

# Refugees, Development and Autocracies – On what Repairs the State System’s Legitimacy

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## Introduction

In her Book *Justice for People on the Move*, Gillian Brock (2020) argues that the violation of human rights concerns us all. Specifically, she argues that these pose a threat to the legitimacy of the world’s state system and, by extension, the legitimacy of every individual state. If the justification for the world being carved up into states lies in the protection of human rights by each individual state, and if some states either fail to protect or violate them, then the justification for maintaining the state system and the right of each individual state to wield sovereign power becomes questionable. The failure to protect and uphold human rights can only co-exist with a continuing legitimate state-system, if there are remedial institutions. Such institutions jump in where states fail. They patch up the crumbling legitimacy of a world divided into states and maintain the right to function as a self-determined unit within it (Brock 2020, 38–40). It is here that questions of migration can be viewed through the lens of justice. Against this basic premise, specific questions in the literature on migration can be reinterpreted. Brock does just that. She demonstrates not only that various practices in the governance of migration are morally wrong, but that they concern the very core of justifying the legitimate exercise of power. She shows not only why we should care but why our inactivity may undermine the legitimacy of the liberal democracies of the Global North. These cannot just tuck their heads in figuratively and claim internal legitimacy stemming from the procedural correctness of political institutions, even if they are not violating the moral rights of compatriots. They cannot internally retreat if the question of legitimacy is partly determined by the legitimacy of the state-system. The claim for the recognition of moral rights is a universal one, and by this nature spans the earth. If institutions elsewhere do not manage to protect them, then, just as their institutions being illegitimate, our right to self-determination becomes questionable as long as we do not rectify but condone the violation of human rights elsewhere.

Within this normative framework, it only makes sense that Brock quickly turns to refugees as a paradigm case illustrating the illegitimacy of the world’s state system and the need for remedial institutions (Brock 2020, 113). While she discusses many other aspects of migration governance in relation to (restoring) legitimacy, such as the “Muslim bans”, irregular migration, temporary labor migration and terrorism and migration, I will only focus on refugees in the following.

It seems clear that the predicaments refugees face makes for a paradigm case to illustrate the power of Brock’s argument. Even if one follows the ethically narrow Geneva Convention definition of refugeehood, it seems clear that refugees suffer from human rights abuses at the hands of their own states (Bender 2020). What are the remedial institutions that would provide the international state system if not with legitimacy, then with the attempt for restoring it? Here, Brock’s answer seems unconventional. Most theories argue that the remedy for the specific harm that refugees face is offering asylum, or another form of refuge (Owen 2020, 2019; Price 2009; Cherem 2016; Lister 2013). Some even argue that offering asylum is a form of legitimacy repair (Owen 2016). Brock takes a somewhat different path.

Brock argues for two things that should matter to an approach of legitimacy repair. First, that we should invest (morally and financially) into what she calls a development approach (2020, 115 et. seqq.). We should make sure that refugees not only have the right to work where they are, but encourage the development of economic opportunities, aimed at offering refugees a life in dignity. Secondly, she argues that one way to patch up the broken international refugee regime would be to set up a resettlement scheme for refugees that ensures the fair global (re)distribution of refugees (2020, 132 et. seqq.). In the

following, I will argue that both suggestions should take into consideration political regime types. I will show that channeling aid to autocracies is either inefficient or counterproductive and leads to a strengthening of autocratic institutions. Given this, it seems questionable whether a development approach can alleviate what it sets out to do: remedying human rights abuses. The same goes for the second suggestion. I ask whether global redistribution programs should lead to sending refugees to autocracies and whether this is compatible with the approach Brock defends. Finally, I will argue that even if we factor in political regimes, these two suggestions may be contradictory.

### **Rectifying Illegitimacy through Development? Development, Illegitimacy and Autocracy**

Let me begin with the first argument, showing why leaving aside politics, power and regime-types matter significantly for the approach Brock proposes. I will then argue why the same holds when concerning a global refugee resettlement scheme and finally ask whether the two propositions are not contradictory and what follows from such a contradiction.

