

States' Responsibilities to Refugees and Refugee Selection

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Abstract

There is a general consensus amongst political theorists that there are conceivable limits to the number of refugees that a state can be expected to admit. Once this limit nears, states are faced with the issue of having to select some refugees for admittance over others. States have evolved different refugee selection practices to suit their particular circumstances. This thesis draws on the contrasting theories of Michael Walzer, Joseph Carens and David Miller to evaluate which grounds for selection that states may use are theoretically permissible, and which are not. With respect to the theory and the author's own reflection, it concludes that the vulnerability of the refugee should be the main ground for selection, while selection on the grounds of a refugee's race is impermissible. Other grounds for selection require additional considerations to be made when deciding on their permissibility. This thesis makes use of two case studies, involving recent refugee crises, to test whether the responses of EU states to these crises can be considered permissible when measured against the theories presented in this thesis.

Table of Contents

Chapter 1 - Introduction.....	5
1.1 Problem statement.....	5
1.2 Theoretical background.....	6
1.3 Research question.....	8
1.4 Three theorists.....	8
1.5 Structure of the thesis.....	11
Chapter 2 - Scoping the thesis	12
2.1 Who is a refugee?	12
2.2 Which states are responsible?.....	14
Chapter 3 - Michael Walzer.....	15
3.1 Membership and justice.....	15
3.2 Neighbourhoods, clubs and families.....	15
3.3 On refugee selection.....	17
3.4 Overview of Walzer.....	21
Chapter 4 - Joseph Carens.....	23
4.1 Open borders	23
4.2 Duty to admit refugees.....	24
4.3 On refugee selection.....	25
4.4 Overview of Carens.....	28
Chapter 5 - David Miller.....	29
5.1 States' right to close borders.....	29
5.2 Protecting refugees	30
5.3 On refugee selection.....	30
5.4 Overview of Miller	35
Chapter 6 - Personally grounded position.....	36
6.1 The strength of citizen's claims.....	36
6.2 Border restrictions	38
6.3 The strength of a refugee's claim	40
6.4 Response to Ukrainian and Syrian crises.....	46
Chapter 7 - Discussion and conclusion.....	49
References.....	53

Chapter 1 - Introduction

1.1 Problem statement

As people flee civil wars, authoritarian states, persecution by state and non-state actors, famine and environmental disasters at an unprecedented rate, the international refugee regime that came together in the aftermath of the Second World War, is creaking and beginning to crack under the strain (Owen, 2020). Images projected in the media depicting overcrowded boats crossing the Mediterranean and drowned bodies washed up on popular beaches have prompted the world to use language of moral obligation and moral responsibility in relation to refugees (Parekh, 2016). Still, the problem persists. Many in need of protection do not receive it, and even those who reach refugee camps rarely find security.

2015 saw 1.3 million people come to Europe to request asylum, the most in a single year since World War II. The war in Syria was the catalyst for this situation, and it is the country that most refugees fled from. A study by Pew Research Centre indicated widespread anxiety over the refugee crises and immigration in general from EU populations (Connor, 2015). Amidst large numbers of refugees attempting to cross into the EU and resultant discontent from EU citizens, EU states, with some exceptions, took a hard-line approach against allowing refugees sanctuary. This approach manifested in policies such as the EU-Turkey deal. The crux of the deal was that every person arriving irregularly (i.e. by boat, without official permission or passage) to the Greek islands would be returned to non-EU state Turkey, in return for financial packages for Turkey (Heck & Hess, 2017).

In 2022, the EU is once again facing a new refugee crisis. This time it is Ukrainians who are the victims of a cruel war, perpetrated by Russia. The number of residents who have escaped the country in search of safety has exceeded five million (BBC, 2022). On this occasion, however, there is a markedly different reaction from EU states and their citizens. The attitude towards Ukrainian refugees has been a rare act of collective solidarity both at the institutional level and amongst EU civilians. Ninety percent of Poles believe that Ukrainians fleeing the ongoing war should be accepted into Poland. Prime Minister of Hungary, Victor Orban, meanwhile declared, 'We're letting everyone in' with regards to the Ukrainian refugees. This stance is in sharp contrast to his usual support for anti-immigrant positions. Meanwhile, most Western European countries are waiving visa rules and providing Ukrainians with 3-year residency permits (Zamore, 2022).

While 2015 saw the EU scramble to keep refugees out, 2022 sees the EU scramble to accommodate Ukrainian refugees. This thesis does not intend to provide conclusive evidence

on why EU states and their citizens have adopted such a different response to refugees in this most recent crisis. However, Kiril Petkov, the Prime Minister of Bulgaria may have provided an idea of what underlies this current approach. He said about the situation “These people [the Ukrainians] are intelligent, they are educated people. This is not the refugee wave we have been used to... people with unclear pasts, who could have even been terrorists.” (Zamore, 2020) In contrast with the refugees in the 2015 crisis who are mainly people of colour and Muslim, the Ukrainian refugees are mostly white and Christian. Despite European countries being dedicated to the Enlightenment principle of universal rights, it appears evident that features of those fleeing, such as their race, religion and nationality were relevant factors for the differences in attitudes towards refugees in 2015 and 2022.

These contrasting responses to both refugee crises prompt important questions to the study of states’ responsibilities to refugees within political theory. Whether it is morally legitimate that the characteristics of a person or indeed other aspects regarding their claim to admittance should be relevant to the success of these claims should be subjected to theoretical research. The role of the political theorist is to morally evaluate and find justifications for the decisions that states make.

1.2 Theoretical background

There has generally been consensus amongst states that they have a right to control borders. However, exploring the justifications for them was initially considered a blind spot in political theory (Song, 2018). John Rawls, for example, developed a theory of distributive justice for a democratic society. Whilst he recommends equal liberties, equality of opportunity, and facilitating the maximum benefit to the least advantaged members of society in any case where inequalities may occur, Rawls devised this theory “conceived for the time being as a closed system isolated from other societies” (1999, pp. 8). With regards to this, not only does Rawls take the institution of national citizenship as a given, he also proceeds from a standpoint that renders the question of political membership to a state simply invisible (Benhabib, 2004). However, Rawls did include an injunction that agents operating in non-ideal circumstances have a “natural duty” to do what they can to “further just arrangements not yet established” (Rawls 1971, as cited in Beitz, 1988, pp. 48).

Michael Walzer was, according to Bader (2005, pp. 335), ‘the first to break the deafening silence [on immigration] in contemporary practical philosophy.’ In his book, *Spheres of Justice* (1983), he argues that controlling immigration and with that controlling the inflow of refugees is necessary to defend “the liberty and welfare, the politics and culture of a

group of people committed to one another and to their common life (p. 46).” Despite this, there is generally an acceptance amongst theorists that states have a humanitarian duty to offer refugees, at least temporary, assistance because they recognise the perilous circumstances that refugees are in (Walzer, 1983; Goodin, 1992; Benhabib, 2004; Gibney, 2018). Some theorists have even argued that there generally should be no limit to the number of refugees a state should allow in (Bader, 1995; Caney 2005; Carens, 2013). Therefore, the debate over *if* it is right for states to control borders for incoming refugees has expanded into debates over *how many* refugees states should allow in and *who* should they take in.

The very idea of determining how many and who should be provided sanctuary is potentially sinister, as it de facto involves a process of selecting refugees, leaving those who have not been selected to potentially face perilous consequences. Furthermore, under international human rights law, the principle of non-refoulement, which was created during the 1951 United Nations convention on human rights guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm (Owen, 2020). This principle applies to all migrants at all times, irrespective of migration status. However, Ekins (2020, pp. 47-48) comments that the “commitments undertaken by states in the convention were carefully framed to require refugees to be treated well, but not to expose states to open-ended liability to accept them into their territories. The Convention preserves the state’s right to deny entry to asylum-seekers and to expel some refugees”. This, therefore, grants states a legal basis to select refugees. The purpose of this thesis is to consider the topic from an ethical standpoint.

Under ideal conditions, political theorists would not need to address the topic of refugee admission because the refugee crises we see today would cease to exist. The reality is however that, in the past decade, the global refugee population has more than doubled. According to the United Nations High Commissioner for Refugees (UNHCR, 2021), 82.4 million people around the world are currently refugees. It is reasonable to conclude that we are moving further and further away from the ideal world we envision. The high number of people with valid claims to refugee status has contributed to the belief among theorists that states can therefore justifiably set limits to the numbers they will accept (Miller, 2019). In addition to this, as Oberman (2020) shows, states also discriminate in their selection process, and this discrimination is often endorsed by its citizens; the contrast between the case studies of Syria and Ukraine appears to encapsulate this. Further, the world’s refugee crises are ever-changing and with that, the contextual factors that states may consider before providing sanctuary to refugees are changing too. With consideration for this, finding areas where it could be

justifiable to select some claims for asylum over others holds theoretical and contemporary relevance for academia.

1.3 Research question

The discussion above lends itself to the following research question:

In what instances is it permissible for states to purposely select refugees to offer sanctuary to?

In order to address this question, it is important to also consider the following sub-questions. These questions will be considered throughout this thesis before being directly answered in Chapter 6.

1. In setting their policies, do states have some scope to shape these policies to reject the preferences of their citizens?
2. Are states justified in establishing limits to the number of refugees they will admit in any given time period?
3. What contextual factors give one refugee a stronger claim than another to be granted admission to a state?
4. Are EU states acting justly in their different approaches to the Syrian and Ukrainian refugee crises?

1.4 Three theorists

This thesis will explore and contrast the works of three theorists who have made contributions to the topic of refugee selection, namely Michael Walzer, Joseph Carens and David Miller. While they discuss the same issues, the three theorists hold differing ideas on these issues. I seek to introduce these theorists and justify why both, individually and together, they are suitable theorists for finding answers to the questions that this thesis proposes.

Walzer is an American political theorist and public intellectual, who is a professor emeritus at the Institute for Advanced Study at Princeton, New Jersey. He has written numerous books over the years on topics such as just wars, ethnicity, economic justice and tolerance. It should be noted that his contribution to the specific topic of refugee selection is thin, but his book *Spheres of Justice* written in 1983 has become an important book in the study of immigration and refugeehood within political theory. Many distinguished political theorists have used Walzer's defence of the right of states to control borders as a starting point before providing their own ideas on the topic of responsibilities to refugees. Thus, it is sensible to attribute a chapter of this thesis to evaluating his book in order to help find theoretical answers to the research questions posed. Walzer adopts ideas, rooted in pluralism and communitarianism, that stress the good that exists in maintaining and fostering existing communities (Walzer, 1983).

Carens is a professor in the department of political science at the University of Toronto. He has made numerous contributions to the sphere of political theory on topics such as immigration and the political community. Carens is an appropriate theorist to evaluate for this topic as he has been one of the most prominent open borders ethicists. (1987, 2003). Carens is of the belief that citizenship in Western democracies is an inherited status that greatly enhances one's life chances. It is therefore unjust that Western democratic states should erect strict borders for refugees when the conditions for them are so much worse than conditions for those within Western democratic states. However, it should be noted that Carens suggests that there are potentially conceivable limits to the number that could enter a state. In attempting to write a well-rounded thesis, it is necessary to consider open border arguments because while it is the reality that states do set limits on the number of refugees they allow in, it does not imply ought. I will specifically refer to his book *The Ethics of Immigration* (2013) as this is his most recent book and therefore more likely to be an accurate reflection of how he would approach the issues presented within this thesis today.

