



**Protecting the Unprotected: Refugees, Economic  
Refugees, and What States Owe Them**

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For the Degree of Master of Arts in Politics (MAPOLITFAD)

15 August 2024

## **Abstract**

This paper is an analysis of the normative duties that states have to refugees and to those suffering severe poverty, many of whom qualify as ‘economic refugees’. Economic refugees are defined as: people who qualify for refugee status under a broad interpretation of the term when their entitlements to international protection are due to threats to their vital subsistence needs or physical security resulting from resource-relation deprivation, or who are in grave danger of falling into such a state; and who can only be protected by foreign countries and are so situated such that this is possible. I begin by defending a broad definition of refugeehood, then consider the normative obligations that states have to refugees through their humanitarian, legitimacy and reparative duties. I then address how the global poor fit into this, who are often left out of discussions of refugee-state responsibility, first by discussing real-world limitations of attempting to strictly categorize asylum-seekers then by identifying poverty as a refugee-qualifying harm and how recognizing these economic refugees may influence the normative duties of states.

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## **Acknowledgements**

First and foremost, I thank my parents Maria Scroggie, Brad Basler and Kevin Hickey for providing me with love and support throughout my year here at the University of Limerick. I also thank my advisor, Andy Shorten, whose assistance in developing this dissertation was pivotal to its completion, and rest of my professors here at UL: Brian Milstein, Owen Worth, Scott Fitzimmons, and Neil Robinson for providing interesting, interactive, engaging and informative lessons and discussions throughout the year and helping me develop both as a political scientist and a student. Without any of those mentioned, this would not have been possible.

## Abbreviations

- “1951 Convention” or “Convention” = 1951 United Nations Convention Relating to the Status of Refugees
- “UN” = United Nations
- “OAU” = Organization for African Unity
- “US” = United States of America
- “UNHCR” = UN High Commissioner for Refugees



# **Chapter 1: Introduction**

As of the end of 2023, “at least 117.3 million people around the world have been forced to flee their homes. Among them are nearly 43.4 million refugees, around 40 per cent of whom are under the age of 18” (UNHCR 2023b). A decade before, the number of forcibly displaced persons was nearly half as much. Now, “more than 1 in every 69 people on Earth has been forced to flee” (UNHCR 2023b). Of the 43.4 million who are counted as refugees, the majority are hosted in the low GDP countries of the global South (World Bank 2023), whose capacity to provide adequate living conditions and the protection of basic rights to those whom they provide sanctuary is much less than the affluent Northern states who routinely avoid their obligations to protect refugees. Even this does not take into account the approximately 700 million people counted by the World Bank (2024) as living in extreme poverty, who lack the protection of their basic needs from their home country.

This is a bleak snapshot of a prevailing pattern that most in the modern world must, in some form or another, contend with. International migration in the 21st Century has so far been marked by a huge increase in forced displacements, people who are left with no choice but to take flight from life-threatening violations to their basic rights and needs. There are good reasons, too, to assume that this pattern will continue as the century progresses, especially with the looming danger of climate change which threatens to drown entire nations (Buxton 2019). This colossal dilemma the modern world is faced with

demands careful consideration of the normative obligations that states have to the vast quantity of victims who result.

This dissertation is designed to analyze the normative obligations that states have to refugees on two fronts: first, it addresses who qualifies for refugee status and what obligations states have to those that do, examining and evaluating the different functions that refugee protection can have; second, it considers the role of severe poverty in this equation, arguing that ‘economic refugees’ are people who are subjected to severe poverty and have an entitlement to refugee protection, exploring the implications that this would bring to bear. Specifically, chapter two contends with the question of the refugee definition. I endorse the broad interpretation of the refugee definition, arguing that a refugee is any person whose basic rights and needs are under threat, lack the protection of their state, can only be protected by a foreign state and are situated such that this is possible. Chapter three addresses the normative functions that refugee protection entails, describing the resulting obligations states have to refugees. I examine three duties of the refugee protection regime: the minimal humanitarian duties, the duties to uphold international state legitimacy, and the duties to protect refugees as reparations for past harms. The humanitarian duties, I argue, can describe the minimal obligations states have to protect refugees, yet fail to account for the causes of refugee flight and the distinct obligations states have to different categories of refugees. Under the framework of legitimacy, we are able to account for the latter, and employing the principles of reparative justice we are able to account for the



former. In cases of reparative obligation, the arrangement of state and refugee-centric considerations are skewed in the refugees' favor.

Chapter four addresses the role of severe poverty in refugee generation. First, I discuss the real-world problems resulting from the use of the refugee/economic migrant binary: one being that states employ it to wrongfully deny protection to refugees who they are obligated to protect under the guise that they are simply 'economic migrants'; second, that the complexities of each individual asylum-seeker's situation make strict categorization nearly impossible, yet I conclude that there remains a normative distinction between the claims of economic migrants and refugees. I then argue that severe poverty is a refugee-qualifying harm in and of itself, and that those who qualify for refugee protection as a result of it should be considered 'economic refugees'. I conclude by applying my findings from chapter three to the case of economic refugees, considering the normative implications of granting refugee status to those suffering severe poverty. One is that the sheer quantity of people who would be entitled to refugee protection may render states' attempts to honor their obligations to them unfeasible. Another is that, if we adopt the view that the North/South dynamic is one defined by an exploitative global economic order which systematically impoverishes the South, the obligations that states have to economic refugees are much more extensive. In order to repair the severe threat to the legitimacy of the international order of governance posed by this exploitative dynamic, affluent Northern states would be obligated to both provide reparations to those refugees whom they were

outcome responsible in producing and enact measures to eliminate severe global poverty, though I do not specify what measures may be enacted to achieve this end.

## Chapter 2: Who Qualifies as a Refugee?

In this opening chapter, I aim to defend a broad interpretation of the definition of a ‘refugee’. I contend, like many others, that the defining feature of refugees is that they are people who have lost the protection of their home state and face urgent threats and severe harms. Thus, the duty to protect them falls on the only actors who have the capacity to protect them in any meaningful way: foreign countries. I approach this by providing an historical overview of both of the dualling conceptions and refugeehood - the narrow ‘political’ view and the broad ‘humanitarian’ view - and some of the main positions which have been defended, both academically and legally, for determining the criteria for refugee qualification.

### **2.1. The Narrow ‘Political’ Conception of Refugeehood**

As mentioned, the boiled-down disagreement here concerns how *narrow* or how *broad* the definition should be. The ‘narrow’ view limits those who qualify as refugees to persons who are located outside of their country (also known as alienage)<sup>1</sup> and who are fleeing the specific harm of persecution, seeing asylum as an expressive political act to condemn the persecuting state’s actions. The ‘broad’ view maintains that refugees are persons deserving of protection because they are in need and lack the protection of their

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<sup>1</sup> ‘Alienage’ is defined here as someone who “is outside the country of his nationality” as per the 1951 UN Convention (UNHCR [1951]1967, art. 1A [2]).

state, with neither persecution nor location being a limitation on determining if someone is a refugee (Owen 2020, pp.4-7; Price 2009, pp.4-17; Souter 2022, pp.23-4).

In its original historical conception, asylum was viewed as a “defense to extradition and was focused largely on protecting innocent fugitives [who had crossed into a different realm or kingdom] from unfair criminal procedures” that they were facing in their home nation (Price 2009, p.57). Beginning in the early modern period, a shift occurred in which asylum was no longer designed to protect fugitives but “benefitted ‘political offenders’ who had justifiably rebelled against autocratic rule and were sought for extradition” (Price 2009, p.57). It is in this period “that the word ‘refugee’ enters the English language, from the French word *réfugié*,” creating a new class of migrant which describes individuals who had fled their home state in the face of religious<sup>2</sup> persecution (Owen 2020, p.17). As the centuries progressed and the modern world developed and industrialized, borders began to close. Asylum was no longer a protection against extradition but against deportation, yet retained its political conception as protection against unjust punishment in one’s home state (Price 2009, p.57-8).

It is from these roots that the political conception of refugeehood was born. Under the political view, asylum is not only intended to protect the refugee from the harm of persecution but also to express condemnation for the persecuting state, which has repudiated the membership the refugee, and provide her with surrogate membership (Owen

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<sup>2</sup> In this section, Owen is recounting the exodus of the Huguenots, who were persecuted protestants, from France in the 16th and 17th Centuries.

2016, p.277; Owen 2020, p.55-6; Price 2009, p.13). It is in this context that, in the wake of World War 2 and the inhuman persecution suffered by millions at the hands of Nazi Germany, the most widely recognized legal framework for determining who qualifies as a refugee was developed: The 1951 United Nations (UN) Convention Relating to the Status of Refugees. The Convention defines a refugee as someone who:

“owing to 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,” (UNHCR [1951]1967, art. 1A[2])<sup>3</sup>.

The 1951 Convention’s definition is the bedrock of the modern refugee regime. Having been agreed to by 148 countries, it “typically informs legal decisions on who will be granted asylum,” (Gibney 2018, p.2). It is both rigid and specific: only persons who can meet all the criteria, who are persecuted on one of the five grounds listed above and are located outside of their country of origin, qualify for refugee status (Parekh 2020, p.31).

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<sup>3</sup> Initially designed only to include refugees from Europe prior to January 1st, 1951, the 1967 Protocol was put in place to amend the geographical and historical limitations on the definition and to protect all peoples from all historical periods who meet these criteria.

The conceptual conjoining of the role of asylum to an expressive political act persisted throughout much of the 20th Century, especially during the Cold War in which political dissidents from underneath the Iron Curtain were granted protection in the Western democracies as a way for the West to make a moral statement about the superiority of Western political values and a condemnation of their authoritarian adversaries (Parekh 2020, p.9; Price 2009, p.6). However, this perspective began to be increasingly supplanted in academic circles by a ‘humanitarian’ perspective which shifted the focus of the conception of refugeehood away from persons needing protection from the specific harm of persecution to persons generally in need of protection, regardless of the harm, with the severity of the harm and the urgency of the need for international protection being paramount in determining the strength of the claim of asylum (Owen 2020, p.6; Parekh 2020, pp.28-9; Price 2009, p.5).

