a life of royalty—created a reciprocal duty despite the persecution they faced.

Less extreme benefits might create lesser reciprocal duties, but there are duties nonetheless. Rwandan refugees who benefited from extensive land rights could have duties to give back to Rwandan civil society after they have fled. Syrian poets who benefited from a flourishing literary scene prior to the war may have duties to give back to the Syrian state, assuming Syria becomes a safe democracy. Even Eritrean doctors who benefited from an education in Asmara, but fled forced labor, might have a duty to give back to the Eritrean state as a result of the education they gained, assuming Eritrea ever becomes a safe democracy. Even if one rejects the claim that the above refugees owe a duty to their former states, they may owe duties to co-citizens, such as citizens who helped create universities training doctors in Eritrea. When physically returning is necessary to give back to one’s fellow citizens, there may be a duty to do so. The premise that refugees can have reciprocal duties, therefore, has some clout.

Though it has some clout, it still does not create a duty to return in all cases. One reason is that repatriating is often an ineffective way of fulfilling a reciprocal duty. It is ineffective when repatriation is an ineffective way of helping a country and its institutions.

For example, in the early 1970s, attacks against Tutsi citizens in Rwanda had slightly declined with the election of President Juvenal Habyarminana, and a decade later Rwandan refugees began repatriating (Rutinwa, [2002](#B48)). The increased population in Rwanda further constrained access to land, and insufficient land may have been one impetus for the Rwandan genocide. More recent repatriation had led to similarly deteriorating conditions. When refugees returned to Afghanistan in the 2000s, and to South Sudan in the 2010s, this led to massive population increases in both countries. In Afghanistan a third of all citizens were returnees by 2011 (Naseh et al., [2018](#B38)), and in South Sudan at least 2.5 million out of 12 million citizens were returnees that same year (IRIN, [2013](#B28)). Both of these mass returns were followed by widespread malnutrition, water-borne illnesses, and violence (Giustozzi, [2011](#B22); UNHCR, [2019](#B56)). If it turned out that repatriation causally contributed to malnutrition and other harms, then not only would refugees have no duty to return, but refugees may have a duty to not return.

Of course, we do not know if repatriation in the above cases caused harm; perhaps conditions in Rwanda, Afghanistan, and South Sudan would have deteriorated regardless of whether refugees had returned. Moreover, mass repatriation is often involuntary; the above three cases all involved host states placing considerable pressure on refugees to return. If all returned voluntarily, perhaps they would have helped the economy and would have been fulfilling their duties of reciprocity toward their host states and/or co-citizens.

Even if voluntary repatriation does help refugees’ host states and/or co-citizens, there is another reason they might have no duty to repatriate. Repatriation can be overly demanding. Demanding that individuals return after they have established themselves in their host countries is a cost too high to pay. Even when refugees have not established themselves, any further upheaval can be difficult. Repatriation is a second upheaval, even if the end of exile.

More importantly, appealing to reciprocity is unfair. It is unfair that nonrefugees in high-income countries are morally required to merely pay taxes in return for the benefits they receive, while refugees from low-income countries are expected to live in destitution by repatriating. It is true that all citizens—refugees and otherwise—might have special duties to help the states and societies they are members of, but it is unfair to demand that refugees fulfill these duties by experiencing the harsh conditions of postwar societies, while nonrefugees can simply stay where they are. For these reasons, even if some refugees have a duty to repatriate, many do not, and enforcing such a duty would be wrong.

Conclusion

This overview of the ethics of repatriation addressed a range of questions concerning the rights of refugees to remain and return, and the duties of states, organizations, and refugees themselves. It presented reasons to suppose many refugees have a right to remain in host states even after returning is safe, and reasons to suppose that host states act wrongly in pressuring refugees to return even after returning is safe.

This article further articulated the duties held by humanitarian organizations faced with unethical state policies: it is not clear when such organizations ought to help with return when refugees are only choosing to return to avoid detention, unemployment and the threats of deportation. I argued that helping with such return is justified in certain instances.

Moreover, helping with return may help refugees fulfill their right to return, assuming such a right exists. I argued that there are good arguments supporting such a right. Refugees’ right to return can be grounded in their right to either continue the life plans they began prior to fleeing or to counter some of the wrongs of displacement, including ethnic cleansing and human rights violations.

If refugees have a right to return, this leaves open the question of whether refugees have a duty to return: the question of what duties refugees hold has been largely overlooked, but is pertinent for addressing the full range of actors involved in return decisions. Refugees are central actors in such decisions, and perhaps they have weighty moral reasons to return when doing so can help rebuild societies and communities destroyed from war, famine, and natural disasters. However, although refugees may feel compelled to repatriate to rebuild what was destroyed, it is unlikely they have a duty to do so, especially when the costs are significant.

Establishing when costs are significant requires not only ethical analysis but empirical analysis: interviews with refugees can establish what it is they desire in their return experiences and what sorts of costs states can help alleviate. It can also establish the risks associated with return, including the risks on populations who never left. The arguments presented in this brief article largely put aside a range of important empirical questions that must be answered before the ethical considerations can be applied. To establish precisely what states, organizations, and refugees ought to do, it is necessary to not only consider the general arguments associated with these agents, but the precise details of specific cases. Doing so can help establish more precise practices surrounding repatriation and more precise ethical claims about what different agents ought to do in different scenarios. Such precision is urgently needed, given the complexity surrounding return, and the competing moral claims of those involved in repatriation.

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1. Scholars who endorse this argument or at least one of its premises include Cherem (2016, pp. 191–192), Lister ([2013](#B33), pp. 662 and 669–670), Walzer ([1986](#B58), p. 48), and Price ([2009](#B45)). [↑](#footnote-ref-1)
2. This policy was reversed under the Biden Administration in 2021. See Hughes ([2021](#B25)). [↑](#footnote-ref-2)
3. For related arguments, see Owen ([2016](#B41)) and Shacknove ([1985](#B49)). [↑](#footnote-ref-3)
4. This is one way of prioritizing places for asylum, but there are others. For discussions, see de Vries ([2020](#B15)), Cherem ([2020](#B12)), Gerver ([2020](#B18)), Lenard ([2020](#B30)), Lippert-Rasmussen and Laegaard (2020), Miller ([2019](#B37)), Oberman ([2020](#B40)), and Vitikainen ([2020](#B57)). [↑](#footnote-ref-4)
5. This is not the legal definition of refugees, but it is a useful moral definition, given that there is no reason to suppose those fleeing persecution alone are morally entitled to asylum and citizenship. [↑](#footnote-ref-5)
6. This is a reformulation of Hosein’s argument. For the full argument, see Hosein ([2019](#B24), pp. 127–130). [↑](#footnote-ref-6)
7. The government’s goal is to consolidate land holdings, based on the assumption that consolidation creates more efficient land use, which will help improve the economy for all. In reality, such redistribution programs may harm the poorest in society, as Pottier ([2006](#B44)) has noted. [↑](#footnote-ref-7)
8. For the same argument, applied to Palestinian refugees, see Tadros ([2017](#B55), pp. 390–391). [↑](#footnote-ref-8)
9. Of course, permitting individuals to return but denying them equal rights to citizenship would not constitute “return” according to some conceptualizations, such as those articulated by Bradley ([2013](#B8), [2019](#B9)), who holds that return requires granting former refugees status as equal citizens, including the ability to shape the law. It remains the case that physical return, which is less demanding, cannot be justifiably prevented merely on the grounds that this will change the state’s laws. [↑](#footnote-ref-9)