Miller is an English political theorist who is a professor at the University of Oxford. Miller has contributed to the topic of refugees in books such as *National Responsibility and Global Justice* (2007), *Strangers in Our Midst: the political philosophy of immigration* (2016) and *The Political Philosophy of Refuge*, co-edited with Christine Straehle (2020). I will reflect on them all more thoroughly in chapter 5. His political philosophy is described to be rooted in a belief of a moderate and progressive nationalism (De Schutter and Tinnevelt, 2008). While Miller advocates that states should admit refugees where possible, he also defends a state's right to close its borders to them. He also provides criteria for the cases in which it could be permissible to select some refugees over others. He identifies that some selection criteria are

inadmissible – selection on grounds of race is an example of such. However, he explains that more difficult cases exist where a refugee has features that are de facto relevant to their capacity to integrate successfully but that may still seem illegitimate as selection criteria. All things considered, he is an appropriate theorist to use for answering the research questions in this thesis. The recency of his contribution also helps to illuminate a section of the contemporary debate on the topic of refugee selection.

Liberal tension

The reason why these theorists have been selected is that they all suggest that a point may come in which states have to turn away refugees, however, they differ in determining what a state's numerical limit would be and they differ in determining what grounds for rejection of refugees are admissible. The three theorists would claim to ascribe to liberal values but evidently have different interpretations of what these values constitute. I will now briefly highlight the overarching differences between the theorists.

Walzer claims that states must be able to control borders so that states do not put at risk the depletion of liberal values that could come as a result of too many refugees entering. Those who do enter a state, however, must be granted full citizenship, in accordance with the liberal principles that everyone under a jurisdiction has equal rights. Carens conversely argues that closed borders to refugees and other potential immigrants prevents them from enjoying the liberal principles of freedom and autonomy. Moving between states is an act of expressing freedom. Carens says "From a democratic perspective it should be restrictions on freedom that require justification, not the exercise of freedom" (2013, p. 236). Refugees should be allowed citizenship when they enter a state according to Carens, but under the idealised world of frictionless border crossings imagined by Carens, the importance that citizenship within states currently holds would diminish.

Like Walzer, Miller equally agrees that a state having a right to close borders is in compliance with the values of liberalism. However, Miller contends that offering citizenship to refugees, who have been allowed to enter a state, is not always necessary. Miller suggests that offerings of temporary sanctuary and other forms of short-term entrance is also permissible. Further exploration of the conflicts that exist within their theories will be presented in later chapters.

1.5 Structure of the thesis

This thesis will be structured as follows. Following this introductory chapter, Chapter 2 will map out what this thesis seeks to focus on and what it does not. There is much to consider when theorising the topic of refugees that it is unrealistic to attempt to tackle it all – so it is important to make some clarifications here. I also provide some definitions that are necessary for the reader to know if they are to understand some of the proceeding content. Chapter 3 will detail and evaluate the work of Walzer. Chapter 4 and Chapter 5 will do the same for Carens and Miller, respectively. These chapters that are dedicated to specific authors will each begin by discussing the theoretical basis that each author’s ideas on immigration emerge from and discuss how these ideas shape their views on refugee admission. I will discuss areas in which these authors view it permissible and impermissible for states to select some refugees over others and I will provide responses to each of these positions. Throughout chapters 3, 4 and 5 I will refer back to the case studies of the refugee crises in 2015 and 2022 to see if the theorists I draw on would justify the different approaches between the two crises. After this, in chapter 6, I will attempt to present my own, personally grounded positions on the topics entailed within this thesis by systematically answering the four sub-questions given above. Finally, in chapter 7, I will present a discussion in which I highlight the limitations of this thesis and suggest areas for future research. Then, I present an overall conclusion.

Chapter 2 - Scoping the thesis

There is much to consider when theorising the broad topic of states' responsibilities to refugees. This brief chapter seeks to iron out what these considerations entail and present what considerations this thesis will focus on and what it will not focus on. It will begin by presenting contextual information about refugeehood which readers should understand if they are to clearly interpret the theories presented in this thesis.

2.1 Who is a refugee?

First, it is necessary to adopt a concrete definition of what a refugee is to clarify what is meant when the phrase is used throughout this thesis. The question of who a refugee is in itself a matter of contention within the discipline of political theory, with many theorists attempting to grapple with the question (Shacknove, 1985; Gibney, 2004; Hathaway, 2012; Owen, 2020). The literature on this question is extensive enough to write a thesis solely on it. However, this is not what the focus of this research is. Thus, to avoid being side-tracked by this question, it is preferable to choose a definition for a refugee from conventionally accepted accounts. Following World War II, and in response to the large numbers of people fleeing Eastern Europe, the United Nations 1951 Refugee Convention defined a refugee as a person who:

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it (p. 6).

As with many legal accounts the terms within this definition, (well-founded, persecuted, membership of a social group) are subjective and often interpreted differently on a case-by-case basis. Even if one were to interpret this definition expansively and flexibly, it would still omit people who flee their state for reasons of famine or climate change. Therefore, I believe the UNHCR provides a more apt definition. It:

recognizes as refugees persons who are outside their country of nationality or habitual residence and unable to return there owing to serious and indiscriminate threats to life, physical integrity

or freedom resulting from generalized violence or events seriously disturbing public order (2011, p. 81).

This broader definition includes any threat to life as being enough justification to consider someone a refugee. It is reasonable to say that this threat to life gives refugees a special claim to protection over other forms of migrants. This is why this thesis specifically focuses on states' responsibility to refugees, rather than any other type of immigrant. If someone's life is in danger, then there must be some expectation on states to – at least to some extent - alleviate this danger. The type of danger that they are in should matter less. The emphasis on this definition of a refugee is where it ought to be put, namely on the vulnerable situation of the refugee rather than on the particular cause of their vulnerability. While one may intuitively expect, for example, that a person affected by war faces a deeper and more immediate than a person who's affected by climate change, this is not likely to be true in every case. Therefore, more consistent argumentation can be given by starting from the basis that both persons are refugees.

Different states provide different degrees of sanctuary to refugees. In some cases, refugees seek only shorter-term sanctuary. This is because the danger that exists in a state that refugees have fled from is unlikely to last for a long time and the refugee may wish to return home after the danger alleviates. If, however, a refugee has no prospects of returning home soon then they can apply for asylum in a new state. An asylum seeker is someone seeking refugee status from a state but has not yet had an application approved (UNHCR, 2021). If an asylum application is rejected, then the person will often be forced to return to the place they have fled. If their application is successful, they will be granted refugee status. This, in most cases, will provide refugees with rights similar to citizens of a state and it can be expected that they will remain in the receiving country for an extended period of time. To add, while a successful asylum claim provides a person with legal status as a refugee, it is common to refer to all people who have fled states that are dangerous to be called refugees regardless of their legal status. This thesis will generally adhere to this criterion when using the term refugee. The reason why theorising on refugees is often distinguished from theorising around immigrants more generally is because of this threat to human rights faced by refugees. The main reason for states taking in refugees is to protect human life; other immigrants do not face this same threat.

2.2 Which states are responsible?

The opportunity to live in a Western democracy is generally depicted as a desirable outcome for a person. Carens describes citizenship in one as a status “that greatly enhances one’s life chances” (2013, p. 13). Western democracies are rich in wealth and resources and human rights are held to a high standard relative to the rest of the world (Mylses and St-Arnaud, 2006). Contrast this to that of the refugee. Refugees are among the most vulnerable groups in society. They risk their physical health through the journeys they make to reach areas of safety. Further, exposure to human rights violations, sexual and gender-based violence, health threats, and witnessing atrocities all increase the risk of psychiatric disorders for refugees (Tay, 2022).

With regards to this, it can be expected that Western democratic countries are best placed to address the difficulties that refugees are burdened by when they arrive and provide opportunities for them to prosper thereafter. Despite this, Western democracy’s current intake of refugees is low in comparison to the refugee population overall, sparking debates over whether they are taking in their fair share. Developing regions shoulder a disproportionately large responsibility for hosting refugees; only 14% are hosted by Western democracies (UNHCR, 2021). A refugee who settles in a poor state will have many fewer rights and opportunities than one who settles in a rich one, even if both are treated as full members of societies that they have settled in (Carens, 2013). Given that Western democracies often have the best resources to provide stability and security to refugees, yet their intake is low, theorising over these states’ responsibility to refugees is necessary. Further, the three main theorists used for this thesis, also primarily consider the role of Western states’ responsibility to refugees. Discussing whether Western democracies should have more of a responsibility to refugees than less developed regions is an interesting topic within the canon of political theory, but it is not the focus of this thesis. This thesis will mainly consider the grounds on which it is permissible to select refugees specifically within Western democracies.

Chapter 3 - Michael Walzer

3.1 Membership and justice

Distributive justice concerns perceived fairness of how rewards and costs are shared by group members. In *Spheres of Justice*, Walzer is concerned with understanding and controlling social goods in a way that best achieves distributive justice. In order to realise this ideal, humans must emphasise the good in creating communities rooted in a shared understanding of one another. Members should look to create meaning amongst themselves and define common values and norms (1983, p. 29). To achieve this, members must have the power to decide who can join their community. Until Walzer, theorists coined their ideas of distributive justice without addressing the question of political membership. Beliefs of what ideal political communities would look like were constructed with the understanding that these communities' populations were fixed, negating the reality that communities can be disrupted by people both moving into them and leaving them (Song, 2018). Walzer sought to address this deficiency within theory by tackling questions such as whom should we admit? Must we have open admission? Can we choose among applicants? What are the appropriate criteria for distributing membership?

3.2 Neighbourhoods, clubs and families

To clarify the nature of the political community and elaborate on its right to control migration and membership, Walzer compares political communities with three familiar associations: neighbourhoods, clubs, and families. Beginning with neighbourhoods (pp. 38-39), Walzer defines them as a random association of people living in close proximity. Neighbourhoods have no formal admission policies, the state cannot inhibit people from moving in and out of them. Should the state therefore allow people to move into its territory with the same freedom that people already within the state have to move between neighbourhoods? Walzer thinks not. Due to the homogeneity that exists within the state, the cohesiveness of the neighbourhood is not threatened when those from other neighbourhoods move into it. However, in order to maintain the homogeneity of the state, states must be able to restrict entrance to those outside of the state. Political communities have an obligation to provide for the security, welfare and culture of their members; Walzer makes the case that controlling immigration is essential for doing this:

The distinctiveness of cultures and groups depends upon closure and, without it, cannot be conceived as a stable feature of human life. If this distinctiveness is a value, as most people [...] seem to believe, then closure must be permitted somewhere. At some level of political organisation, something like the sovereign state must take shape and claim the authority to make its own admissions policy, to control and sometimes restrain the flow of immigrants (Walzer, p. 39).

But for Walzer, the right to restrict entry does not entail a right to restrict exit; this is one constraint on the state's right to control migration. Here he brings in an analogy about clubs to illuminate his view (1983, pp. 40-41). Clubs allow people to enter based on categories for admission and exclusions, numerical limits, and general qualifications, but they cannot prevent members from leaving. Viewing states in such a way can be used to defend the state's right to control immigration. However, while the club analogy accurately reflects how a state should operate with regards to entry and exit, it misses an important feature of the moral life of contemporary political communities. Hence, Walzer brings in a third analogy regarding families, (1983, p. 41) as a family's members are morally connected to people who live outside the household. Sometimes under the auspices of the state, political communities offer admittance to those we are not related to. However, this moral obligation from political communities generally only extends to offerings of sanctuary to those recognised as "national or ethnic relatives" (1983, p. 41). Walzer cites English country families taking in London children during the blitz as an example of this. This 'kindship principle' that states abide by makes states somewhat similar to families.

While Walzer defends the right of political communities to close borders, he also argues that, when new immigrants do arrive, they must be given the opportunity for citizenship and be treated equally by existing members. Decisions on membership should only be exercised regarding those outside the political community, and not regarding existing members, as their rights within a community must already be solidified. Therefore, the theory of distributive justice must vindicate, at one and at the same time, the right to exclude, without which communities will cease to exist, and the inclusiveness for the existing communities (which includes already arrived immigrants) (1983).