### **2.2. The Broad ‘Humanitarian’ View**

Now enjoying widespread scholarly support (Lister 2013, p.651; Price 2009, p.5), this broader conception of refugeehood can trace its origins in international law to the Organization for African Unity’s (OAU) 1969 expansion of the 1951 Convention definition. After reiterating the Convention definition, it adds:

“The term ‘refugee’ shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality,

is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality,” (OAU 1969, art. 1[2]).

Similar expansions have been expansion is echoed by the non-binding 1984 Cartagena Declaration on Refugees<sup>4</sup> and by the UN High Commissioner for Refugees (UNHCR)<sup>5</sup>.

What is significant here is that these broader definitions, with both the OAU and Cartagena Declarations initially intended to apply specifically to the respective circumstances in Africa and Latin America, remove persecution as a necessary criterion for determining who qualifies as a refugee but retain the necessity of being located outside of one’s own country, or ‘alienage’. Under a strictly humanitarian view, one’s location does not determine whether one is entitled to refugee status, only the severity of the harm and the urgency of the need one is facing (Owen 2020, p.6). This perspective is perhaps best exemplified by the influential piece ‘Who is a Refugee?’ by Andrew Shacknove (1985). In it, Shacknove constructs an argument for understanding refugees as “persons whose basic needs are unprotected by their country of origin, who have no remaining

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<sup>4</sup> The 1984 Cartagena Declaration adds to the UN Convention’s definition: “persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order,” (Colloquium on the International Protection of Refugees in Central America, Mexico and Panama 1984, art. 3[3]).

<sup>5</sup> For the UNHCR, the definition of a refugee “encompasses individuals who meet the criteria for refugee status contained in Article 1 of the 1951 Convention and its 1967 Protocol and is extended to individuals who are outside their country of origin and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order,” (UNHCR 2019).

recourse other than to seek international restitution of their needs, and who are so situated that international assistance is possible,” (p.277). He asserts that the minimal condition of legitimacy a state must meet is to reduce their citizens’ vulnerability to others (p.278). When a state is unable to protect its citizens’ basic needs, this social bond is severed which “constitutes the full and complete negation of society and the basis for refugeehood,” (p.277). Apart from an inability or unwillingness on the part of one’s home state to secure one’s basic rights being a necessary criterion for refugee qualification, in Shacknove’s view: “conceptually, refugeehood is unrelated to migration,” (p.283). What this means, controversially, is that many internally displaced persons also qualify as refugees, as long as their sole recourse is to seek international assistance and they are in a position such that it is possible to do so (p.282). And so, from Shacknove’s perspective, the qualifications for refugeehood extend beyond solely persecution and alienage.

### **2.3. Defending the Broad Interpretation**

Having provided accounts of the historical foundations for both perspectives, I will now explain why the broad perspective exhibits a greater moral force. As a starter, limiting those who qualify as refugees to the narrow UN Convention definition may seem strange given the word’s colloquial usage. For instance, many Ukrainians who have taken flight from their home state because of Russia’s 2022 full-scale invasion of their country - many whom have been granted asylum and the legal benefits associated with it in Western



countries<sup>6</sup> - are not necessarily captured within this definition because they are not fleeing persecution but the horrors of war. Yet it seems uncontroversial for us to refer to them as ‘refugees’ in our everyday language, suggesting that there is something intuitive about including harms other than persecution in the definition of refugeehood. However, claiming the alternative is simply intuitive is not enough for us to dispense with the Convention definition, and there are some compelling arguments for the narrow definition of refugeehood.

Some argue that the protection of asylum is something that is best reserved only for those who can be helped in no other way. That perhaps the international community *does* have a duty of justice to help all who do not have their basic needs met, but that the specific assistance of allowing someone to enter into a “safe” country and not returning them home<sup>7</sup> more accurately secures the protection of a specific group of people - the persecuted - and that others could be assisted through other means (Lister 2013, p.659-60). Furthermore, it has been argued that with the granting of asylum the refugee is someone who is entitled to new membership in a foreign state and the humanitarian account then implies that all those

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<sup>6</sup> These countries have granted asylum to Ukrainians in spite of the fact that the majority of them conform to the 1951 Convention definition of a refugee, or some version of it. This is indicative of the arbitrary nature with which asylum can be used by countries who have unilateral control over who they grant it to. It speaks, too, to the fact that grants of asylum can be politically motivated, since Western states have a message they want to send when admitting Ukrainian refugees. The same cannot be said for many of the asylum-seekers from the global South that they reject, even though the severity of the harms they face may be identical.

<sup>7</sup> This is describing the duty of non-refoulement, perhaps one of the most important rights enshrined by the 1951 UN Convention. See UNHCR (1951)1967, art. 33. I discuss its importance in chapter three.

in need are entitled to new membership. It follows then, so the argument goes, that Convention refugees<sup>8</sup> are the ones who are more accurately captured by the uniqueness of the claims to asylum, which include entitlements to non-refoulement and new membership, while “both immigrants and refugee-like outsiders” do not have claims to such entitlements (Cherem 2016, p.187).

While these arguments contain a degree of salience, they fail to address a key normative consideration: purpose for a state’s existence. As Shacknove (1985) puts it: “in exchange for their allegiance, citizens can minimally expect that their governments will guarantee physical security, vital subsistence and liberty of political participation and physical movement,” (p.281). It would be hard for us to be able to make the claim that a state which has not held up its end of the bargain in any one of these areas could be considered legitimate. So, we can say that in a scenario in which this contract has been violated “the normal bond between citizens and the state” has been severed (p.276). When the legitimacy of a state falls into question because it is either unwilling or unable to secure the basic human rights of its citizens, then the task of repairing that legitimacy falls on the “international order of states” (Owen 2020, p.46).

We will discuss David Owen’s legitimacy view in greater detail in chapter three, however for the moment we can say that it is illegitimate conduct for a state to fail in its

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<sup>8</sup> These are persons who count as refugees under the narrow 1951 UN Convention definition.

most fundamental duty to protect the basic rights of its own citizens<sup>9</sup>. If the state is actively persecuting its citizens, then it has rendered those people de facto stateless because the terms of their contract of allegiance to that state (their citizenship) have been breached by the state persecuting them, effectively repudiating their membership (Owen 2020, p.55). When a state is incapable of protecting them from generalized violence or a breakdown in public order, then their citizenship has been rendered “harmfully ineffective” or inoperable (Owen 2020, p.58). Given that the purpose of a state is to ensure its citizens are protected, when some or all of those citizens are not protected then someone else must ensure their protection. The foreign states which acquire the charge of securing the protection of the unprotected people act as a sort of “substitute” state for them (Owen 2020, p.47). It is these people, who have no alternative choice but to seek protection provided by a foreign country because their own state has failed to protect their basic needs, or who are at serious risk of not having these needs protected, who foreign countries have the ability to protect, and who if returned to the situation they are fleeing would face a threat to their basic needs, who qualify as ‘refugees’ in my view. This perspective is perhaps a rewording of the somewhat standard ‘broad’ perspective reiterated by many in the academic literature, such

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<sup>9</sup> In Owen’s legitimacy view, this poses a legitimacy problem not only for the state which is not securing the basic rights of its citizens but also for the international order of states, since states are collectively responsible for the legitimacy of the international order of governance. See Owen 2020 ch.2 and Owen 2016.

as Shacknove (1985, p.277), Owen (2016, p.280), Carens (2013, pp.199-203), Dummett (2001), Gibney (2004, p.7)<sup>10</sup>, and Parekh (2020, pp.28-9).

I say ‘no choice but to seek refuge *provided* a foreign country’ rather than *within* one because, in concurrence with Shacknove and Owen, I do not believe all kinds of refugees are by definition migrants. What I mean by this is that in order to be a refugee one simply needs to be facing persecution or have in serious jeopardy “their physical security or vital subsistence needs,” (Gibney 2004, p.7). People who lack the protection of their home state and face these threats should be considered refugees as long as it is the international society of states which is obligated to help, even if that is *in situ*<sup>11</sup>, and it has physical access to them (Shacknove 1985, p.277; Owen 2016, p.279). Moving forward, when I refer to ‘refugees’ in this paper I will be operating under this broader interpretation of what that term means, with alienage and persecution being sufficient but not necessary criteria if all other conditions of the refugee definition I have defended are met, unless I specifically refer to ‘Convention refugees’.

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<sup>10</sup> Note that Gibney (2004) maintains that refugeehood is conceptually tied to migration (p.8).

<sup>11</sup> In the scenario in which there is a complete breakdown in the public order of a state and the international community sets up ‘safe havens’ within the territory of that state to protect threatened people, then there are still grounds for which we could call those people ‘refugees’ since removing them from that safe haven would violate the principle of non-refoulement.

## Chapter 3: What Do States Owe Refugees?

Now that I have developed an account for who refugees are, let us now turn to the question of what obligations states have to them. In this chapter, I lay out three distinct functions refugee protection can be understood as having and describe the duties which arise accordingly: humanitarian duties, legitimacy duties, and reparative duties. I argue that humanitarian duties can be understood as the minimal obligations that states have to protect refugees and that by viewing state obligations solely in this light we fail to account for causes of refugee generation and strip refugee protection from functioning in any other capacity. I then describe David Owen's novel 'legitimacy' view, in which state obligations to refugees can be seen as arising out of a preservation of international state legitimacy. I argue that this framework allows us to move past the minimal humanitarian duties and differentiate between different classes of refugees, each warranting different obligations from states. I then consider refugee protection's reparative role, arguing that when providing refugee protection on reparative grounds the balance of state-centric and refugee-centric considerations, namely refugee preferences and choice, are tipped in the refugee's favor.