Overall for Walzer, the right to choose an admission policy is one of the most basic rights a state can have; it is at the core of communal independence. Such policies are crucial for the self-determination of a state and its people. Without them, there could not be stable, ongoing associations between men and women with some special commitment to one another and some special sense in their common life.

3.3 On refugee selection

Walzer understands the importance of tackling the subject of refugee admission within political theory. He distinguishes the claims of refugees as being different for needy people from poorer states. While there is often the opportunity to meet the needs of the latter through “exporting wealth”, the needs of refugees can only be met by allowing them entry into a state (1983, p. 48). States are bound, Walzer argues, by the principle of mutual aid, the obligation everyone has to help others in urgent need if the cost to the state is low. However, states have a duty not to expel refugees who are inside their boundaries, in part because such people have already made their escape, and sending them back would involve using “force against desperate and helpless people” (Walzer, 1983, pp. 49–51).

Despite this commitment that states should make to helping the most vulnerable, Walzer still justifies the right to exclude entrance for refugees into a community for the same reasons that he gives for the exclusion of immigrants in general. If a community does not have authority over who can enter, its structure and cohesiveness will be damaged. As already touched on, a prosperous community takes time and effort to build; the entrance of too many people, or indeed the ‘wrong’ kind of people would likely disrupt this according to Walzer. Who and in what circumstances does Walzer believe certain people are unsuitable to join a particular community? Further, what do his ideas say with regards to theorising about the current refugee crises that we see today? On the one hand, everyone needs a place to live that is relatively secure. On the other hand, this is not a right that can be enforced against particular host states. Refugees will make the case that they face being “killed, persecuted and brutally oppressed” by the rulers of their own countries if they are not allowed entrance into a state (1983, p. 48). What does Walzer argue that we must consider before replying?

Numerical limit

Walzer makes the assertion that, at the time of writing in 1983, the number of people seeking refuge is relatively small. He posits that states are therefore obligated to help because this would impact little upon the character of the political community. The obligation to help those in urgent need therefore trumps the relatively low costs to the community that come from offering this help. As presented in the introduction, however, the number of refugees is no longer small. Walzer argues that one’s community right to self-determination would be in peril if we admitted too many refugees. So, how many refugees entering a state would constitute a threat to a community’s self-determination according to Walzer? Furthermore, would it be a concrete figure, or would it be in the form of a percentage relative to contextual factors about

a state such as their wealth or population? Walzer is vaguer here. He would clarify his argument by suggesting principled guidelines to help consider this issue. Nevertheless, Walzer is clear on the right of states and their members to limit the numbers of refugees they take in. He therefore gives some suggestions on where it is permissible to select some refugees over others. However, it is important to note that Walzer acknowledges that his grounds for refugee selection are not entirely solid.

Restorative justice

In cases in which states have contributed to people becoming refugees, states have an obligation to provide sanctuary (and eventually citizenship) according to Walzer. The injury we have done to them, makes for an affinity between us. Hence, it was right that the US chose to allow hundreds of thousands of Vietnamese refugees into its country after perpetrating a war in Vietnam that devastated the country. In this sense, states are bound to take in refugees for reasons of restorative justice.

It could be argued that Walzer presents a reasonable argument here by suggesting that states should ultimately prioritise taking responsibility for their own actions over taking responsibility for the actions of other countries. However, it is worth considering Walzer's argument in the context of refugee crises generally. In 2014, during the Syrian War, the US, alongside states such as the UK and France, led an intervention in Syria with the purpose of supporting rebel groups in their fight against the Syrian government and Islamic State (Gibbons-Neff 2014). While it is evident that this intervention increased the scale of the war and heightened tensions, it is more contentious whether or not it resulted in a higher number of refugees escaping to Europe. So, while it is fair to say that states have a duty to refugees in instances of providing restoration, deciphering the cases in which states should welcome in refugees as a matter of restorative justice is more difficult. On top of this, it is unlikely that states will admit culpability for exacerbating refugee crises, given the damage it will do to their image. Vietnam was a rare exception here because the evidence of the US's involvement in the creation of this crisis could not be disputed on this occasion.

Similarity

Walzer argues that we are further bound to help men and women who have been persecuted or oppressed if they seem similar to us. When the number of victims of war increases, and "we are forced to choose among the victims, we will look rightfully, for some more direct connection with our own" (1983, p. 49). Ideological and ethnic similarities can generate deeper bonds between citizens and refugees, especially, when we claim to embody certain principles

in our communal life and encourage people elsewhere to embody such principles. Concerning this, it would appear that Walzer would find it right that Ukrainian refugees seemed to be given preferential treatment over Syrian refugees in the EU. Ukrainian citizens generally embody values more similar to citizens of EU states on issues of religion and ideology. In creating the ideal political community, Walzer would likely argue that Ukrainian refugees would integrate better than Syrian refugees, so in this regard, there is a greater responsibility to provide refuge to Ukrainians. Walzer extends this argument to other political communities too. If, for example, a Muslim majority state has to select between allowing in Muslim or Christian refugees, then they would be more justified in allowing in the Muslim refugees to 'protect their members' shared sense of what they are about.

Responding to Walzer here, it is arguably justifiable that entrance should be prioritised for those who appear ideologically similar. Walsby describes ideology as a 'complete system' that manifests itself in the 'thought, speech, aims, interests, ideals, ethical standards [and] actions' of human beings (1947: 145). Members of democratic states ultimately decide, often through elections, what the ideology of their community is. If a state has, for example, voted in a government that it is committed to equal opportunities for men and women, then this commitment can be considered to be an ideological belief of this state. Based on this interpretation it could therefore be considered sensible that they should allow in refugees who appear to adopt a similar ideology. Moreover, it will be easier for the refugees themselves to adapt to a new society and for the receiving society to include them if their ideology resembles the existing population. However, the question that naturally arises is: how can states know if a refugee's ideological beliefs are similar to the country that they seek to enter? In most cases they cannot, therefore they would have to make assumptions about a person's ideology based on where they are from. So, states would accept refugees through prediction rather than informed judgement. It is the case that making considerations based of the country that a refugee comes from is often necessary if states seek to select refugees that have ideological beliefs similar to the state, it is nevertheless difficult to provide theoretical justifications for this type of selection.

Even more contentious, is Walzer's argument that one's ethnicity should be considered when deciding who to provide refuge to. Ethnicity describes a population group whose members identify with each other on the basis of shared characteristics such as their nationality (Fenton, 2010). However, modern Western states no longer have one distinct, homogenous ethnicity, they are made up of many ethnicities. So, when we ask for refugees that have a similar ethnicity, what ethnicity are we referring to? Arguments such as Walzer's risk perpetuating ethno-nationalist ideals that favour the promotion of one majority ethnicity often

at expense of minority ones (Connor, 1994). This serves to further the ethnic inequalities that are already prevalent in many Western societies (Zack, 2017). If a particular state shuns a refugee's attempts to gain asylum based on their ethnicity, not only is this damaging for the refugee but also for those already in this state who share the same ethnicity as the refugee. People of this ethnicity would rightly feel disheartened and alienated if their state demonstrated, through their refugee policies, that their ethnicity is not compatible with the ethnicities that this state desires to have in it. This is likely to be counter-productive in creating the harmonious political community that Walzer seeks to promote. Further, unlike ideology, ethnicity in and of itself should not determine a person's values, and therefore, suitability to integrate into a particular community. For example, people from a particular ethnic group may be more inclined to have unfavourable views on women's rights and this would likely result in a perception that they are less suited to integrate into a Western state. However, it is not the person's ethnicity that has resulted in them holding such views but instead more likely cultural or religious ideals that are more prevalent within this particular ethnicity.

A State's Image

Walzer discusses an example of Hungarian refugees who fled the country after a failed revolution in 1956. He argues that "given the structure of the cold war, the character of Western propaganda, (and) sympathy already expressed with East European 'freedom fighters'" (1983, p. 49) Western states had a duty to take in Hungarian refugees. Walzer appears to imply that, given the West's conflict with the Soviet Union, it was right that Western states would allow in people fleeing Soviet states as it was politically advantageous for them to do so. The West could present their actions as being one of the marks of superiority of capitalism over communism (Carens, 2013). We arguably see similarities with the Ukrainian situation today. Even decades after the cold war ended, Western states such as the UK and USA have been eager to promote the values of their countries as being superior to Russia. When Russia invaded Ukraine, it was presented by the West as an exemplification of the immorality of the Russian government. In turn, Western states opened their borders to Ukrainian nationals. So, while this was likely the morally right thing for Western states to do, it also carried with it geo-strategic benefits as these states could frame themselves as being defenders of civilisation against Russian aggression. The Syrian refugee crisis did not carry the same opportunities for political advancement. For Walzer, the values and morality that a state promotes are important in creating a strong political community. For this reason, Walzer would likely defend the actions of Western states in opening their borders to Ukrainian refugees.

However, the opportunity for political advancement cannot be a justifiable reason for selecting refugees. If we are to accept such reasoning for allowing refugees into a country, then, rather than being treated as desperate and vulnerable people, refugees become pawns for facilitating countries' wider ideological aims. It is reasonable that states must consider what is good for them when formulating refugee policies, however, any justifiable approach to refugee admittance must be considerate of the refugee's needs too. A state does not make such considerations if it uses a refugee crisis to capitalise politically.

3.4 Overview of Walzer

Overall, I would argue that Walzer's contribution must be commended for considering the question of political membership within his theory of justice. This has provided a platform for theorists to consider states' roles in providing protection to refugees. While this has been an important contribution to the topic of responsibilities to refugees, it is now decades old and this, naturally, may lead it to appear outdated given the ever-changing nature of refugee crises happening in the world. Concerning the content of Walzer's work, in endorsing the importance of membership within a political community, he makes the case that refugees who pass the borders into a community must be allowed to become full members of this community. I partially agree with Walzer here, given my belief in the liberal values that everyone within a community should be granted equal rights. If a refugee is not provided with full membership within a community, then this can confront refugees with additional barriers in their lives with respect to finding suitable jobs, voting, studying and so on. However, if communities are to select refugees based only on who they can grant full membership to, then this risks limiting the number of refugees a state can provide protection to. As a result, Walzer risks oversimplifying the issue by ascribing refugees as being either citizens within a state or non-citizens completely outside of a state. In circumstances in which a state feels they cannot provide full membership to a refugee, then they may at least be able to provide some form of temporary protection that would greatly benefit the refugee, but Walzer does not account for this.

Walzer understands the importance of tackling the topic of refugee admission within political theory. However, his arguments are brief in many areas, and he appears to make some suggestions with a degree of hesitancy. He often questions the strength of his own arguments. For example, he writes, "Once again, I do not have an adequate answer to these questions" (1983, p. 51). This honesty, could be considered admirable, given that there are often no

adequate answers to the questions that this topic poses but also potentially poses limitations to the finding of just solutions to the questions posed by this topic. A further critique is that, as already alluded to, Walzer also suggests some reasons for a state selecting some refugees over others that can be considered to be morally dubious. A refugee's ethnicity or geostrategic opportunities for a state are examples of such.