As a starting point, let us posit two relatively uncontroversial points: first, it is commonly understood that refugeehood is a special or exceptional status<sup>12</sup> (Gibney 2004,

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<sup>12</sup> There are some proponents of open borders who argue against treating refugee status as exceptional. For a discussion on this, see Kukathas 2016.

pp.7-12; Kukathas 2016, p.251; Owen 2016, p.270; Miller 2016, p.78). This is because, both in political theory and international law, they are typically considered the only class of foreigners that an external state has obligations to protect. A further commonality within both widely recognized international law and political theory is the principle of *non-refoulement*<sup>13</sup>, the prohibition of the return of asylum-seekers to their country of origin when their return would jeopardize their well-being. In my estimation, and I venture that this sentiment is commonplace, any reasonable theory relating to state obligations towards refugees would uphold the principle of non-refoulement. If we accept the charge that each state's ultimate duty is to protect the rights of its citizens<sup>14</sup> then a state which breaches this contract, whether voluntarily or through inability to provide said protection, has failed its most fundamental cause for existence. If another state upon receiving individuals who have fled this life-threatening predicament then turns around and returns them to the state which has failed them in this most basic way, then the receiving state is just as guilty for whatever harm befalls them. Thus, among whatever general duties states have towards the world's refugees, non-refoulement is a principle which must be satisfied.

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<sup>13</sup> This principle is enshrined in the 1951 UN Convention, which states: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion" (UNHCR [1951]1967, art. 33). Though it initially only applied to Convention refugees, it is nonetheless accepted for those who support a broader interpretation of refugeehood.

<sup>14</sup> For the purposes of the arguments made in this paper, we are working within the nation-state paradigm as it exists in the world today. In an ideally cosmopolitan world, the argument could be made that an entity in a position of power has a duty to protect everyone, and that it is unjust to grant preferential status to some over others.

### **3.1. Humanitarian Duties**

Especially if we adopt a broader definition of the word ‘refugee’, then there exists a common understanding that the purpose of refugee protection and states’ obligations are grounded in a humanitarian baseline which centers the duty states have to protect refugees on the severity and urgency of the refugee’s harms and needs. This baseline illustrates the minimal duties that states have to refugees and provides a method for reconciling the opposing norms of state sovereignty and refugee rights. Perhaps one of the best formulated applications of this appeal to humanitarianism is expressed by Matthew Gibney (2004), what he labels the “humanitarian principle” (p.230), which posits that “states have an obligation to assist refugees when the costs of doing so are low” (p.231). Gibney’s humanitarian principle is designed in order to thread the needle between two opposing perspectives relating to the conflict between the claims of refugees and a sovereign state’s right to exercise territorial, cultural and social autonomy: *partiality* or the justification of the “right of states to decide admissions according to their own criteria by appealing to the importance of political and cultural autonomy for communities” (p.19); and *impartiality* which “argues that states are obliged to take into account the interests or rights of the human community in its entirety on decisions of entry,” (p.20). Gibney contends that both partialists and impartialists can rally behind his humanitarian principle in an “overlapping consensus” on the “minimal responsibilities of states” (p.235) because on one hand it upholds a state’s rights to sovereignty, agency and self-determination and on the other makes an argument which respects the principle of non-refoulement and would see affluent

liberal democracies drastically increase the number of asylum-seekers granted protection (pp.230-5). Because the responsibility of states is only relegated to foreigners who are in “great need” (p.233), the duties required here are “not so extreme that they overwhelm domestic obligations” (p.234) but are sufficiently extensive enough as to see a far greater number of people in need granted foreign assistance than currently enjoy it because the humanitarian principle would “require states to accept as many refugees as they can without undermining the civil, political and... social rights associated with the liberal democratic state” (p.230).

Appealing to common humanity and the urgency of the refugee’s need to ground a state’s obligation to protect refugees while preserving the ‘partialist’ emphasis on a state’s right to cultural and political autonomy has been echoed by a range of theorists. Even staunch supporters of the state’s ability to restrict immigration tend to make certain exceptions for this in relation to refugees (Altman and Wellman 2011, pp.181-2; Kukathas 2016, p.252; Miller 2016, pp.76-94). Michael Walzer (1983), in championing the importance of a state’s cultural and communal autonomy, nonetheless invokes a principle of “mutual aid” which, almost identically to Gibney, contends that states have an obligation to accept all the refugees they can as long as the endeavor incurs low costs and does not threaten its communal self-determination (Walzer 1983, cited in Gibney 2004, p.233). David Miller (2016), a fierce proponent of a state’s right to enact border controls, argues that states, like everyday people encountering a stranger in distress, have a general “duty of rescue” (p.78). To Miller this duty is limited by the risk of harm or burden that the rescue



has on the rescuer. The rescuer, under this view, “must be able to intervene without incurring serious risk himself and is entitled to look for an alternative course of action” (p.78).

Similarly, Andrew Altman and Christopher Heath Wellman (2011) in their defense of a legitimate states’ unimpeded “right to limit immigration without exception,” argue that “there is a Samaritan duty for a state to help asylum-seekers who show up ‘on its doorstep’” but that this duty is not a direct obligation to “let them into the country” but rather “a duty to help rescue from peril” (p.181). They go on to argue that this duty to rescue from peril could be applied using a variety of methods, such as “sending asylum-seekers to another state that has agreed to let them in” or by militarily intervening in the asylum-seekers’ home state and creating a “safe-haven” for them to return to (p.181). Note that this last point would not violate the non-refoulement principle since, presumably, the “safe-haven” in the asylum-seekers’ home state would be “safe”. It is also important to note that this ‘Samaritan duty’ only applies to refugees who show up *on a state’s doorstep*, not to refugees who show up on another state’s doorstep or are otherwise located. To Altman and Wellman, the duty to rescue from peril only obligates legitimate states to grant asylum to refugees if they do not either ensure that the asylum-seekers can be safely returned to their country of origin or ensure that they are accepted by another state that can grant them protection (p.182). This view may even be considered the *ultraminimal* view, because Altman and Wellman contend that there exists no duty for states to open their

doors to *anyone*, including refugees, and that the duty to aid refugees does not mean a duty to admit them (p.10).

What unites these theorists is that they respect what could be understood as the *status quo* of the international migration regime: that political communities (states) have a generally unrestricted right to control their own membership and thereby are entitled to restrict entry to would-be immigrants as they see fit. Yet this general right to control flows of people into one's political community can be superseded by a greater moral obligation: the duty to rescue (from peril) fellow humans in great need of it. Even proponents of the viewpoint expressed by Walzer, Altman, Wellman and Miller - a more "partialist" view - understand that in certain situations states are beholden to a moral standard which demands that they protect certain individuals who are not their own members *even if they are not inclined to do so*. What this reveals, crucially, is that there exists a moral link between peoples at the international level, strengthened by a common humanity, which at the very least can override domestic-level sentiments or motivations under certain extreme circumstances. However, the preservation of state autonomy is defended in all accounts, and the state's ability to weigh its own considerations of costs and capacity against securing protection for those in need is maintained, albeit the degrees to which these opposing factors are weighted may differ and the extent of an obligation to permit physical entry to asylum-seekers varies greatly between the theorists' views.

It follows then, from a viewpoint which upholds "compatriot partiality" (Miller 2016, p.21) or the ability of states to favor their own citizens over non-citizens, the

preferences of the asylum-seeker as to which state grants her protection have little to no bearing on the obligations of the rescuer. Indeed, many theorists contend that refugees are morally entitled to receive protection from harm and to not be returned to the country they are fleeing but are *not* morally entitled to choose which state provides that protection (Carens 2013, p.216; Ferracioli 2014, pp.142-3; Kuosmanen 2013, p.109, Owen 2016, p.280). It is up to the states that are able to provide protection to the refugees, in that case, to work out between each other a refugee distribution that satisfies them. Gibney takes a major departure on this point, arguing that the just distribution of the refugee responsibility between states is a normative goal but that this must be balanced with the refugee's own preferences for which state they reside in, and that states have a further obligation to settle refugees in states in which they are likely to flourish (Gibney 2015). This point is one we will come back to section 3.3, but for the time being we can conclude that, regardless of the intricacies of an international system of refugee responsibility-sharing, the consensus holds that the duty states have to secure the protection of refugees is not strongly influenced by the preferences of the refugees themselves and therefore there is a general right maintained by states to work out a refugee distribution between one another that suits them.

Abiding by a minimal humanitarian principle has some advantages. As Gibney notes, the obligations that are imposed on states are very specific in that they are owed exclusively to those in great need. By concentrating state obligations to a specific group of very needy individuals, the humanitarian principle constructs an argument that can be a universally accepted baseline because on the one hand it upholds the validity of a state's

right to prioritize its own citizenry and maintain sovereignty over its cultural, political, economic and social self-determination, and on the other it ensures the impartial protection for the specific subclass of forcibly displaced person who are in greatest need of it. In this way, a principle of humanitarianism can be viewed as the minimal obligation states have to refugees, a decidedly “conservative” principle (Gibney 2004, p. 230, 244). It is also *impartial*, because the only relevant concern is to the refugee’s urgent and severe needs, suffering or vulnerability and not to who the refugees themselves are or from which state they hail, and it is *general* because it is directed at *any* individual who is in dire need, without taking into account any prior history between the parties concerned, with common humanity and urgent need being the only necessary criteria (Souter 2022, p.31).

The minimalist humanitarian approach to the duties that states have to refugees has its strengths, as mentioned, but it also has limitations. One of these limitations is that it is politically neutral (Price 2009, p.7). The disadvantage here is that, by solely focusing on the protection of people in great need, we omit *why* they are in great need from the equation. This removes the ability of the refugee-protection regime or from states who participate in it from addressing some of the actions states take which result in the production of certain types of refugees, and expressing condemnation for them, which under some circumstances is called for. Another closely related limitation is that a pure humanitarian view tends to obfuscate the historical factors which lead to a refugee-producing situation and is similarly unable to address those causes (Souter 2022, p.35). Because under a purely humanitarian interpretation the attention is focused on securing protection, all forms of harms which

meet the threshold of severity necessary to be considered sufficiently urgent are treated as equal. The resulting obligations states have to address these harms, then, are identical. However, certain harms warrant different types of obligations, and refugees are not all the same. There are different classes of refugees, fleeing different types of harms perpetrated by different actors (if any at all), which in turn demand different responsibilities of states. Given this, we can say that one of the core normative functions of the refugee-protection regime is humanitarian in nature (Souter 2022, p.25), because its minimal purpose is to secure the protection of foreigners in great need due to a common humanity and it informs us of the minimum duties that states have to refugees, but that this is not the whole story because there is a need to take into account causes of forced displacement and the different functions that refugee protection can have.

### **3.2. Legitimacy Duties**

Another way to approach the state obligations to refugees is to reconceptualize it as not merely serving a minimal humanitarian function but as upholding the legitimacy of the international system. To this end, David Owen (2016; 2020) develops a “state legitimacy” view for the duties the international community has towards refugees (2020, p.35). This position contends that modern states should be conceived as existing within a wider international regime of governance and that states “are collectively outcome responsible for the character of these relations of governance and share responsibility with respect to the political legitimacy of these wider relations of governance” (2016, p.272).

Owen makes two points about the global political order: “The first is that it is a normative order, oriented both towards the Janus-faced norm of state sovereignty and non-intervention and towards the cosmopolitan norm of human rights. Its claim to legitimacy depends on this dual orientation.” Secondly, it is a “dispersed regime of global governance in which states are the primary agents through which the regime itself is constituted and reproduced,” (2020, pp.43-4). He argues that “states are collectively responsible for the character and functioning of this regime of governance” because they are each “co-participants” in it, recognizing each other as such, and no single participant can unilaterally determine the regime of governance’s norms (2020, p.45).

Furthermore, Owen argues that the duties of states to human rights protections are ordered: the first order duty is to protect the basic rights of their citizens, second to protect their fair share of refugees, and third to protect their fair share of “surplus” refugees<sup>15</sup> (2016, p.286). If states lack the disposition or capability to uphold any of these duties “this constructs a legitimacy problem not only for states in question but also for the international order of states as a regime of global governance,” (2020, p.46). Conceived under this approach, refugeehood is one of two “legitimacy repair mechanisms” (2016, p.280; 2020, pp.46-7), or ways for the international community to maintain legitimacy when one of its co-participants fails to uphold their end, with the other being what he dubs “the international emergency assistance regime” (2020, p.47). These two regimes (refugeehood

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<sup>15</sup> ‘Surplus’ refugees are understood here as refugees left over after an initial refugee distribution among states.

and international emergency assistance) are tools which the international community can utilize to ensure the dual commitments to state sovereignty and human rights protections are realized. Under this view, the international refugee regime's role is to provide the protection of basic rights to those whose state has failed that charge, whether this failure be the result of direct intention or inability, and to those persons whose basic rights can *only* be protected by way of the international order of states acting as surrogates or substitutes to the state which has failed to uphold their basic rights protections, or acting "*in loco civitatis*," to use Owen's terminology (2016, p.279; 2020, p.50).

Owen's theoretical framework for conceptualizing the refugee regime as upholding the legitimacy of the international order of states is a richer and more comprehensive way of understanding state obligations towards refugees, being conceptually situated in a more robust framework, than viewing state responsibilities for refugees purely in humanitarian terms. Like the minimal humanitarian view, the state legitimacy view respects the norms of state sovereignty, non-refoulement, and a general right for states to engage in refugee responsibility-sharing. However, by viewing the obligation states have to protect refugees in terms of safeguarding international legitimacy, we are able to move past the minimal duties owed by states to refugees because we are no longer solely fixating on the urgent need of refugees but attempting to address structural issues within the international system. This provides for an account of the differences between the harms the refugees are subject to and the different obligations which arise accordingly. While all the harms may be equally *urgent*, their causes are varied and warrant different responses. As Owen (2020) notes: "we

have good reasons to establish distinct legal statuses that differentiate between types of refugees according to the distinct grounds of their claims and the expressive roles of granting appropriate forms of protection to them,” (p.53).

Owen goes on to describe three distinct categories of refugee (those owed Asylum, Sanctuary and Refuge respectively) as defined by what type of situation they are fleeing, determining the duties of protection they are owed by the international order of states in each case. In his view, ‘asylum’ is best reserved for those fleeing targeted persecution, with those granted asylum being entitled to membership in a new state and retains its utility as a means to condemn a persecutory state’s actions. Because the persecuted refugee’s home state is effectively repudiating her membership, and membership is the basic condition of political standing, the international order of states is obligated to provide her with new membership. ‘Sanctuary’ is a status granted to a broader range of refugees, persons whose home state is not disposed to or not able to protect their basic needs for a whole host of reasons, and who are entitled to an indefinite stay in a country which can safeguard their rights with no guarantee of membership but that a clear path to membership ought to be available. ‘Sanctuary’ refugees, in contrast to ‘asylum’ refugees, do not have repudiated membership in their home state but instead lack *effective* political membership. Given this, their stay of sanctuary should be granted at least as long as the harm they are fleeing persists in their home state. Because they lack effective membership in any state and their stay in a new state is indefinite, they should be afforded the same access to membership as legally residing migrants are in their sanctuary state. ‘Refuge’ is the least extensive category of a



state's obligation to refugees and is best reserved for those fleeing a specific event (such as a natural disaster) and whose best chance at saving themselves is by seeking assistance across an international border. 'Refuge' refugees, according to Owen, should be repatriated as soon as possible, having no entitlements to new membership in the state granting them refuge (Owen 2020, pp.54-63).

### **3.3. Reparative Duties**

Beyond its humanitarian and legitimacy functions, refugee protection can be *reparative* in nature. In certain circumstances, refugee-producing events are the result of the actions of external states. These actions can take rather direct forms, such as creating forceful displacement through military campaigns (or by other means) or intensifying pre-existing refugee-producing events (Souter 2022, pp.76-78). They may also take rather diffuse forms, in which "refugees are generated by extremely complex chains of events, which are embedded in political, economic and social structures in which a large number of diverse actors are implicated to various extents," (Souter 2022, p.79). One example of diffuse state actions which generate refugees relates to recent arguments made that call for reparations to those displaced by the effects of climate change (Buxton 2019; Draper 2018; Fruh 2021). In any case, there is a strong reason to argue that under certain circumstances, when refugee production is the result of actions undertaken by external states, that those states owe reparations to those refugees, with providing protection within their borders as being one way of doing so.

James Souter (2022) has developed the most comprehensive account of how refugee protection (Souter calls it ‘asylum’)<sup>16</sup> can be a form of reparation to those affected by the actions of external states. Souter contends that:

“an external state owes asylum as reparation to a refugee when it bears outcome responsibility for unjustified harms experienced by that refugee, or that he or she is at risk of experiencing, as a result of his or her lack of state protection; when asylum is the most fitting form of reparation that is available to that state; and when that state has the capacity to offer such reparation,” (p.66).

In this context, we can view the reparative obligation acquired by external states to protect the refugees whom their actions have produced as a *special obligation*. As opposed to the general humanitarian obligations that all states have to all refugees, reparation is a special obligation that only states who have engaged in refugee generating harms have to those specific refugees (p.45). Whereas with the minimal humanitarian duties of states to refugees the former are only obligated to secure protection for the latter *if the costs are low*, special obligations carry more moral weight and as a result “reparative obligations appear binding even when their fulfillment imposes highly significant burdens” (p.46). In cases of reparative refugee protection, then, the balance between the opposing norms of state sovereignty and refugee rights is tipped heavily in the favor of the latter. The

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<sup>16</sup> Souter (2022) uses the word ‘asylum’ to mean “the protection of refugees in a state other than their own,” (p.29). I used the term ‘refugee protection’ to not detract from the distinction between asylum, sanctuary and refuge as developed by Owen (2020).

stipulation in Souter's definition 'when that state has the capacity to offer such reparation' is not the same as considerations of state capacity under humanitarian duties, which are designed to protect the rescuer from the process of rescue, but instead obligate the rescuer to find other avenues of reparation in the case that capacity inhibits providing asylum, sanctuary or refuge as a form of it.

Central to Souter's formulation is that the responsibility in question must be *outcome* responsibility<sup>17</sup>. As opposed to *moral* responsibility, being "the kind of responsibility which is a necessary precondition for moral praise or blame" (Miller 2007, p.89), or *causal* responsibility, which "concerns why something happened" (Souter 2022, p.70), outcome responsibility "relates to whether a particular agent can be credited or debited with a particular outcome" (Souter 2022, p.70) and if there was a foreseeable connection between that agent's actions and the outcome (Miller 2007, p.87-90). Souter (2022) contends that "causal responsibility is a necessary but insufficient condition of outcome responsibility" (p.75), and that if we were to lower the bar to causal responsibility being sufficient for reparative refugee protection then that would be unfair in situations in which refugee production was not the foreseeable result of a given action (p.71). Likewise, he argues "that it can be morally appropriate for agents to offer reparation for harms even if they did not bring them about culpably" (p.71). In Souter's account, for a state to be

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<sup>17</sup> In Owen's legitimacy view, all states are collectively 'outcome responsible' for the legitimacy of the international order of governance. In Souter's formulation of refugee protection as reparations, one state or a group of states must be 'outcome responsible' for refugee generation in another state in order to owe those refugees reparations. These are the same type of responsibility, but for different things.

obligated to provide protection to a refugee from another state as a form of reparation, it must have engaged in actions that caused a foreseeable outcome which resulted in the production of those refugees, even if it is not morally responsible in doing so.

In reparative situations, the special obligation which arises from states to refugees alters our considerations concerning justice between states in refugee responsibility-sharing and the preferences of the refugees themselves. While, as noted earlier, under strictly humanitarian terms the weight ascribed to the preferences of refugees as to which state grants them protection can be overshadowed by state-centric considerations, this is not the case if reparative obligations are invoked. Souter (2022) argues that, in attempting to determine the most fitting form of reparation for refugees, their choice should be a key consideration and that “this choice should be both between asylum and other forms of reparation and, if asylum is chosen, the opportunity to choose the state in which it is granted” (pp.123-4). This is because “an important aim of reparation is the firm re-establishment of the agency and dignity of individuals who have been unjustifiably harmed” (p.124). In a situation in which a refugee does *not* want protection within the state that bears outcome responsibility for her refugeehood, then that would not be the most fitting form of reparation, but some form of reparation would still be owed. Furthermore, if the refugee prefers protection in *another* state, the outcome responsible state may still be obligated to provide compensation to both the refugee and/or her state of sanctuary (p.124-5).