Chapter 4 - Joseph Carens

4.1 Open borders

Carens challenges Walzer's view that the power to admit or exclude non-citizens is essential for any political community that endeavours to exercise self-determination. He provides three interrelated reasons as to why he does. First, "state control over immigration limits freedom of movement" (2013, p. 217). The option to move freely is important to human freedom in itself. Border restrictions restrict peoples' freedom in this sense. Carens respects that freedom of movement must be monitored to some extent. However, restrictions on movement require some sort of moral justification. While there are some cases in which moral justifications can be made, a state is not acting justly if it exercises discretionary control over immigration. A second reason why borders should normally be open is that "freedom of movement is necessary for equality of opportunity" (2013, p. 217). Democratic states recognise that access to social positions should be determined by one's abilities rather than birth-related characteristics such as class, race, or gender that are irrelevant to their ability to perform well. This interlinks with the view that all human beings are of equal moral worth and that there are no natural hierarchies that should entitle people to advantageous social positions. But when opportunities for good social positions are strong in a country, then those who happen to have been born in this country have better access to higher social positions generally. Carens therefore argues that democratic states have created a social order in which there is a commitment to equality of opportunity *within* states, but no commitment to equality of opportunity *across* states. Migration restrictions violate the core liberal principle of the human right to equality. The place in which one is born is a strong factor in determining one's opportunities in life; a policy of open borders is necessary in undoing this. The third and final reason Carens gives is that "freedom of movement would contribute to a reduction of political, social and economic inequalities" (2013, p. 228). There are millions of people who long for the opportunities that Europe or North America provides. The exclusion of so many poor and desperate people is hard to justify, especially if we are to take seriously the claims of all people as being free and equal.

The act of opening borders leads Carens to reconsider the idea of citizenship within western democracies. Citizenship is the legal status by which we recognize a human being as an official member of the political community (2013, p. 24). However, the importance of citizenship as a legal status is often exaggerated according to Carens. Any legal distinctions between citizens and long-term residents deserve criticism, but these distinctions, in reality, affect only a small minority of resident non-citizens and pale in comparison to the systematic

and widespread differentiation between citizens and residents that was common a few decades ago in both Europe and North America (2013, p. 109). This is how it should be according to Carens. Once democratic states have admitted immigrants as permanent residents, they are obliged not to marginalize or exclude them from the security and opportunities that membership brings and they must be treated as full members of the community, but this can be afforded to them without necessarily granting citizenship. Nevertheless, the presumed status of citizenship is likely problematic in itself as it seeks to differentiate and possibly divide citizens from non-citizens, even if both groups of people have the same rights. We could perhaps eliminate the need for a formal status of citizenship altogether according to Carens. In this respect, Carens and Walzer differ in their interpretations of the political community. Walzer holds a great deal of emphasis on citizenship by holding that every person admitted to the political community must be granted citizenship in order to create a cohesive society. Carens conversely makes the case that the need for citizenship is likely unnecessary for the societies that he envisions.

4.2 Duty to admit refugees

In line with his views on open borders, Carens begins his section on refugees by arguing that states do have a duty to admit refugees when they ask for admission. He cites that the principle of non-refoulement - which, to reinstate argues that no one should be returned to a country where they would likely face severe harm - highlights this duty. Carens discusses three reasons how democratic states can view their duty to refugees (2013, pp. 196-197). The first reason is because of a “causal connection”. A state is obliged to admit refugees because the actions of the state has somehow contributed to the fact that the refugees are no longer safe in their country of origin. Causal connections can generate moral duties. Parallels can be drawn here with Walzer’s argument on restorative justice. However, Walzer only considers this causal connection to exist when western military interventions in other states have caused refugee crises. Carens further adds that this causal connection should also apply to environmental refugees. Because western states have arguably been responsible for environmental challenges that we see today, they have a duty to admit people who are forced to flee their homes as a result of these changes. The second duty Carens provides is the duty of “humanitarian concern”. Western states have a moral duty to help refugees because they are in urgent need to find a safe place to live and these states have the means to help. A third way to think about states’ duty to refugees is to see it as something that “emerges from the normative

presuppositions of the modern state system.” Because the state system assigns people to states, states collectively have a responsibility to help those whose assignment to their state has been disastrous. The duty to admit refugees can be viewed then as an obligation that emerges from an idea that states should correct for the failures of other states. These are the actions that a state should take if they are to be considered principled and moral.

4.3 On refugee selection

Each state is meant to protect the basic human rights of those within its jurisdictions. If states did this, then there we would not need to worry about admitting refugees at all. The responsibility to admit refugees only exists because other states have failed to carry out their duties to those within them. Nevertheless, this does not permit states with a justification to exclude. So, are there cases in which we are justified in turning away genuine refugees? While theorists such as Walzer may answer ‘yes’ to this, Carens believes such theorists fail to provide clear guidance or a satisfactory answer to this question. Carens’ own answer is ‘Almost never’ (2013, p. 219). Below I attempt to dissect what Carens means by this answer by touching on some of the areas that he uses to test the permissibility of selecting some refugees over others. It is worth noting that Carens would likely be uneasy about the term ‘refugee selection’, based on his general belief in open borders for refugees. However, Carens’ does suggest that there are conceivable limits to the number that could enter a state, and when such limits are reached, the question of refugee selection needs to be addressed.

Numerical limit

For Carens, while it is not an impossible scenario, it would be unlikely that there could ever be too many refugees admitted into a state. However, Carens devised his theory under a context in which economic and political inequalities between countries were far less stark. If wealthier states redistributed wealth and resources more fairly then we would likely see a reduction in the crises that we see today that cause people to flee to other countries. This is because such crises often arise from economic instability in a region.

For Carens, political communities require relatively stable, populations in order to function effectively over time. Further, most people find it more attractive to stay in their country of origin; a place where they know the language, culture, and can feel at home (2013, p. 287). However, despite the world being more equal, incidents will still likely occur which

will cause people to flee their countries. For these cases, the borders must still be open. Open borders are therefore necessary to reinforce global justice.

Carens' theory is open to critique here on the basis that he reaches this conclusion on the presumption of an ideal world that evidently does not exist. Today, the world is seeing millions of refugees attempting to be admitted into Western democracies because their countries fail to support their basic rights. Theorising based on how things could potentially be, as Carens does, does not provide answers on what Western democracies should do about this now. As Gibney (1999, p. 103) comments, Carens postpones "the question of how the ethical ideals resulting from such abstract theorizing might be made relevant to real states facing a nonideal world". Given that Carens believes that political communities do require relatively stable populations to function, he must be of the belief that there is some number that could be considered too many. However, Carens' ideological pursuit of a world in which borders are open appears to get in the way of him providing, or even attempting to provide, such a number.

Claims of the community

Carens, indirectly, criticises the view put forward by Walzer that a political community has the authority to decide what number a just intake of refugees is. Carens contends that we cannot take at face value a state's citizens judgement about the extent of its responsibilities for admitting refugees. The right to make a decision does not entail a right to act arbitrarily or with full discretion. Carens uses an example of America refusing to admit 937 Jewish refugees who arrived at their shores, on a boat named St. Louis after fleeing from Europe in May 1939. American citizens cited economic difficulties and that they had already done their fair share of admitting refugees to excuse their refusal to admit those on St. Louis. The refugees were sent back to Europe and 254 of them were killed in the Holocaust. It is apparent now that America was wrong to deny admission into the US. Carens uses this case to highlight his belief that the members of a potential receiving society think that they have already done enough to meet their obligations to refugees is not in itself, sufficient to establish that they have done.

Nevertheless, Carens argues that he does "not claim that it is impossible to imagine circumstances in which the exclusion of refugees might be defensible" (2013, p. 220). One example of a circumstance that Carens provides is a breakdown of public order as a result of too many arrivals of refugees in too short a time period. In such a scenario, a state may not be able to handle such a change in population and this would have deleterious effects for everyone in terms of liberty and welfare, refugees included. He cites David Hume in arguing that one of the background conditions for justice is limited scarcity (Hume, 1758; 2013). If everyone were

in dire need then it is understandable that people would only look out for their own. However, once again Carens backpedals on the legitimacy of making such an argument by pointing out that Western states take in a far smaller proportion of refugees than neighbouring states do. These states, which are often much poorer than Western states, have greater grounds to say 'enough'. Yet, as the figures show, they have been far more receptive to refugees compared to Western states. An irony emerges here given that Western states pronounce to be defenders of liberal values yet have gone to extreme lengths to keep refugees out. Meanwhile, they simultaneously portray poorer states, such as Turkey and Iran, as being illiberal and autocratic, despite these states taking in higher numbers of refugees. To sum up, Carens holds that a scenario could one day emerge in which Western states become overburdened and public order diminishes as a result of too many refugees. However, given Western states comparatively low intake of refugees, this scenario will not materialise any time soon.

Characteristics of a person.

Carens is explicitly clear that it is impermissible to select refugees for emigration based on their race, ethnicity, or religion. He shows that this type of selection has been used in the past; countries such as Canada, United States and Australia explicitly used racial criteria to exclude immigrants even up until the 1960's (Carens, 2013, p. 174). Carens argues that the moral impermissibility of this sort of overt discrimination is one of the clearest points of overt discrimination today among those who accept democratic principles. Believers in democracy agree that the authority of states with respect to admission is limited by a duty not to exclude potential immigrants on the basis of race ethnicity or religion. Carens adds that the exclusion based on a person's sexuality is also incompatible with respect for human freedom and human dignity. Carens' view is rooted in an egalitarian belief that characteristics like race, religion, or gender should have no influence on someone's opportunities. For a refugee to take advantage of every opportunity, they must have the right to move into a different state.

To deny a desperate and vulnerable person entrance into a state because of their race, religion, ethnicity or sexuality appears indefensible, as such features should not be a reflection on who they are as a person or what their contribution to a society would be. Further, these features, in themselves, have no power to interfere with or harm the freedoms of others. However, Carens appears to underestimate the extent that these features of a person still matter when it comes to considerations of a refugee's admittance. In arguing that democrats are in agreement that these features of a person cannot be justification for exclusion suggests that Carens believes that the debate has been settled. As a result, he does little to justify why a person's characteristics should not matter when it comes to refugee admittance. An argument

could be made that the Ukrainian refugee crisis suggests that one's race, religion and ethnicity still do matter, despite such selection criteria being outlawed. While Carens may view such selection criteria as being objectively wrong, he would strengthen his case by arguing why such criteria are wrong.

4.4 Overview of Carens

Both Carens and Walzer are in agreement that states have a responsibility to help others in urgent need. However, the extent of this responsibility is where crucial differences emerge in their theories. Carens posits that there is almost no justification to ever refuse refugees. There are some contingent and self-limiting arguments that justify restrictions on immigration under certain circumstances but no arguments that justify the discretionary control that states use and theorists such as Walzer endorse.

Carens' ideas with regards to refugee admittance are radical in that they refute the conventional view that it is morally justifiable for states to control borders. Nevertheless, the arguments he makes are worth considering. It is reasonable to assert that if we are to acknowledge the liberal value of human freedom, we must also acknowledge that people should have the freedom to move to wherever they want. Carens' belief that states must be able to explain reasons for why they have rejected a refugee is effective in putting pressure on states when they shirk their responsibilities to refugees. Furthermore, he takes account of risks and makes exceptions to the open border standard which helps to quell accusations that Carens' theory is radical beyond consideration. However, Carens' theory could be accused of being idealistic especially when considering the refugee situation today. He bases his ideas on the presupposition that there is relative equality between states, and this would mean that the refugee crises that we see today would be far smaller. This is unfortunately not the reality, however, and therefore providing answers to the refugee selection question has become more and more pressing over the years. On this question Carens' answers are arguably insufficient because he never identifies solid grounds in which it might be permissible to select some refugees over others. In this respect, his theory risks letting down refugees and the citizens of a receiving state by not providing guidance on how states can make just decisions in the event of a situation in which a state must select refugees.

Chapter 5 - David Miller

5.1 States' right to close borders

Miller argues that the territorial rights of states combined with a state's right to self-determination provide the justification for states to erect border controls (Miller, 2016). Territorial rights are rights to legitimate jurisdiction over a territory. Three conditions must be met if a state is to gain territorial rights (2016, p. 60). The first condition is that the state must be able to maintain the social order and protect the human rights of its inhabitants. The second condition is that the state must be representative of these citizens. Miller cites elections as being an apt way to provide this representation. The third condition is that inhabitants should have a right to occupy and own part of the territory. Once these three conditions are filled a state holds territorial jurisdiction.