There are good arguments to suggest that refugee preferences and choice should be given more weight in general, especially in interstate refugee-responsibility sharing schemes, because such preferences and choices may be pivotal for the refugee's ability to become "independent, dignified and contended members of their new society" (Gibney 2015, p.459) or because "to exclude or ignore refugee choices is to fail to exhibit the moral respect for persons expressed in the claim to equal political standing (as effective membership of a state) of persons that the institution of refugeehood is designed to uphold in the face of state failures" (Owen 2018, pp.36-7). However, for now we can say that, in cases where states have a special reparative obligation to refugees, the refugee's choices and preferences carry greater normative weight than they would if a reparative duty was not present. This is because the nature of reparation is that the party bearing outcome responsibility for an unjustified harm must make amends to their victims, usually in the forms of restitution, compensation, and/or satisfaction (Souter 2022, p.45), and, as a result, the preferences of their victims as to how this amends is made should be at the forefront of our considerations. Likewise, in an ideal international refugee responsibility-sharing scheme a distribution of refugees offered protection by the states who bore outcome responsibility for their plight on reparative grounds, with the victims' choices and preferences considered pivotal, would take place prior to a distribution of refugees on humanitarian grounds (Souter 2022, pp.171-6).

### **3.4. Key Take-Aways**

We can now draw some conclusions from our examination of the duties states have to refugees. First and foremost, we have seen that a principle of non-refoulement sits at the center of state obligations towards refugees. Refugees, by all accounts, are persons to whom some form of protection is owed by states, whether the states want to provide it or not. This is indicative of a moral link which exists between peoples which can at times supersede domestic-level considerations. Second, the baseline function of refugee protection is humanitarian in nature, yet when viewed exclusively in this light we run into limitations. One of these is that it inhibits refugee protection from functioning in any other way, stripping the endeavor of its ability to be expressive or reparative. Another is that its exclusive focus on securing the protection of basic needs restricts it both from being able to address the causes which lead to refugee generation and from being able to differentiate between types of refugees and the different resulting obligations states have to them. Third, if we conceptualize the international state system as being one made up of co-participants who are collectively responsible for its legitimacy, we find that refugee protection can function as a way to repair legitimacy. Therefore, states have an obligation to protect refugees as part of their duty to maintain the legitimacy of the international state system. Under this framework, we are able to move past the minimal obligations mandated by humanitarian duties and recognize the diversity of obligations which arise from different classes of refugees fleeing different types of harms. Lastly, reparative duties arise in situations in which an external state bears outcome responsibility for producing refugees,

and in these cases the landscape of opposing state-centric and refugee-centric considerations, such as refugee preferences and choice, is altered in the refugee's favor.

## Chapter 4: Who Are Economic Refugees and What Do States Owe Them?

Having now developed an account for who qualifies for refugee status and what duties states owe them, let us turn to consider some of the implications this has for a group of people often left out in discussions of refugee-state obligations: the global poor. When asylum-seekers arrive on the shores of affluent countries, it is common for those countries to deny protection to them, claiming that they are ‘economic migrants’ who have no entitlements to protection. How accurate is this characterization? I contend that severe enough poverty *in and of itself* can entitle someone to claim refugee status, and that these people can be understood as *economic refugees* as opposed to *migrants*.

In this chapter, I lay out the case for who economic refugees are, why we should recognize them as a category of refugee instead of as economic migrants, and what duties they are owed by the international society of states. I begin by examining real-world problems with employing the refugee/economic migrant binary when assessing validity of asylum-seekers’ claims. I show first that the distinction between the two groups can be utilized by domestic actors to withhold protection to those who need it, and second that the complexities of each individual asylum seeker’s motivations for flight make rigid categorization difficult, yet I conclude that at least conceptually there remains a normative difference between the claims of the two groups. I then address how severe poverty can be a refugee-qualifying harm, arguing that both people who are unable to meet their basic subsistence needs *and* people who are at risk of not meeting those needs can be considered



economic refugees. Their home states either lack the ability or inclination to protect their basic needs, and when their sole recourse for the protection of those needs is to seek international assistance and this assistance is possible, they qualify for refugee status. I then consider the duties that states owe economic refugees, finding that including vast numbers of those subject to severe global poverty brings with it a number of challenges for states to honor their obligations. It also raises significant normative considerations, especially if it is the case that the global economic order is one characterized by an exploitative North/South dynamic.

#### **4.1. The Problem with Distinguishing Refugees from Economic Migrants**

As shown in chapter two, the factors which qualify a person to be eligible for refugee status are that she lacks the protection of her basic needs from her home state, is left with no alternative but to seek international protection of those needs, and is in a position such that international assistance is possible. Likewise, in chapter three, it was shown that the key defining feature which makes refugee status exceptional is that, due to the urgency of their situation, refugees are owed protection from the international society of states. This stands in stark contrast to other groups of “necessitous strangers” - to use Walzer’s (1983) terminology - who are not afforded the entitlements associated with refugee status. In both academia and widely recognized international and domestic laws, there is a distinction drawn between *refugees*, who are owed protection from external

states, and *economic migrants*, who are considered to be owed nothing as extensive<sup>18</sup> (Miller 2016, p.77; Parekh 2020, p.37). My aim here is to highlight some of the practical dilemmas associated with the refugee/economic migrant binary. Refugees, I contend, are commonly and wrongfully denied protection under the guise that they are so-called ‘economic migrants’ who face no urgent or severe threats. Furthermore, while it may be theoretically straightforward to divide the two groups, the reality of the complexities of each individual asylum seeker’s situation makes this less simple.

Theoretically speaking, economic migrants are typically distinguished from refugees in quite clear terms. A traditional method of conceptualizing the categorical difference between the two groups is by defining the refugee’s causes for flight as *push factors*, which are “negative influences that encourage people to emigrate from a country” such as violence, famine, persecution, etc., and the economic migrant’s causes for flight as *pull factors*, or “positive influences that draw immigrants to a particular state such as a high standard of living, democratic political institutions, excess demand for labor, etc.” (Gibney 2004, p.11). Whereas refugees may be forced into flight due to severe threats to their basic needs, economic migrants are driven to the pursuit of a new life in a foreign country because of the opportunity to improve their economic standing and are understood as neither having threats to their human rights nor being in urgent need of protection from

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<sup>18</sup> This is not to say, however, that they are owed nothing. The global poor may be entitled to assistance from the international society of states by other means, such as a global system of wealth redistribution or through the “international emergency assistance regime” (Owen 2020, p.47). This is simply to say that without urgent threats to one’s basic needs or rights, one does not have extensive enough a moral claim to be entitled refugee status.

severe harms (Gibney 2004, p.11; Miller 2016, p.77). From this, we can surmise that there is an implicit tendency to think of the refugee's migration<sup>19</sup> as non-voluntary and the economic migrant's migration as voluntary. This sentiment is echoed in legal doctrine, with the UNHCR (2006) defining economic migrants as:

“Persons who leave their countries of origin purely for economic reasons not in any way related to the refugee definition, or in order to seek material improvements in their livelihood. Economic migrants do not fall within the criteria for refugee status and are therefore not entitled to benefit from international protection as refugees.”

As we can notice from the UNHCR definition, there is a deliberate attempt to both acknowledge and define a difference between economic migrants, sometimes also referred to as “opportunity migrants” (Stilz 2022, p.983), and refugees. The European Commission (2021) takes this a step further, adding in a footnote after reiterating the UNHCR definition: “Economic migrants are sometimes referred to as economic refugees, but this is a misuse of the term 'refugee.’”

The reason for the UNHCR and European Commission's insistence on drawing a clear contrast between the two groups is that there is a tendency to refer to members of one

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<sup>19</sup> This is assuming, of course, that the refugees in question are in fact migrants. Recall that under the broad interpretation of the term ‘refugee’ that I have defended in this paper, refugees are not necessarily migrants and may still be located within their home states.

group as the other, often deliberately. This can have the effect of affluent Northern states<sup>20</sup> attempting to justify excluding bona fide refugees. Indeed, countries, especially those of the Global North, routinely employ the refugee/economic migrant binary to withhold granting sanctuary to asylum-seekers using the excuse that they are simply ‘economic migrants’ (Abdelaaty and Hamlin 2022; Kukathas 2016, p.260; Parekh 2020, p.37; Paynter 2022; Ticktin 2016, p.259). This is exemplified in the use of labels and divisive rhetoric by media personalities and politicians alike which portray asylum-seekers as ‘bogus’ refugees, ‘queue-jumpers’ or ‘illegal economic migrants’ (Abayhan, et. al. 2023, p.997; Esses, et. al. 2017, pp.81-91; Ticktin 2016, p.258).

This misuse of migrant labels in political discourse can have the effect of politicizing migration. The media, popular pundits, or political leaders can utilize this distinction to shift the blame for the ‘crisis’ of migration onto the would-be immigrants themselves (Paynter 2022, p.293). In the US this effect is exemplified when irregular migrants<sup>21</sup> fleeing severe and urgent harms are associated with “the gangs and violence of

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<sup>20</sup> It is important to note here that many affluent Northern states abide by the narrow 1951 Convention definition. However, as the case of Ukrainian refugees being welcomed by them with open arms shows, there is a tendency to omit the persecution criterion when it is politically suitable. At any rate, it should be relatively uncontroversial to assert that in colloquial usage the term ‘refugee’ is typically assumed to include people fleeing war or violence, and therefore the divisive rhetoric mentioned here which is designed to justify migrant exclusion to the public pays the persecution criterion no mind. Otherwise, there would be no need to label people fleeing war or violence ‘economic migrants’ when one could justify excluding them based on the fact that they were not subject to persecution.

<sup>21</sup> Following Joseph Carens, I prefer to use the term ‘irregular’ or ‘unauthorized’ migrant as opposed to ‘illegal immigrant’ or ‘alien’ to strip the term of any of the political baggage associated with it. See Carens 2013, ch. 7.

the drug trade that they are fleeing” or with other “undocumented migrants, who are cast as criminal by virtue of having crossed an international border in search of a better life or to reunite with their families” (Ticktin 2016, p.257). The use of these labels can also be “tied to racialized fears of assimilation” (Abdelaaty and Hamlin 2022, p.233). For instance, as scores of Ukrainians fled their country in the wake of Russia’s 2022 full-scale invasion, “European leaders, UNHCR and many other advocates, as well as major media outlets, were quick to label it a ‘refugee crisis’ despite the fact that most people fleeing Ukraine are unlikely to meet the legal definition for formal refugee status” (Abdelaaty and Hamlin 2022, p.233). Meanwhile, African asylum-seekers who arrive in Europe, who may be fleeing threats to their physical security which are equally as urgent as those faced by Ukrainians, are not automatically afforded the same treatment. Instead, they are often referred to as “‘fake refugees,’ a term often used synonymously with ‘economic migrants’” (Paynter 2022, p.300).

Strategic and divisive misuse of these labels by domestic actors in Northern countries can tap into and propagate existing sentiments in the general public. Some studies have shown that the general public in certain countries seem to associate negative emotions to labels such as ‘economic migrant’ or ‘economic refugee’ as opposed to ‘war refugee’ or simply ‘refugees’ (Bierwiazzonek, et. al. 2020; Forsbach, et. al. 2017), while others suggest that the public’s levels of humanitarianism correspond to a higher level of acceptance for ‘refugees’ rather than ‘economic migrants’ (Fraser and Murakami 2022). It has also been shown that the general public may express not only a greater willingness to help asylum-

seekers if their motivation for seeking asylum is framed as a safety concern instead of a moderate financial concern<sup>22</sup>, but are also more willing to help asylum-seekers who are members of one group over another, for example: Ukrainians as opposed to Syrians (Abayhan, et. al. 2023). All of this is to say that labeling asylum-seekers as economic migrants can have harmful effects for refugees who are genuinely fleeing urgent and severe threats to their basic needs and rights.

While the misuse of labels in this context can be utilized by domestic actors to withhold protection to refugees, opposition to the conflation of refugees and economic migrants also comes from proponents of refugee protection. In a presentation titled “Refugees are not Migrants”, director of the Department of International Protection at the UNHCR Erika Feller (2005) stated: “abuse of the asylum system by illegal migrants colours the public view of migration, giving it a taint of criminality, even robbing it of its positive aspects while tilting the focus towards control” (p.27). The point of Feller’s presentation was to argue that blurring the distinction between refugees and economic or irregular migrants has the effect of justifying tighter immigration control and withholding protection to refugees, which I have described thus far, yet this statement seems to portray the ‘non-refugee’ migrants as being to blame for refugees not being afforded protection. Framing the dilemma as the ‘abuse of the asylum system’ by ‘illegal migrants’ is a morally

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<sup>22</sup> This study by Abayhan, Bilgen, Bjornsdottir and Zagefka (2023) also showed people were more willing to help when asylum-seekers’ motivations were portrayed as such severe financial concerns that their survival was in danger. This suggests that severe enough financial concerns could possibly be perceived as safety concerns.

suspect way to describe the problem. It implies that these systemic issues are the result of migrant actions rather than those of domestic actors, blaming the powerless for the issues of a system governed by the powerful. A more accurate and morally salient way to describe the problem is as abuse of the immigration control system by actors who wish to avoid their obligation to protect foreigners in need, usually as an advancement of a racialized or xenophobic political agenda. Even if the asylum system is ‘abused’ by non-refugee migrants, I submit, if faced with a choice between the two, granting refugee status to an economic migrant who does not meet the criteria for refugeehood is far less of an injustice than withholding refugee status from a person who does. The European Commission's assertion, previously mentioned, that the term ‘economic refugee’ is a misuse of the term ‘refugee,’ echoes this misguided framing. Instead, we should assert that labeling refugees, or ‘economic’ refugees, as ‘economic migrants’ is a misuse of the term ‘economic migrant,’ because it can imply that refugees are somehow undeserving of the protection states are obligated to provide them with. As I aim to show in section 4.2 of this chapter, ‘economic refugees’ are refugees, equally in need of international protection.

Another dilemma arising out of the attempt to determine whether an asylum seeker is ‘deserving’ of refugee status or ‘simply an economic migrant’ is that in practice it is not so straightforward. One significant side-effect of adopting an understanding of refugeehood as being broader than the alienage and persecution criteria is that, while it can advocate for the international protection of a far greater number of people urgently in need of it, it can also blur the distinction between refugees and economic migrants (Kukathas

2016, p.260). A reason for this is that the category of ‘economic migrant’ is quite broad. As Gibney (2004) notes, an economic migrant could be located anywhere on a continuum between extreme poverty and being a wealthy businessperson traveling between Global North countries (p.11). It is also true that the difference in the severity of harm faced by economic migrants at the extreme poverty end of the spectrum and refugees is often only very slight, with many people who fall under the umbrella-term ‘economic migrant’ possibly being able to qualify as refugees under a broader definition<sup>23</sup> (pp.11-12). However, Gibney maintains that “in a conflict between the needs of refugees and those of economic migrants, refugees have the strongest claim” (p.12).

If by *definition* an economic migrant can cite no threats to her basic needs or rights, then the two categories can be neatly separated. But, “while the distinction between push and pull factors captures a conceptual difference between the refugee and the economic migrant, in practice it is often very difficult to determine whether a migrant has been pushed or pulled (or both) to a particular state...” (Gibney 2004, pp.12-13). In reality, the complexities of the different motivations that cause a person to migrate and seek asylum are difficult to capture in just one of the two ‘push’ (forced migration) or ‘pull’ (voluntary migration) categories. The reasons why people migrate can be dispersed “across a broad

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<sup>23</sup> Gibney defines refugees as “people in need of a new state of residence, either temporarily or permanently, because if forced to return home or remain where they are would - as a result of either the brutality or inadequacy of their state - be persecuted or seriously jeopardise their physical security or vital subsistence needs,” (Gibney 2004, p.7). This refugee definition is very similar to the one I am defending, except I leave open the possibility of protecting refugees within the territory of their state of residence. In section 4.2 I will highlight how jeopardy to ‘vital subsistence needs’ can be a sufficient harm to qualify one for refugee status.



spectrum ranging from the completely voluntary to the absolutely forced” (Abdelaaty and Hamlin 2022, p.233). The denial of an “overlap in conditions” between refugees and economic migrants has even been “challenged by migrants themselves, as they describe their own movements in terms that belie strict categorization” (Paynter 2022, p.296). Migrants may seek immediate sanctuary from an urgent threat in one state, claim asylum in another state, and then move on to another state in hopes of economic opportunity (Abdelaaty and Hamlin 2022, p.234). At what point during such a process do they cease to be refugees? Even if they could be treated as economic migrants when they attempt to cross into the last country, repatriating them may violate non-refoulement due to the threat they face in their home state. On a similar note, Feller (2005) also acknowledges issues with the attempt to determine which migrants qualify for refugeehood: “While the immediate causes of forced displacement may be readily identifiable as serious human rights violations, or armed conflict, these causes can *overlap* with, or even themselves be aggravated by...economic marginalization and poverty, [and other factors].” (p.27, emphasis added). Because of these overlaps in conditions between economic migrants and refugees, and because of the difficulty in assessing whether each individual’s claims fall into one category or the other, it may be the case that asylum-seekers’ claims should be assessed on more of a ‘face value’ approach, subject to less scrutiny and litigation, if states are to abide by their obligations to protect refugees.

While the problematic nature of putting into practice a distinction between economic migrants and refugees is very real, due both to the ability for it to be misused in

order to deny refugees protection and the difficulty associated with a genuine separation of people into either one category or the other, there remains a normative difference between the claims of refugees and economic migrants as it pertains to the obligations states have to provide them with sanctuary. This is because if returned home economic migrants may be forced to endure poverty, for refugees “their lives may very well be on the line” (Gibney 2004, p.11-12). The difference, at least theoretically, is the urgency of the need and the severity of the harm faced by the individual. Moving forward, let us assume that it is possible to separate economic migrants from refugees based on the urgency of their needs. The question, then, is at what point does poverty itself pose a significant enough harm that it qualifies a person for refugee status? In the next section of this chapter I explore this question, determining that extreme poverty can be a refugee-qualifying harm in and of itself and that refugees who are at risk from this harm can be thought of as ‘economic refugees’.

#### **4.2. Poverty as a Severe Harm**

Determining whether poverty itself can be a harm so severe that a person suffering from it is entitled to international protection demands an account of what ‘poverty’ is and at what point it becomes refugee-qualifying. In this section, I give a brief overview of some of the academic debate concerning how we can understand poverty, before describing what form of poverty would fit the criteria for refugeehood that I have thus far defended. As a starting point it can be posited: in accordance with these criteria, for the harm of poverty

to be refugee-qualifying there must be a severe threat, or a well founded fear of one, to an individual's basic subsistence or survivability. This means that for poverty to be a refugee-qualifying harm, it must be *severe* poverty, as described by Thomas Pogge (2007a), which includes individuals who are both unable to meet their basic needs for survival and are vulnerable to fall into such a situation at a moment's notice. Those who experience this severe poverty should be thought of as 'economic refugees' if they have no recourse but to seek international assistance and they are in a position in which it is possible.

There is great disagreement about how we should understand poverty. Some suggest that traditional notions of poverty should be augmented. Sen (1999) and Nussbaum (2000), for instance, propose versions of what could be called the 'capabilities approach.' In this view, poverty can be understood as the deprivation of basic capabilities, being concerned with "what you are able to 'do or be'" rather than "what you possess, or how happy or satisfied you are" (Wolff, et. al. 2015, pp.7-8). Under the capabilities approach being in a state of poverty may or may not entail having low income. While lack of sufficient income may be a reason why one has a lack of capability, there is more to the story because a person may have more income relative to others and still be subject to social exclusion or some other force that deprives them of capability (Wolff, et. al. 2015, p.15). This approach has been criticized, however, because it may run "the risk of stretching the concept of poverty beyond its ordinary understanding," leaving some to argue "the clearer approach is to reserve the term poverty for resource-related deprivation while accepting it is only one part of possible human deprivation," (Wolff, et. al. 2015,

p.26). While broadening our scope of the notion of poverty beyond material or monetary dimensions in this way may have some philosophical merit, it would be difficult to see how someone suffering from some of the forms of capability deprivation discussed by Sen and Nussbaum is in urgent, imminent danger of the kind experienced by refugees<sup>24</sup>.