However, jurisdiction "needs to be complemented by an argument about self-determination in order fully to justify the right to close borders" (Miller, 2016, p. 62). Miller defines self-determination as the right of a democratic public to make a wide range of policy options that fall within the limits set by human rights. Among the most important choices to be made are those that concern levels of public expenditure on areas such as housing, schools, hospitals, and so forth. High rates of immigration and the personal characteristics of immigrants are liable to disrupt the control a state can have over this expenditure. To mitigate this loss of control, a state would have to abandon liberal principles and deprive incomers of access to these essential services. It is essential that states therefore have a lever to control the flow of immigrants when it becomes too much. Miller stresses that his argument is not that a self-determining political community *must* close its borders, but that it must have the *right* to control its borders in order to preserve a meaningful range of policy choices without detriment to the human rights of those it chooses to admit.

Miller also considers the importance that border controls have in effecting the 'self' of the existing community (2016, p. 62). The existing community has shared preferences and interests that can be interfered with by the arrival of immigrants, who may have different interests and preferences. This could lead to negative effects on the level of interpersonal trust in democratic institutions due to the clashing of interests between existing populations and recently arrived immigrants. Finally, Miller argues that border controls must be in place to mitigate overpopulation in both states and the world overall. Amidst threats of global warming, states should seek to control population levels given the potential human impact on global

warming. Population growth can only be contained if each state sets a target for its own population, but it is near impossible to do this with a policy of open borders.

5.2 Protecting refugees

Specifically on refugees, Miller argues for a compassionate approach. He asks, what could be worse than being driven from your home by persecution or violence with no certainty as to what will happen once you cross the border and throw yourself at the mercy of strangers? (Miller and Straehle, 2020). Those of us who are more fortunate must surely have an obligation to help fellow human beings who, through no fault of their own, find themselves in such desperate positions. However, today's world order is built around states and a principle of these states must be to look after the welfare of the people living within them. This presents a moral dichotomy as catering to the needs of the people within a state becomes more difficult if a state allows for a high number of refugees to enter. Miller's conclusion on this is that "There can be no guarantee that every bona fide refugee will find a state willing to take her in [...] At the limit, therefore, we may face tragic cases where the human rights of the refugees clash with a legitimate claim by the receiving state that its obligation to admit refugees has been exhausted" (Miller, 2007, p, 227). Similarly, in a later book he writes "I have argued so far that states are not obliged to keep their borders open to everyone who might like to enter (so there is no right to enter); but also that if someone does apply to come in, their reasons for seeking entry must be considered seriously." Miller therefore is sympathetic to the plight of refugees but contends that a state is right to place some limit on the number of refugees it allows in. As a general rule, he argues, it is better to say honestly that not every refugee can be rescued.

5.3 On refugee selection

Given that Miller defends making room for state choice on admittance for refugees, he also defends states' rights to select refugees. Miller asks why we should talk about selection given that it, tragically, means that some refugees will be turned away? Miller breaks this down by arguing that in an ideal world there would be no refugees as states would do a good enough job at protecting their citizens' human rights. In a second-best world, there would be so few rogue states failing to protect the rights of their citizens that no host state would be burdened by admitting everyone who applied for asylum. However, Miller believes that the number of claims for asylum is so high that states can justifiably set limits on how many refugees they

will admit. Once we accept this, we cannot avoid the selection issue. Below, I highlight what grounds for selection Miller deems to be permissible.

Numerical Limit

Miller holds the belief that the imposition of refugees towards a new country will always result in a dilemma for states, who must decide whether they are able to admit a refugee or not. Miller argues that not all refugees are unwelcome or impose net costs on the receiving state, but in aggregate they are likely to be regarded as a burden. One example Miller gives for this is that the state may have an overall target for net immigration and accepting them will take spaces away from others whom the state may positively wish to attract. He also discusses social tensions, economic burdens and security risks as reasons for why a state may choose to limit admittance for refugees. The fairest and most productive way would be through the creation of a scheme that allowed states to share a proportion of refugees amongst their states that appears fair concerning factors such as the suitability of each refugee to integrate, the size of a state's population and the wealth of a state. He calls this a burden-sharing scheme. Miller does however acknowledge that finding agreement between states on this is likely to be difficult.

Similar to Walzer, Miller cedes decision-making authority over refugees to the state and its citizens rather than basing it on deontological ethics that decide on the goodness of action based on a clear set of moral rules (Alexander and Moore, 2021). It is a cornerstone of democracy that a state's members should decide on how their country is governed, and this includes deciding on who can and cannot enter. However, if a state is to take no responsibility for taking in refugees, then are we to accept that the actions of the state are justifiable simply because they are a manifestation of the will of the people? It could be argued that we must adhere to some sort of objective moral standards here. Further, given that Western democracies only host a small percentage of refugees in comparison to the refugee population overall, it may be reasonable to argue that the burdens that come with refugee admittance are not being shared equally. However, it is unclear whether Miller would agree with this. He would improve his argument if he reflected more on empirical realities so that his audience has a better understanding of whether states today are doing enough in their commitment to protecting refugees.

Selection by lottery

In such an instance in which a state is receiving more asylum applications than it is willing to accept, one possibility Miller discusses is selection by lottery. This could have some advantages. For one, it rules out partiality on the grounds of race, or other characterises

irrelevant to a person's claim to admission. It gives each refugee a chance to be chosen and, in this respect, it could be seen to be the fairest way to select. This should also serve to minimise guilt on the part of those selecting as they have not had to do it directly. The US has a green card lottery that awards immigration visas to 50,000 applicants out of a pool of nearly 10 million (Miller, 2020). The justification for such a system is that it offsets bias. However, Miller posits that it is difficult to defend using this as a strategy for refugee selection. While it is somewhat defensible to provide visas to a lucky few in the US, the approach must be different when the losers of such a system face a genuine threat to their lives. The lottery discards all the information relevant to assessing a refugee's claim for admission. It is wrong that a refugee's right to life would be determined by having good luck in a lottery. Therefore, states ought to explore other options.

Degree of vulnerability

Miller argues that the vulnerability of a refugee differs from one person to another, and this should be the main factor that affects the strength of their claims to protection. However, Miller contends that answering what makes one refugee more vulnerable than another is not clear-cut. Miller begins answering this by arguing that there are two dimensions to this. One is *urgency* – how immediate is the threat to the refugee's human rights if they remain where they are. The other is *depth* – how serious is the harm they will suffer if not given protection (Miller, 2020: pp. 102-103). It seems right, according to Miller, that if a person is in imminent danger of losing their life or being tortured then they should be given the highest priority for admission. Miller then goes on to highlight additional factors, which complicate such grounds for selection. At this point, he distinguishes analytically between two categories for providing protection to refugees. The first category covers refugees who are admitted on a short-term basis (sanctuary). The second covers those who are applying to remain in the receiving state on a long-term basis, because they have no realistic prospect of returning home safely (resettlement) (Miller, 2020).

For Miller, a refugee's claim depends on the category that a state deems them to be in. So, when it comes to considerations of sanctuary, vulnerability is likely a sufficient factor in determining the strength of a refugee's claims to protection. However more blurred lines appear when considering candidates for resettlement. In most cases, resettlement will be offered to those who have already moved across an international border and are in refugee camps. While their human rights are not fully secure, they are not directly vulnerable to the threats that they were vulnerable to in their country of origin. So, if a person's vulnerability is measured by the immediacy and depth of threats to their human rights, it may be very difficult to discriminate

on such a basis between refugees who are candidates for resettlement (2020, p. 103). In such cases, states would be right to look at other grounds for resettling refugees, such as their ability to integrate into a community.

Another interesting point raised by Miller is the consideration of how far granting one's admission into a state is likely to improve a person's situation. Someone who is illiterate, or who has very few work-related skills, may find it difficult to find proper employment if they are granted residence in a developed society. They may still be better off materially than they would be living in a refugee camp but not to a great degree. Conversely, someone who has professional skills would likely see their opportunities improve immensely if they were provided resettlement in a Western state. However, Miller posits that the refugee's claim for sanctuary or resettlement is based on the threat to their human rights. So, all that should count is the extent to which her human rights situation can be improved by being admitted (2020, p. 105). Opportunities over and above that basic standard, such as the likelihood a refugee will have a successful career, should not.

If it is to be accepted that selecting refugees is sometimes just, such a selection policy would likely be the most effective in mitigating harm to refugees overall, as it seeks to identify and provide protection for those most at risk of severe harm. Yet there are some reservations about selection based on vulnerability that Miller does not take account of. Yes, a state can surmise over the vulnerability of a refugee based on information that they have about where the refugee came from, the threat that the refugee claimed to face and so on. However, they would be playing with fire to send a refugee home based on the, potentially dubious, knowledge that they have about the person. A wrong decision could have fatal consequences for a refugee. However, given the lack of fair alternatives, it is reasonable to say that this is the most just criteria for refugee selection. Miller also considers a worthwhile point about the extent to which a refugee's situation can be improved as a result of being admitted. While it may appear that a refugee equipped with professional skills will find it easier to adapt to a new state this cannot be justifiable grounds for selection if both refugees face the same threat to their human rights. A case could be further made that the skills that a refugee has do not in themselves determine their potential for personal contentment in a new state.

Mutual affinity

The rationale behind a state selecting in favour of their cultural kin when deciding whom to admit as refugees is that the current population will be more likely to be accepting of refugees if they have a shared sense of identity with them. Moreover, it will be easier for the refugees themselves to adapt to a new society the more they resemble the existing population with

respect to language, mannerisms, religion and so on. Miller (2016) uses an example of the wars that broke out in Syria and Iraq in 2014. These wars led to calls from some that traditionally Christian countries should give priority to Christian refugees escaping from these countries. This was justified because a) Christian families were facing severe persecution but also b) Christian states had special obligations to people who shared their national religion. While the first is clearly defensible, the second is more contentious. In this case, it was claimed that Muslim refugees would be more likely than Christian refugees to be offered admittance by neighbouring Islamic states such as Jordan. If this was the case then such a policy from Christian countries is defensible, according to Miller, as a de facto agreement had taken place between Christian and Islamic states so that refugees from both religions have been accounted for. However, without this background, cultural selection is difficult to defend according to Miller. It could be further argued that the UK, like many Western states, may be traditionally Christian, but Christianity does not have the same influence that it once had. Furthermore, there is a large Islamic population in the country. This might further destabilise the argument that the UK has more of an obligation to Christian refugees.

Nevertheless, in a chapter of Miller and Straehle's book titled *Selecting Refugees* (2020), Miller acknowledges that issues do arise with cultural attributes that are not in themselves relevant sources of vulnerability yet affect the bearer's capacity to function well in the society he or she is joining. This could be a result of the norms of behaviour that are embedded in the refugee's home culture being dissonant with the norms of the receiving society. He uses an example that someone who arrives with strongly held patriarchal values will find it harder to adjust to a society that has norms based on the equality of sexes. The arrival of such refugees is likely problematic for existing citizens too as they will likely be uneasy with some of the beliefs that the refugees hold. So, Miller holds that it is understandable that the 'ability to integrate' could be a legitimate reason when considering candidates for admittance. Yet, he argues that selection based on mutual affinity sounds wrong still. He argues this on the basis that it could serve as a proxy for racism, if those culturally favoured happen to be white. Miller is clear that selecting based on one's race is unacceptable, for it fails to capture any feature that is relevant to their entry into a state. It is immoral to perceive a person as being less likely to integrate based on their belonging to a particular cultural group.

In general, Miller presents a solid case here. He acknowledges that states would benefit by selecting those they share a mutual affinity with. However, he argues that deciding, in a moral and fair way, who is suitable to integrate into a society entails many difficulties. It would likely involve states deciding on their suitability based on their cultural background, even though the cultural background in itself may not say anything about a person.

5.4 Overview of Miller

Overall Miller has presented an extensive and nuanced contribution to the topic of refugee selection. He agrees with Walzer on the overall idea of states controlling their borders and therefore agrees that it is permissible to select refugees. This differs from Carens, who cannot find justifications for a state restricting refugees from being admitted in principle. However, Miller's contribution is more thorough than Walzer's. He accounts for some of the dilemmas that Walzer fails to account for. While, for example, Walzer argues that mutual affinity should be just grounds for submission, Miller posits that, as a general rule, it cannot. However, by proposing a refugee sharing scheme, in which the burdens and benefits that come from a state taking in refugees are distributed fairly, Miller accounts for cases in which selection based on mutual affinity could be permissible.

Further, the grounds he does identify as being permissible for refugee selection do seem the most just. Considerations of refugee vulnerability, for example, are imperfect grounds for selection given that the evidence of the extent of one's vulnerability can be difficult to obtain, but an attempt to do so would likely be the most effective way of protecting refugees overall from the infliction of serious harm. Nevertheless, I did find it necessary to critique Miller for, similar to Walzer, allowing states to decide the instances in which they can no longer take in refugees. He would bolster his argument by applying to his own standards of what is just and unjust numbers of admittance. Before answering the question on refugee selection, it is reasonable that there is first an understanding of what the limit of refugee admittance would be for a state.

Chapter 6 - Personally grounded position

So far, I have discussed the issue of refugee selection by evaluating the works of three authors. I have provided responses to some of the arguments made by these authors but have not yet presented my own position on this difficult and sensitive topic; it is now necessary that I attempt to do this. I would like to present an argument that takes into account existing theory, but is ultimately my own and therefore serves as a contribution to the canon of political theory. I believe the best way to present this is by systematically answering the four research sub-questions that I proposed earlier on.

6.1 The strength of citizen's claims

In democracies, it should be expected that a state's policies are generally reflective of the beliefs and needs of their populations. Public acceptance for admitting refugees has, in the past, varied depending on what and where the prominent refugee crises are during a particular time period. This has been evident when considering the contrasting responses from European citizens during the Syrian and Ukrainian refugee crises. The three main theorists I studied all have presented their own ideas on the necessity of states adhering to the beliefs of their populations on the issue of refugee admittance. Walzer is clear that the existing members of a political community are best placed to make the most justifiable decision on refugee admittance, and therefore should do this. Carens, conversely, argues that just because citizens hold particular views on refugee admittance, it should not mean that it is justifiable to enact these views. Finally, Miller posits that a democratic public has the right to choose policy options on refugee admittance as long as they fall within the limits set by human rights. In holding this belief, he attempts to find a balance that satisfies both the will of the people and the human rights of refugees. With consideration of this, I believe is important to answer the following question: *In setting their policies, do states have some scope to shape these policies to reject the preferences of their citizens?*

The political scientist V.O. Key, Jr asserts that "Unless mass views have some place in the shaping of policy, all the talk about democracy is nonsense." (Key 1961, p. 7). It is essential to a good functioning democracy that public opinion must play a role in policymaking. The reason for this, according to J.S Mill is that an "equal claim of everybody to happiness...involves an equal claim to the means of happiness" (Mill, 1974, p. 319). It is right to assert that the people affected by decisions should be involved in making decisions. So,

governments must take the claims and concerns of the people within a state seriously when they express their views on refugee admittance. Democratic governments are ultimately installed to serve the people under their jurisdiction.

However, Mill equally argues that the utility of an opinion is itself disputable and requires examination and discussion (Morris, 2009). So, when undertaking this examination and discussion can we appeal to an objective standard of morality – that will possibly reject the interests of citizens - to help formulate policies? Given that refugees may face possibly fatal consequences if they are subjected to poor policies from states, I would say ‘yes’.

It is reasonable to say that, as a general rule, the claims of refugees fleeing their countries of origin must be of deeper concern to a state than the claims of its existing population (Singer and Singer, 1988). Preferences for citizens should not be allowed to trump the human rights of refugees because the stakes are higher for refugees. Fortunately, the principle of non-refoulment exists to reinforce this. So, with regards to this, if a state, that has the resources to accommodate a high number of refugees, fails to do so based on the wishes of its people, then I would consider this state to be unjust in its policy making. In formulating such a belief, I do not seek to delegitimise the importance of public opinion in a democracy. Furthermore, there may come a time in which the backlash from citizens over a state’s refugee admittance is so great that a government must act to mediate the inflow of refugees in order to avoid the erosion of democracy. However, in general, there must be an expectation that wealthy democracies should have moral global policies.

To add, however, I view public opinion as being beyond what is expressed by everyday citizens. These expressions are often very much interlinked with that of government and media entities and therefore the expressions from such entities can be considered to shape the views of citizens (Klikauer, 2022). Government and media responses from Western countries on the refugee crises of 2015 and 2022 have served to inform states’ population’s opinions here too. If Western media outlets gave as much sympathy to the plight of Syrian refugees as they have to Ukrainian refugees, then Syrian refugees would have likely received more sympathy from a state’s population. So, in asking if it is just to scope policies according to the preferences of a state’s citizens then it is crucial to consider the role that government and the media play in shaping these preferences.

6.2 Border restrictions

Before answering the question on refugee selection, the question of whether states are ever justified in restricting entrance to refugees must first be answered. If states are not justified in restricting entrance then the question of refugee selection becomes redundant. With regard to this, I hope to answer the following research question: *Are states justified in establishing limits to the number of refugees they will admit in any given time period?*

Instinctively I would say ‘yes’ to this question. My hope is for states to function in a way that best protects the welfare and prosperity of those living in them. This surely must require states to be able to, unfortunately, say no to refugees once the number of refugees in a state is so high that it can no longer provide welfare and prosperity to its citizens. Now, I will attempt to answer what this limit is. Similar to Miller, I would endorse a refugee scheme that equally shares, amongst states, the burdens that may come as a result of too many refugees joining a state. By doing this, states should collectively be able to provide protection to as many refugees as possible. It may seem crass to use the term burden-sharing as it risks assuming that the imposition of refugees into a state can only be burdensome. This is not the case. In fact, in many cases, refugees will go on to contribute greatly to the societies that they join (Legrain, 2016). However, as mentioned states may be burdened by refugees entering after a certain limit has been reached. At this stage, it is appropriate to have a burden-sharing scheme in place.

One way of actualising such a scheme would be to distribute refugees based on a state’s wealth and resources. Therefore, a state that is prosperous would be expected to take in a higher number of refugees. Going by such logic, I would argue that Western states have not in the past taken in their fair share of refugees. The situation in Ukraine seems to encapsulate this, given that EU states suddenly believed it to be possible to allow millions of refugees into its confines, without much opposition. A just burden-sharing scheme however accounts for all refugees rather than simply being about one country matching another’s commitment to admitting refugees. To use an example, consider two countries, similar in wealth and size. If country A takes in x number of refugees, country B is not necessarily acting in a just manner if it also takes in x number of refugees. It can only be just if x has been selected on the basis of an objective moral standard. I do want to return to the idea of burden-sharing again later because the burdens one state receives from receiving a refugee are not solely determined by the wealth and population of this state. However, it is more suitable to consider this in answering the third research question.

In addressing the question here, to reinstate, I believe that states are justified in establishing limits to the number of refugees they will admit in any given time period.

However, if theorists are to make convincing cases for what just admittance to a country looks like then references to empirical data must be made. In suggesting that a state's response to admitting refugees must implicitly be the right response, as Walzer and Miller seem to, dodges tackling the 'how many' question head-on. This, in turn, acts to excuse states from criticism when they admit an insufficient number of refugees. To give an example, the UK had granted asylum to 1,507 Syrian refugees by March 2017. This number, I believe, suggests that the UK has not done enough in its duty to protect Syrian refugees. I would cite the fact that their population is 67 million and that their economy is one of the largest in the world as the reasons why I hold this belief (ONS, 2021). It is unlikely that this comparatively tiny number of refugees would impinge on the UK's ability to provide welfare and prosperity to its citizens. However, what number would be considered such an impingement may require some empirical research in order to be answered, and even then, it would still be liable to dispute. This causes more difficulties in answering how many Syrian refugees the UK should have taken in. This position, therefore, risks facing the same critique that I used to criticise Walzer and Miller, given that all three positions cannot give a satisfactory answer on how many refugees a state should allow in within a particular time period. However, it departs from these authors positions in that it does not accept that a state's decisions on refugee admittance must always be a morally justifiable position if it is democratically decided on by its members. I do think that political theorists are within reason to express their disagreement with states that fail in their responsibilities to refugees.

I should also consider further why I do not think the answer to the above question can be 'no'. The reason for this is that in order to provide such an answer would possibly entail reimagining the state system as it is. It would be difficult to have open borders for refugees but not for other immigrants as this would likely lead to other immigrants claiming asylum in order to receive entrance into a state. This would possibly lead to a mass exodus toward Western states. Government departments that deal with admission may become so overburdened that granting admission to a state becomes superfluous.

It is reasonable to ask if this would be such a bad thing. It may be the case that governments and their citizens are so wedded to the idea of states having strict admission policies that a conception of life without these restrictions appears shocking to us. However, from the standpoint of refugees, this may be the ideal policy. It would provide them with an opportunity to liberate themselves from the dangerous situations they are in without fear of being sent back once they arrive in a state. This would likely encourage more people to flee their countries of origin in search of safety in a Western state. The omission of borders will also make the journeys that refugees make a lot less difficult and dangerous. So, if the goal is

to provide safety to as many refugees as possible, then this would likely be the favoured solution.

As touched on already, I do, however, contend that providing safety to as many refugees as possible must run alongside providing welfare and prosperity to existing populations. An overabundance of refugees risks putting this into jeopardy. The reason why we must not overlook the importance of this is that it is in the interests of everybody that states provide welfare and prosperity to existing populations. Much of the good in providing asylum to refugees is lost if the receiving state can no longer provide them with an adequate life. I return to Walzer here and second his belief that there are invaluable advantages that can be gained by maintaining and fostering existing populations. Such a philosophy serves to uphold the cohesion and collectiveness of states. Now, I do not believe the scenario I have presented about a mass exodus of refugees moving into Western states is an inevitability with a policy of open borders but in the event that it could happen, states must have a right to reject such a policy, given the potential for destructiveness that it could cause.

6.3 The strength of a refugee's claim

Thus far, I have suggested that Western states should allow for more refugees to be admitted into their states as their current strict border policies are unjust when considering the distribution of refugees around the world today. However, I recognise the concerns that states and their populations have with allowing too many refugees in, so I respect that there are limits to the number of refugees that can enter a state. Like the authors I have presented in this thesis, I recognise that the issue of refugee selection must therefore be addressed. I previously considered whether selection by lottery could be permissible for western states to use. Such a selection strategy would simplify the process by relinquishing the need to select based on contextual factors about a refugee and their claim. However, in line with Miller's ideas, I believe this system cannot be used when offering protection to people whose human rights are under threat, so when selecting refugees we must consider contextual factors that could be relevant to the refugee's claim to protection. With respect to this, I seek to answer the following research question: *What contextual factors give one refugee a stronger claim than another to be granted admission to a state?*

I will begin by addressing areas in which it is clearly impermissible to select one refugee over another before delving into more complex areas. I consider seven criteria and discuss whether selection is permissible on the basis of these criteria. They are: the race and ethnicity

of a refugee, the vulnerability of the refugee, the gender and sexuality of the refugee, the perceived length of the refugee's stay, the security risk that a refugee may pose, the mutual affinity that the refugee will share with the receiving state and, finally, the causal role played by the receiving state in creating the situation from which the refugee is escaping, i.e., restorative justice.