If ‘poverty’ can be understood as being a form of resource deprivation, then it is still pertinent to understand what form this must take for refugee eligibility. It is commonly held that there are two distinct categories of poverty: relative and absolute. One can view an individual as living in relative poverty “when they lack the resources to obtain the types of diet, participate in the activities and have the living conditions and amenities which are customary... in the societies to which they belong” (Townshend 1979, p.31). Relative poverty, then, can be viewed as being intrasocietal, with poverty defined by reference to accepted expectations, norms and standards within one’s own society. In affluent societies, people who are relatively poor may still have resources which are well above basic subsistence levels. While a society may suffer injustice if it is marked by rampant economic inequality, simply being subject to economic inequality in one’s own state is not enough to demand refugee status in another, unless one’s ability to survive is threatened because of it. This harkens back to the conceptual distinction between refugees and economic

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<sup>24</sup> Unless, of course, their lack of capability can be tied to systemic forces which could be considered *persecution*. In that case, one could make a very convincing argument that the person in question could qualify for refugeehood, although we would not refer to them as ‘economic’ refugees because their cause for flight would not be economically related.

migrants: the former's lives are in danger, the latter may be subjected to poverty (or may not be) and migrate in order to increase their standard of living.

Indeed, one's entitlement to international protection hinges on the lack of protection of one's basic needs and rights by one's home state. If poverty itself is going to pose such a threat, this entails a form of absolute poverty. In contrast to relative poverty, absolute poverty can be taken to mean: "to be living at or below the level of subsistence. The emphasis here is on biophysical survival: if one is poor, one's needs that make living possible are not met" (Hull 2007, p.9). Similarly, the UN (1995) defined absolute poverty as: "a condition characterized by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and information. It depends not only on income but also on access to social services" (ch.2, para.19). If someone is subjected to poverty in this extreme, absolute sense, it is clear that her home state has failed to ensure her basic needs are met and, as a result, her very life is in danger.

This being said, it is not necessary to be directly experiencing a threat to immediate survival; the *risk* of such a situation is also sufficient for refugee qualification. This is what Thomas Pogge (2007a) refers to as *severe poverty*, which includes both individuals who cannot meet their basic needs and those "who live in constant peril of being rendered unable to meet their basic needs" (p.2). The state of severe poverty is characterized by "continuous and acute vulnerability to events over which one has no control..." such as crime, accidents, unforeseen expenses, harmful weather, and more, with each event being able to "cut very poor persons or their families off from basic necessities" (p.2). Living in this

precarious state of vulnerability in itself can generate a valid entitlement to refugee status because at a moment's notice one can be faced with a hopeless situation in which one's vital subsistence needs and physical security are in peril. To use a metaphor: it is not necessary to be underwater before seeking protection from a tsunami. For the same reason the 1951 UN Convention's refugee definition (mentioned in chapter two) includes those who have a *well founded fear* of persecution, people who have a well founded fear of falling into a state of destitution in which their vital subsistence or physical security needs are jeopardized should be ensured the same protections as those already facing those dangers. People who exist in this state of severe poverty cannot be said to have the protection of their basic needs by their home state, either because of their state's lack of inclination or ability to alleviate their plight. Therefore, if they have no other recourse and are situated such that international assistance is possible, it falls on the international order of states to ensure their protection.

We can think of these refugees who are in peril from the harm of severe poverty as 'economic refugees': those entitled to international protection from threats to their vital subsistence or physical security resulting from resource-related deprivation, or who are in grave danger of falling into such a state, and meet the rest of the criteria for refugeehood. They should not be confused, in principle, with 'economic migrants', who may be suffering from poverty themselves but whose survivability or basic needs are not threatened by it, and who are not in peril of becoming 'absolutely' poor in the sense that their ability to live will be jeopardized. Quantifying exactly who is vulnerable to being rendered unable to

meet their basic needs may still pose a huge challenge, and identifying poverty as a refugee-qualifying harm may not be practically useful to this endeavor. However, by whatever metric is decided - whether it be the World Bank's (2022) US \$2.15 per person per day poverty line or another more intricate poverty assessment method<sup>25</sup> - conceptually, the global poor suffering severe poverty as I have described can be said to have lost the protection of their home state and therefore, if they meet the other refugee definition criteria, can legitimately claim refugee status. While the practical difficulties of distinguishing economic refugees from economic migrants are very real, if we at least draw attention to the fact that the severity of the harms and the urgency of the need faced by economic refugees and other refugees are equivalent, then perhaps this recognition can go towards understanding that many so-called 'economic migrants' who arrive on the borders of affluent countries are in fact 'economic refugees' and *are* entitled to be protected by those countries.

#### **4.3. What Do States Owe Economic Refugees?**

Highlighting severe poverty as a harm which generates the urgent need of international protection in persons who are suffering it summons significant normative considerations. For one, it dramatically increases the number of people who fall within the scope of refugee qualification, to a degree in which providing protection to them all may

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<sup>25</sup> Some interesting proposals for innovative new methods of measuring poverty suggest that the World Bank's poverty line may not yield the best measurements of global poverty. See Allen (2017) and Ravallion (2020).

be an unsustainable endeavor for states to undertake. While the potential inability of states to provide protection to all of the severely poor people who are entitled to it does not change the fact that their entitlement exists, it does pose a challenge to states in their fulfillment of their obligations to those people. Another consideration raised concerns what exactly state obligations to economic refugees are and whether they are at all different from their obligations to other kinds of refugees. In this closing section, I apply the findings of state obligations to refugees which were determined in chapter three to the case of economic refugees and address some implications that recognizing people suffering severe poverty as refugees entails. I contend that, given the astronomical quantity of people who qualify as economic refugees as I have defined them, the practical task of states honoring their obligations to economic refugees may require a far more extensive solution than granting them protection within their borders. If severe global poverty is the result of an exploitative global economic order which perpetuates the generation of economic refugees, then not only may reparations be owed to the victims of this system but the task of preserving the legitimacy of the international order of governance would require systemic changes that ensure the cessation of conditions of severe poverty at a global scale.

As I have suggested, people suffering severe poverty can qualify for refugee status. When they do they are owed, at minimum, protection by foreign states on humanitarian grounds. The implications of this alone are significant: at the very least, hundreds of millions of people may have valid entitlements to refugee protection. If we take the World Bank's US \$2.15 per person per day poverty line as an accurate measurement of how many



people live in severe poverty<sup>26</sup>, this would entail approximately 700 million people (World Bank 2024) in the world today may be justified in claiming refugee status in addition to the portion of the 117.3 million forcibly displaced people recognized by the UNHCR (2023a)<sup>27</sup> who may also be eligible for refugee protection. If states, especially if the endeavor was predominantly undertaken by affluent Northern states, accepted every one of these people who meet all the criteria for refugeehood then capacity limitations would almost certainly be reached.

However, recall that under the minimal humanitarian duties, states only have an obligation to assist refugees *if the costs to themselves are low*. If the humanitarian principle is the only one abided by, and if there is a surplus of refugees in need of protection after each state capable of refugee protection reaches its ‘low cost’ limit, those surplus refugees would go unprotected. Even an international refugee responsibility-sharing scheme, in which refugees are fairly distributed among states, could be overwhelmed by the sheer number of economic refugees in need of protection. This, too, may be compounded by the fact that, as I have mentioned, a grave limitation of a strictly humanitarian interpretation of state obligations to refugees is that it is blind to the causes that force refugees to seek protection, only recognizing the urgency of their need. Without being coupled with

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<sup>26</sup>Allen (2017) argues that the World Bank’s poverty line is an overly conservative measurement, and in fact there is far more poverty in the world than it suggests.

<sup>27</sup> Of course, many of the forcibly displaced people recognized by the UNHCR may also be economic refugees as I have defined them, though this does not negate my argument that recognizing sufferers of severe poverty as potential refugees means states may owe protection to more refugees than it can handle.

measures to either completely extinguish or drastically reduce severe poverty globally, abiding solely by a humanitarian principle would afford protection to as many economic refugees as possible before the costs to states became too great, yet global severe poverty would remain a feature (or a bug) of our world. Every year, more economic refugees would be produced while every capable state had already reached their protection limit. This, I grant, may still be preferable to the current situation in which most economic refugees are routinely demonized, deported, or otherwise left unprotected by Northern states, though it hardly seems like a durable solution.

Moving past the implications of solely abiding by minimal humanitarian duties, state obligations to economic refugees become significantly more extensive if David Owen's international legitimacy framework is adopted. It is clear that the international regime of governance faces dire legitimacy issues given the vast number of economic refugees who currently exist and will continue to be generated as the result of ongoing conditions of severe poverty. In order to repair this legitimacy, states must collectively ensure the protection of the basic rights and needs of all of those whose home states fail that charge. There are two ways to go about this: through the international emergency assistance regime and through the refugee protection regime. If the international order of states employs both of these legitimacy-repair regimes in tandem to address the problem of global severe poverty, it stands a much better chance of maximizing basic rights protection of those subjected to that harm. Each of these legitimacy-repair regimes entail different forms of basic rights protection for those living in severe poverty.

Recalling the different duties states have to different classes of refugees under Owen's framework, it is evident that economic refugees, who can only be helped by way of the international order of states acting *in loco civitatis*, or as surrogate states, are owed 'sanctuary' refugee status. Their citizenship has become harmfully ineffective because of the lack of protection of their basic needs and rights by their home state. As a result, they are entitled to protection in a country of sanctuary for as long as they would be subjected to severe poverty if returned to their home state<sup>28</sup>. While new membership is not guaranteed, given that they are entitled to an indefinite stay and also lack effective citizenship in any state, ideally, they should be granted an opportunity to membership equal to the opportunity for membership afforded to legal resident migrants. Furthermore, in the case that states engage in an international refugee responsibility-sharing scheme, if there are 'surplus' economic refugees then states are mandated to protect their fair share of them.