Impermissible grounds for selection

Race and ethnicity - A refugee's race or ethnicity cannot be a determining factor in considering their claims to admittance. As already alluded to, these immutable features of a person should not, in their selves, influence a person's suitability to join a particular society. While such features can form a relevant part of a person's identity, it is not relevant to their claims as a refugee. Policies that do select on such grounds are indubitably racist. While political theorists have not always heavily reflected on this point - presumably because Western states have, outwardly at least, outlawed this form of selection - it is still important to address it. This is because race still does seem to be a determining factor in people's claims for refuge. Within the Ukrainian crisis itself, there are many reports of black Ukrainians being refused at border crossings in favour of white Ukrainians. Videos show black people being pushed off trains and black drivers being reprimanded and stalled by Ukrainians as they try to flee (Ray, 2022). This is morally indefensible.

More contentious grounds for selection

Vulnerability - I agree with Miller's evaluation that the vulnerability of a refugee should matter most when considering the strength of a refugee's claim to admission. In fact, the refugee's vulnerability should be a sufficient reason for a state to select a refugee. Even in a case in which one refugee, who is a candidate for selection, were to have the skills necessary to contribute greatly to a receiving state, it would not be moral for the receiving state to select this refugee if it were at the expense of another refugee who faces a more severe and immediate threat. Selection based on vulnerability is likely to be the most effective way of preventing harm against refugees overall and ultimately, protecting the most lives. A potential limitation of selecting on this basis is that it may be problematic to decipher a refugee's vulnerability based on the often incomplete information that a state has about them. It risks sending refugees home to life-threatening situations if the information a state has gathered is inaccurate. Nevertheless, this risk will always exist when a state decides to select refugees, no matter the grounds for selection. While there are no ideal grounds for selecting refugees for protection, selecting on the perceived vulnerability of the refugee does seem the most just.

Another area that links with the question of refugee vulnerability is to consider whether children have more of a claim for protection than adults do. There are three arguments why such an argument could be made (Schweiger, 2019). The first is that children are believed to be more vulnerable than adults, and as discussed, vulnerability matters the most when considering the strength of a refugee's claim. Second, a case could be made that the life of a child is worth more than that of an adult due to the likelihood of them living longer. Finally, it might be argued that it is more efficient for the state to bring in younger refugees. Children have some advantages because they can be socialized and educated in the admitting society, which reduces language barriers and other issues such as the lack of appropriate skills and qualifications. Younger migrants are more likely to economically benefit the receiving state long term (Kerr and Kerr, 2011).

As a result, in instances in which it is necessary to select refugees, it might be reasonable that children are prioritised over adults. I would contend that there is a *prima facie* argument to prioritize child refugees, which rests on certain generalizations about children regarding their abilities, and their social and moral status. Again, the vulnerability of refugees must play a determining role in deciding whether to select child refugees over adult ones. If there is no indication that an adult faces severe danger that outweigh the danger faced by a child, then it is justified to prioritize this child over the adult due to their perceived vulnerability. If, however, there was evidence that an adult refugee might face assault, rape and death if they were to be denied refuge, it is likely right to prioritize them over children based on the greater vulnerability of the former. The inevitability that selecting child refugees over adult ones may involve family separation creates further uncertainties. If a state opts not to select a child refugee because it would remove them from their family, then this could be viewed as a violation of the child's right to protection. However, child refugees also arguably have a moral right not to be separated from their parents and siblings (Schweiger, 2019). Given the magnitude this decision would have for a family, it seems most reasonable to leave it with the family.

Length of stay - In Chapter 5, I explained Miller's distinction between refugees who are candidates for resettlement and refugees who are candidates for sanctuary. Miller explicitly ties this in with the issue of refugee vulnerability. He argues that the vulnerability of a refugee offers sufficient grounds for selection when considering candidates for sanctuary, but it is less clear whether the vulnerability of a refugee is sufficient grounds for selection when considering candidates for resettlement. While I concur with Miller here, I believe it is also possible to separate the consideration of refugee vulnerability from the perceived length of the refugee's

stay. Whether a refugee is a candidate for resettlement or sanctuary may, in itself, be a permissible ground for refugee selection.

To clarify, consider, for example, two countries, in different parts of the world, that are both in the grip of civil wars that have resulted in large numbers of people fleeing these countries. If it seemed apparent that the civil war in one country was likely to last longer than the civil war in another country, then it may be preferable that a receiving country would take refugees from the country facing the shorter civil war. The reason for this is that refugees from this country will likely stay in the receiving state for a shorter time because they will be able to return home sooner. A receiving state is likely to be able to accommodate more short-stay refugees than they would refugees who need resettlement. Refugees who need resettlement will likely incur more costs for receiving states in the early stages of their arrival because more resources will need to be devoted to them in order for them to integrate into the country. The importance of integration is not as great for shorter-term refugees. To sum up here, under conditions in which a country must select refugees, it is likely permissible to select those who will stay for a shorter period of time if it means that a receiving state can accommodate more refugees by doing this. Such a selection strategy will ensure that a higher number of refugees have then been protected from the threat to life and safety that they faced.

Security - Another area where it would seem plausible to reject one refugee's claim over another would be on the issue of security. If there was reason to believe that a refugee would put at harm the citizens of a host community, then it would be just for this community to consider another refugee before them. In fact, it would possibly be just to outright reject this person's claim if the harm they potentially would do to others is greater than the harm that would be done to them if they stay in their country of origin. It is reasonable to bring in the issue of terrorism here because it is a commonly used reason for closing borders to refugees amongst right-leaning parties and individuals (Klein, 2021). This reasoning stems from a fear that some refugees wish to commit acts of terror in host states to achieve ideological aims. So, if a refugee has links to terrorist organisations, then this is reasonable grounds for not providing refuge.

Overall, however, I would not want to overstate this line of reasoning. We can never be adamant about the motives of a person. Selecting on such grounds could potentially put at risk a refugee's life on the basis of a 'what if' scenario. Furthermore, what should states constitute to be a security risk? If states are to use this as a selection criterion, then a slippery slope may ensue in which refugees are rejected based on information of minor transgressions that a state has gathered about a refugee. Selecting on such grounds must be made based on clear evidence

about the threat that the refugee poses. Specifically on terrorism, Klein (2021) shows that refugees themselves do not increase the risk of domestic terrorism, rather the xenophobic or nativist environment refugees enter defines the tinderbox of violence refugee flows can ignite. So, states must not mask xenophobic or Islamophobic sentiment (Muslim refugees are particularly targeted as being more likely to commit acts of terrorism) by unreasonably using the threat of terrorism as justification for not selecting certain refugees.

Mutual affinity - The question of group affinity is an important factor to address here as there are worthwhile arguments presented on both sides. It seems logical that if a refugee shares a similar culture to the receiving state, then this would make it easier for the refugee to adapt to this state. Life within this state will therefore arguably entail fewer difficulties for this refugee, than life in this state would be for a refugee who does not share the same mutual affinity. With regards to this, it would be advantageous for the state to select a refugee with whom it shares a mutual affinity. Such a refugee would be less likely to unsettle the cohesiveness of a host community. So, if we are to return to Miller's idea of burden-sharing, when considering the burdens that exist in a state, the extent of the burden is also determined by 'who' the refugee is. A state would be more likely to be burdened by a refugee who holds less affinity to the population. So, if we are to both distribute and minimise amongst states the burdens posed by receiving refugees, then states would be best to select refugees who share a mutual affinity.

However, determining the extent of a person's affinity to a receiving state presents difficulties. On what grounds can we say two countries share a mutual affinity? Let us, for example, consider one country that is considering receiving refugees from another country in the midst of a refugee crisis. If both countries adhere to liberal democratic principles of free expression and equal rights, then I would consider these countries to share a mutual affinity in this particular area. In such a situation in which states were compelled to select refugees, I would accept that it is reasonable to select refugees on the basis of a country's shared principles. However, I do maintain that this is still imperfect grounds for selection as the values that an individual holds are not necessarily contiguous with the country they come from. If these same countries both have a majority white population, this cannot be grounds for determining whether or not these countries share a mutual affinity. With regards to this, it is reasonable to select refugees based on a shared affinity in theory, but it must be based on a justifiable definition of what constitutes a shared affinity. I would further add that if states are to base refugee selection on mutual affinity it must be done with the intent of dividing responsibilities between states. So, to reaffirm Miller's point from earlier, a state should only use mutual affinity as grounds for selection if there is an agreement with other countries, with different

cultures and values, that they also use the same grounds for selection. In this case, it is less likely that a refugee will be left unaccounted for as a result of their cultural background.

Gender and sexuality - It may seem reasonable to suggest that, similar to race and ethnicity, one's gender or sexuality are two other factors that are impermissible grounds for refugee selection. This is because these features should not be relevant for their claims to protection. However, a case could be made that Western states have an even greater duty to select refugees who are women or LGBT persons given that western states are often best placed to protect the human rights of these individuals. For example, it would be irresponsible for a western state to not select a homosexual refugee if homosexuality were a criminal offence in the country that would then select them. Then again, if a Western state were to select a refugee for this reason, then it would be selecting on the basis of one's sexuality. So, once again I would posit that the only time selection on this basis would be permissible would be if there is a suitable burden-sharing scheme in place. A western state may decide not to select a refugee on the basis that they instead choose another refugee who may face persecution for their gender or sexuality if they were selected by another state. Such a decision could only be justified if the refugee who was not selected would then be selected by another state.

Restorative justice - Finally, Walzer, Carens and Miller all make the case that there may be an additional duty to provide refuge if the state that the asylum seeker applies to is at least in part responsible for making her into a refugee (Walzer, 1983, p. 49; Carens, 2013, p. 195; Miller, 2016, p. 89) I can understand the impetus for such an action. As James Souter argues, refugees' choices about where to claim asylum gain additional significance in these circumstances: "after causing or contributing to their displacement, heeding refugees' wishes is the least that responsible states can do" (2014, pp. 335–336).

So, in instances in which a state must select refugees, it may seem reasonable that the state would choose a refugee that they have been responsible for turning into a refugee. However, contrary to what other theorists have suggested, I do not hold that this is a sufficient reason for selecting refugees. This is because it would involve rejecting refugees from other states even if they were to have the same need, or indeed a greater need for protection. States do have a moral duty to account for injustices that they have created but selecting refugees in this way risks becoming a convenient way for Western states to cover the tracks of their failed interventions in other states. Such protection should be provided based on altruism, rather than guilt. States therefore would be better to approach their responsibilities to refugees by

considering the needs of individual refugees on a case-by-case basis rather than viewing the issue as an opportunity to rectify past faults.

6.4 Response to Ukrainian and Syrian crises

Viewing the different responses from EU states over two refugee crises in 2015 and 2022 elicited curiosity. I supported the welcoming response to Ukrainian refugees in 2022 but pondered why the response was so markedly different for Syrian refugees fleeing a few years prior. As a result, I believed these contrasting case studies provided an interesting topic for theoretical research. With respect to this, I will attempt to answer the following question: *Are EU states acting justly in their different approaches to the Syrian and Ukrainian refugee crises?*

After delving into much theory on refugeehood and more specifically refugee selection, I hope that I am now informed to provide an answer to the above question. A possible limitation I have in answering this question is that I cannot say for certain why the EU states responses were so different over the two refugee crises. However, at the beginning of this thesis, I quoted some prominent European politicians that seemed to suggest certain factors that may have played a role. I will also consider other factors that I believe could have, based on both my understanding of the situation and on the normative framework that I followed, played a role in determining the different responses to the two refugee crises. I will further answer if these reasons I have chosen are morally permissible grounds for EU states providing protection to a far greater number of Ukrainian refugees in 2022 than they did to Syrian refugees in 2015.

To start, in breaking down the quote I provided in the introduction, Kiril Petkov identifies two reasons why the response to Ukrainian refugees in 2022 was so different from previous crises. Ukrainian refugee's supposedly having a higher education was the first. As touched on in the Miller section, on grounds on which a state may need to select refugees, an argument could be made that selecting on the basis of one's education could be permissible. This is because a higher educated person may have a more worthwhile life due to them finding it easier to adapt to a receiving state. Even if one were to deem this a valid argument, it seems that there would have been no basis for Petkov to comment on the education of refugees. Refugees from previous refugee crises may also have been well-educated. Petkov's comment here may then serve to mask deeper insecurities he about the race and religion of refugees from previous refugee crises, and these are more problematic grounds for refugee selection. Petkov's second reason for arguing why the Ukrainian refugee crisis differs from previous crises is that

refugees from previous crises “could have been terrorists”. While I posited that it is just for states to turn away refugees if there is clear evidence that they are terrorists, Petkov tarnishes all refugees from outside of European countries under the banner of ‘could be terrorists’. This is indefensible because Petkov has made an unfounded assumption about these refugees that unfairly stigmatises them and delegitimises their claims to protection.

The reasons provided in Petkov’s quote are impermissible grounds for justifying why the responses from EU states were so different between the two crises. However, other grounds that likely played a role in determining these responses may have been more permissible. Beginning with mutual affinity, it seems apparent that this played a role when considering the different responses from Western states to the Ukrainian and Syrian refugee crises. The introduction mentions the overwhelming support from Polish residents for allowing Ukrainian refugees into their state. Poland neighbours Ukraine and the two countries share a close alliance. Based on a first impression, it appears reasonable that Poland therefore would have more of a duty to Ukrainian refugees than they ever did to Syrian refugees. Even Carens’ posits, “Nothing in my argument rests on the proposition that we have to treat all human beings alike, that we cannot distinguish between members and strangers” (2013, p. 109). If Polish citizens feel that they share a cultural membership with Ukrainian citizens, then a reasonable argument could be made for Poland being much more receptive to Ukrainian refugees.

Furthermore, it is also interesting to consider the fact that there has been little expectation for countries outside of Europe to take in Ukrainian refugees. For example, Lebanon has one of the largest refugee populations in the world, yet a large proportion of these refugees are from neighbouring countries such as Syria; it has not hosted any Ukrainian refugees. Is it not then reasonable to flip the line of questioning and ask if non-European countries are doing enough to support Ukrainian refugees? I think it is worth addressing this question, but this thesis has not sought to answer such a question given that it has looked at western states’ responsibilities to refugees. Nevertheless, I would add one caveat here because I believe that the wealth and resources that western states have, for the most part, should mean that they carry some degree of additional responsibility towards refugees. Considering the mutual affinity argument overall, I would argue that the benefits of selecting in such a way are that it accounts for the receiving state’s perspective in that they likely benefit from receiving refugees that share a mutual affinity, and it also accounts for the refugee’s likelihood for integration. Its fundamental problem is that it does not take into account the refugee’s claim for protection. If the threat to Syrian citizens in 2015 was akin to the threat to Ukrainian citizens in 2022 then it does not seem just that mutual affinity should play such a role in the different responses from EU states.

Another area that could have caused a more receptive response towards Ukrainian refugees is the perceived longevity of the stay of refugees in host states. With Syria, there was an expectation that it could take a long time before Syrian refugees returned home. The war had already lasted four years before and the journeys for refugees toward Europe were so long that it could be assumed that they would not seek to return home any time soon (Gabiam, 2016). Regarding Ukraine, there was less knowledge of how long their refugees may be outside the country. There may have been more of an assumption that Ukrainian refugees may return to their homes sooner and this may have given Western states an additional impetus to open the borders quickly. Such an approach is justifiable if there was evidence that Ukrainians would soon return to their homes. A state likely has more capacity to take in refugees for sanctuary than they do for resettlement. So, if we view the protection of life as being of utmost importance, then selecting Ukrainian refugees for sanctuary may be more justifiable than selecting Syrian refugees for resettlement. However, there is no real knowledge of how long the Ukrainian war will last and it will likely be the case that many Ukrainian refugees will need to be resettled. Concerning this, EU states allowing in so many Ukrainian refugees could be perceived as contradictory, given that they erected far stricter borders for Syrian refugees.

This section has identified areas in which it could be permissible to select Ukrainian refugees over Syrian refugees. Overall, I would argue however that the stark difference in responses from EU states between the two refugee crises in both intake and attitudes cannot be justified. EU states appeared to over-play the importance that certain factors, such as mutual affinity, should have. The vulnerability of the refugee should be the most important factor in deciding on a refugee's claim, but this does not appear to be the case when considering these different refugee crises. Further, I would critique the overall attitudes of EU states over the two crises. Ukrainian refugees have been overwhelmingly welcomed in 2022, while Syrian refugees were generally not in 2015. Such a difference in reaction seems unjustifiable given the claims to protection from both groups of refugees were likely the same. I believe it is therefore reasonable for more European policymakers who oversaw both refugee crises to justify why the decisions they made regarding refugee admittance were so different during the two crises. This line of thinking mirrors Carens when he makes the case that restrictions on movement require some sort of moral justification (2013). Receiving these justifications could provide an important basis for further theoretical research on this topic that can be used to guide policymakers into making more just decisions for future refugee crises.

Chapter 7 - Discussion and conclusion

The 2022 refugee crisis illuminated the reality that the claims some refugees have for admission in Western states hold more weight than the claims of other refugees. EU states overwhelmingly embraced Ukrainian refugees by opening their borders to them and providing them with safe passages through states. This response was markedly different from the refugee crisis of 2015, where the same states erected strict borders and allowed for refugee camps to become overcrowded (Berker De, 2020). This dichotomy in responses from EU states provided me with the impetus to formulate the following research question: In what instances is it permissible for states to purposely select refugees to offer sanctuary to?

In order to find the answer, I explored the works of three political theorists, namely Michael Walzer, Joseph Carens, and David Miller, who all have different ideas on how this question should be answered. Out of the three main authors I evaluated, I adhered closest to Miller's ideas. His writings, I believe, have provided the most expansive contribution to the issue of refugee selection, appealing to both humanitarianism and pragmatism. However, I did find grounds for critique because he conflates the question of who ought to make a decision with the question of whether a given decision is justifiable. The fact that a state has the moral right to make a decision does mean that its decision is morally justifiable or immune from criticism. Answering the refugee selection question holds little importance if states are generally not allowing entrance to enough refugees.

Carens provides more clarity here by arguing that the borders should almost always be open. At least with such a theory, there is a clear understanding that the numerical limit of refugees entering a state would be very high before a state would be justified in closing its borders. While Carens presents a worthwhile contribution to political theory with his advocacy of open borders, his ideas concerning refugee selection are deficient because he admits that there are conceivable limits to the number of refugees that could enter a state, but he struggles to find clear grounds in which it could be permissible to select some refugees over others. Finally, on Walzer, I argued that his work has been important for further discussions around immigration and refugeehood but his contribution to refugee selection is somewhat vague and I rejected some of the grounds for selection that he deemed permissible. He, like Miller, also fails to clarify how many refugees a state should admit by arguing that only the political community can make moral judgements on this.

After evaluating the theories of these authors, I then sought to provide my own contribution. Before, discussing grounds where it could be permissible for states to select refugees, I first had to take a step back by considering if it was permissible for states to establish

limits to the number of refugees that they could admit in a given time period. Based on the theory that I read, I concluded that the answer to this is 'yes'. The three theorists I studied also answered yes to this question but had different ideas on what the limits should be. I concluded here that just because a democracy has the right to decide on its own refugee admittance policies it does not mean that these policies are always morally justifiable. Nevertheless, I did not endorse open borders and I argued that states must be able to reject refugees once the number of refugees in a state is so high that it can no longer provide welfare and the opportunity for prosperity to its citizens. In answering yes to this question, I posited that the question of refugee selection must then be answered. This question presented contention amongst the theorists, but with respect to their ideas, I attempted my own answer.

The vulnerability of the refugee proved to be the most important ground for selection. Under non-ideal conditions in which states must select refugees, selecting based on the depth and urgency of the threat will likely provide the greatest contribution to the overall protection of refugees' human rights. The distinction between offering shorter-term sanctuary and long-term resettlement also mattered. Given states likely have a greater capacity to offer sanctuary, then it may be more just to select refugees who are unlikely to need to be resettled.

I did also contend that some weight may also be given to personal factors linking the refugee to a particular state. Mutual affinity, for example, could be just grounds for selection. However, this could only be the case on the basis that a refugee who was not selected, because they did not share a mutual affinity with a receiving state, was then selected by another country that it shared more of an affinity with. Concerning this, I endorsed a burden-sharing scheme in which states share the proportion of refugees in the world, but also minimise the burdens that could come from a high number of refugees entering a state. To minimise the burdens, states would be best to select refugees with whom they share a mutual affinity. Finding factors that were clearly impermissible for refugee selection also proved difficult. Most factors discussed seemed impermissible in principle, gender and sexuality being examples of such, but under certain circumstances, I concluded that selection on such grounds may be appropriate. The race and ethnicity of the refugee seemed to be the clearest example of impermissible selection.

After discussing my findings, I then applied them to the EU refugee crises in 2015 and 2022. I considered whether it was permissible that Ukrainian refugees received a far more welcoming response from EU states than Syrian refugees did a few years prior to this. Given that Ukrainian refugees likely share closer ideological beliefs and that there may have been an understanding that the length of stay in host countries would be shorter for Ukrainian refugees, I made the case that this could have justified, to some extent, a difference in response from EU states. However, given that the vulnerability of both groups of refugees was likely similar, I

determined that the scale of difference in responses between both crises is difficult to justify. As a result, I believe it is necessary for European policymakers to provide explanations for their actions during these crises.

Concerning grounds for future research, I believe that more global theorising on the overall topic of states' responsibilities to refugees is necessary if political theory is to provide appropriate answers that meet the demands of the worldwide refugee situation today. Much theory thus far has been written by Western scholars about Western states' responsibilities to refugees. This thesis has been no different. In Chapter 6, I argued that Western states hold additional responsibilities to refugees over other states because they are generally wealthier and, therefore, have greater resources to protect refugees. The last few decades have seen some previously poor states achieving considerable economic growth. Brazil, China, India, Russia and South Africa are examples of such. If we are to expect wealthier states to make greater commitments to protecting refugees, it is reasonable to turn our attention to consider these states' responsibilities to admitting refugees. However, evaluating these states' responsibility to admit can only be productive if such states will then respect the human rights of refugees. Russia and China, two of the more recognisable countries that have become economic powerhouses in the last few decades, take in very few refugees. However, these two states also regularly face criticism for their records on human rights. Therefore, future research considers what states can provide admittance to refugees, but also what states will respect the human rights of refugees once they have been admitted.

More specifically on refugee selection, I would expect that the ideas presented here would apply to states worldwide, so, the need to explore it from a non-western lens, may not be necessary. For example, every country should consider refugee vulnerability as being the clearest ground for selecting refugees. There were still a number of considerations that this thesis did not reflect on that future research could. The geographical proximity of a receiving state to a refugee, for instance, is a relevant consideration given that refugees are more likely to end up in neighbouring states. I did not use any more considerations here as I believed that it would lead to repetition in my arguments. Furthermore, the contextual factors that states may consider before providing sanctuary to refugees may change as refugee crises around the world continue to change. While my answers have attempted to best reflect the contemporary situation, future changes will likely reignite the question of refugee selection again for political theorists.

Overall, this thesis has intended to present ideas on refugee selection that are both ethically sound and implementable. Safe states have a moral duty to protect the human rights of refugees when their own states cannot. Equally, states have a legitimate interest in preserving

a cohesive and well-functioning society. The potential for tension between these ideals can be difficult to reconcile but this thesis has attempted to respond to both.

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