Yet the problem of capacity remains: the sheer quantity of economic refugees in need of sanctuary may be too great for states to honor their duties. However, an advantage of viewing state obligations to refugees in this framework is that the international order of states is obligated to employ the emergency assistance regime to bolster their legitimacy-repair efforts. While the refugee protection regime functions as a *substitute* for a state that

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<sup>28</sup> This point may seem to imply that a sanctuary state could repatriate economic refugees if they, after living in their sanctuary state for some time, acquire sufficient capital such that if they were to return to their home state they would no longer be in severe poverty. While this may be true in certain circumstances, recall that the complex nature of each individual migrant's motivations for flight are not so easy to pin down to one specific cause. Many, if not most, economic refugees will also be fleeing violence or some other harm which would be associated with the severe poverty they are fleeing.

is unwilling or unable to protect the basic rights of its citizens, “the emergency assistance regime acts as a *supplement* to a functioning state in addressing the basic rights of persons within its territory” (Owen 2020, p.48, emphasis in original). A significant percentage of people relegated to existing in the hopeless situation of severe poverty live in states that, possibly by consequence of the global economic order (Pogge 2007b, p.26), simply lack the capability to ensure the protection of their vital subsistence or physical security needs<sup>29</sup>. Provided with enough emergency assistance, these states may be able to ‘function’ and provide protection of the basic rights and subsistence needs to their citizenry. If the international order of states aimed to honor its obligations to those suffering severe poverty and attempted to repair the legitimacy dilemma that this posed, at the very least a substantial effort would have to be made on two fronts: first, by granting sanctuary to all economic refugees who can be protected by no other means, and second, by deploying widespread and heavily funded emergency assistance efforts across huge swaths of the globe to provide protection to all those suffering severe poverty that it is possible to help *in situ*.

While this endeavor may ensure basic needs protection to an even greater number of people suffering from severe poverty than a purely humanitarian approach would, even this substantial effort may not be enough to repair the legitimacy of the international order

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<sup>29</sup> This is not to say that all, or indeed most, governments of countries which have prevalent conditions of severe poverty do not engage in corrupt actions which perpetuate these conditions. This may indeed be the case, however, the degree to which this is a side-effect of exploitative global economic institutions or interference by Northern states could be debated.

of governance. To see why, it is necessary to consider the larger context surrounding why severe global poverty is a persistent feature of our world in the first place. Many claim that the ultimate reasons why so many states in the global South are unable to protect the basic needs and rights of their citizens is because of Northern interference in Southern countries and/or the North's imposition of an economic institutional order which favors the affluent Northern states and exploits the Southern states (Castles 2003a and 2003b; Maboloc 2020; Pogge 2007a and 2007b). Indeed, Pogge (2007b) puts the point well: "There is still so much severe poverty, and so much need for aid, only because the global poor are systematically impoverished by present institutional arrangements and have been so impoverished for a long time during which our advantage and their disadvantage have been compounded" (p.52). If this is the case, then the entire international order of governance would be predicated on an exploitative economic order which intentionally and continuously produces conditions in which the basic needs and rights of huge quantities of the global population are left unprotected, presenting a legitimacy problem which is *intrinsic* to the international order of governance itself. For the sake of thought experiment, let it be assumed that this exploitative global economic order both exists and is the primary cause of the conditions which create economic refugees. This would generate two obligations that Northern states would have to the economic refugees of the global South: first, economic refugees would have a valid entitlement to reparations; second, the Northern states would be obligated to enact legitimacy-repair measures designed to extinguish severe global poverty.

If it can be shown that the affluent, dominant Northern states bore outcome responsibility for the generation of economic refugees because of this exploitative economic order that they impose, then those states would have a special obligation to those refugees to provide them with reparations. Recall that this would mean that there must be a *foreseeable* connection between an agent's actions and the outcome. Indeed, in Pogge's (2007b) discussion he argues that affluent Northern countries "are ruthlessly advancing their own interests and those of corporations and citizens, designing and imposing a global institutional order that, continually and *foreseeably*, produces vast excesses of severe poverty and premature poverty deaths" (p.30, emphasis added). If we take Pogge's assertion to be true, then Northern states would be outcome responsible for the harm of severe poverty faced by (at least) hundreds of millions of people around the world. This, in turn, would mean that, if protection within the outcome responsible states' borders is the most fitting form of reparation, then the arrangement of state-centric and refugee-centric considerations would be tipped in the favor of the refugees. Namely, the preferences and choices of economic refugees as to which state provides them with sanctuary would be given considerable weight.

Yet providing economic refugees with sanctuary within their borders would presumably not be the most fitting form of reparation for all of the hundreds of millions of economic refugees who would be owed reparations in this scenario. For one, Souter (2022) asserts that providing refugees with sanctuary in certain circumstances may be worse than *in situ* aid at fulfilling a reparative obligation (pp.114-21). One of these situations, I

contend, would be if an outcome responsible state (or group of states) had surpassed its (their) capacity to provide sanctuary. If the state in question faced severely destabilizing effects resulting from surpassing its refugee-intake capacity, its ability to provide protection to those refugees could foreseeably be compromised. However, Souter contends: “if states were genuinely unable to discharge their reparative responsibilities to refugees through grants of asylum [or sanctuary], I argue that this would not let them off the hook morally, as they should seek to progressively realise reparative justice in this context as their capacity increases” (pp.13-14). Because the production of economic refugees is tied to the ongoing phenomenon of the condition of severe poverty, it would be difficult for states to increase their capacity for economic refugee protection if new economic refugees continuously arrive on their doorstep.

Given this, it would seem that the best option that the outcome responsible states have is to pursue the fulfillment of their other obligation: to rid the world of ongoing conditions of severe poverty. This is easier said than done, and I admit that it is beyond both the scope of this paper and my abilities to design a plan that would rid the world of severe poverty. Pogge (2007b) seems to suggest that the “path to global institutional reform is far more realistic and sustainable...” (p.29) than we might think. Whether or not he is correct, it is true that eliminating severe global poverty remains one of (if not *the*) primary normative goals that the international society of states, and the citizens that comprise it, should be concerned with achieving, especially if we consider the fact that it may be the leading cause of refugee generation worldwide. If we accept that there is a global

institutional order which fundamentally exploits and oppresses many nations in the world, subjecting vast amounts of humanity to severe poverty, then this poses the largest legitimacy dilemma the international order of governance faces. Therefore, rectifying this injustice should be its priority.

It can be concluded here that the obligations that states have to refugees are augmented and challenged in a few key ways if a significant percentage of the global poor are entitled to refugee status. One of these is that the number of individuals that states have an obligation to provide protection to is astronomically increased, to a degree which may threaten the capacity for all states capable of refugee protection to provide everyone they have these obligations towards with sanctuary. In this case, even an interstate refugee responsibility-sharing scheme may not be adequate in providing protection to every refugee who is owed it. Thus, states face a major challenge to fulfilling their obligations to economic refugees if they are recognized as refugees. Another is that, if we accept the diagnosis of many theorists and social scientists that severe global poverty is the result of the systematic exploitation of the South by the North, then not only does the North owe the Southern economic refugees reparations, but the entire international order of governance is predicated on an injustice, rendering the entire enterprise's legitimacy suspect. This would entail that a significant reform in the rules and norms of the international system, designed to eliminate severe global poverty, is called for.



## Chapter 5: Conclusion

This dissertation was designed with the aim of attempting to understand the normative obligations that states have both to refugees in general and to those suffering severe poverty. To this end, I believe that I have addressed certain considerations that have received little attention in discussions of refugee-state responsibilities. Those who adopt a Shacknovean definition of a ‘refugee’ recognize that severe threats to basic needs is the level of harm necessary to render one eligible for refugee status (granted that one meets the other criteria), yet what this implies for those whose lives, or the lives of their families, are threatened due to the hopeless conditions of severe poverty, or what it implies for states who have an obligation to provide protection to those unfortunate people, is often not fully fleshed out. Further work on this front is undoubtedly called for. Given that severe poverty seems to be a pervasive and enduring component of our global political and economic order, developing a detailed account of the obligations states have to address this, especially as it pertains to migration and protection, is paramount.

I have argued first that a refugee is someone who lacks the protection of her basic needs by her home state, who can only gain the protection of those needs through recourse to international actors and is situated such that this international assistance is possible. I have considered the obligations that states have to refugees, arguing that refugee protection understood solely in humanitarian terms informs us of our baseline obligations to refugees but does not provide us with the ability to account for the causes of refugee generation, nor does it allow us to understand the normative differences in the obligations to different

categories of refugees or allow refugee protection to function in any other way. Viewing the international order of governance as one composed of co-participant states who are collectively outcome responsible for the legitimacy of the international state system, alternatively, provides us with a richer framework for understanding the normative basis of state obligations to refugees. Using this framework, we can see that there are different appropriate obligations to different types of refugees: those owed asylum, sanctuary, and refuge, respectively. I have also considered the reparative role of refugee protection, arguing that in cases of reparative refugee protection the preferences and choices of refugees are altered in the refugee's favor. I then addressed the role that global poverty plays in this scheme. I first argued that there are practical issues associated with the real-world categorization of asylum-seekers as either economic migrants or refugees. I then showed that severe poverty itself could be considered a refugee-qualifying harm, and that the resulting refugees can be thought of as 'economic refugees', before considering the implications that this has on the normative duties states have to these economic refugees. I applied the findings of chapter three to the case of economic refugees and showed that, if it is the case that the global economic order is one characterized by the exploitation and impoverishment of the global South by the global North, then the entire global political order may be based on an injustice. The states responsible for this outcome would owe reparations to the economic refugees thus produced and would be obligated to enact drastic measures to eliminate severe global poverty to ensure the cessation of the conditions that produce economic refugees.

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