Brock argues that to mend a broken international system of refugee protection, we should turn to what she calls a development approach. She argues for more “thoughtful joint action” that would lead to pareto optimal results when turning refugees into sources of local economic activity (2020, 115). Special Economic Zones (SEZs), she holds, would lead to refugees not only receiving the opportunity to work, but to economic upswing for locals, too (2020, 118–19, 128–29). Rather than being illegally employed, refugees would be able to build up livelihoods and live in dignity. This will, according to Brock, also have an impact on the prospects of post-conflict recovery, when refugees return and help reconstructing their war (or otherwise) destroyed countries. Emphasizing that the right to work for refugees should be respected and outlining additional possibilities for job creation is undoubtedly as correct as it is a noble suggestion. Yet, it threatens to miss the point that Brock herself so poignantly put: can the development-oriented approach function as a legitimacy repair approach? Are creating SEZ’s and developmental partnerships going to lead to remedying what refugees have lost?

Here, as I have indicated, I believe that the differences in regime types of host states matter. While developmental aid and the creation of SEZ’s may contribute to increased living standards and a better life for refugees in democratic host states, the evidence on the effectiveness of aid to and in autocratic regimes seems to point to a contrary conclusion. Research on international aid and autocratic regimes have pointed out that both humanitarian and policy based developmental aid are either ineffective or counterproductively dangerous to those they are designed to help. The reason for this lies in the logic inherent to the political survival of autocracies. Differing from democratic regimes, these do not rely on the favor of voters for their political survival, but on a considerably smaller coalition of supporters that can be divided into the selectorate (a subset of the population that contributes to selecting the leader) and the winning coalition (a subset of the selectorate that is sufficient in size for maintaining the leader’s power) (Frantz 2016; de Mesquita et al. 2003). For maintaining power and guaranteeing survival, leaders in autocracies will thus pursue policies that cater to those subsets (and the winning coalition) of the populace rather than to the population at large. In this context, aid functions as an exogenous shock to the equations of political survival of autocracies. As a result, autocracies often reject humanitarian aid outright if the winning coalition is small and the regime does not depend on the support of the general population for political survival (Paik 2011). Yet, even when it comes to developmental and policy-based aid being accepted, it is often either ineffective or even harmful in autocracies (Kosack 2003; Balamoune-Lutz 2017, 385–86; Moss and Pettersson 2005). This is the case because aid functions as a supplement to government budget. The inflow of aid results in the adaptation of government budgets, effectively substituting the funds that would have flown into, say refugee-protection. The money that is “freed up” can then be used for other purposes. Which purposes exactly depends, to a large degree, on the political regime in question. In democratic states, such money may flow into improving the quality of life of their citizens. In autocracies, however, such funds flow to groups that can further ensure the

political survival of the regime, such as elites or propping up institutions that lead to more repression such as the army or police (Kosack 2003).

This has several consequences for our argument here. How refugees appear and are viewed and treated by states depends on regime types. To autocracies, refugees appear not simply as a regrettable consequence of neighborly strife that can be helped in a pareto-optimal manner if funds were just available. They appear as exogenous shocks, as strategic elements in the equations of political survival. It is for this reason that countries such as Turkey use refugees as a bargaining chip with the EU and thus view them as tools to achieve their political objective and not primarily as those to whom human rights are owed. This affects the motivational structure assumed by the developmental approach. Depending on the political regime in question, an economic pareto-optimal result for both refugees and the local population may not matter in itself for the decision to accept developmental aid or specific developmental sites such as SEZ's on their territory. Such aid or initiatives such as SEZ's can be viewed as exogenous shocks potentially dangerous to the political survival of autocracies. Where they are accepted, a further problem appears: does it really remedy illegitimacy? The evidence points, again, to the contrary. Where aid is accepted, it leads to supporting autocratic regimes and their repressive instruments in maintaining power – instruments that are designed to violate the human rights of their citizens. As such, one may ask whether developmental aid does not, effectively, lead to what it is designed to remedy in Brock's theory – the violation of human rights.

This is particularly glaring in one particular example that Brock mentions: the case of Syria. She argues for the post-conflict reconstruction through a development oriented approach that aims not only at the facilitation of economic opportunities but at “restoration of government capacities” in post-war Syria (Brock 2020, 121). Yet, it begs the question of what happens if the Syrian regime wins the civil-war. Restoring the capacities of an autocratic post-war Syria runs the risk of supporting what Brock wants to remedy: regimes that violate human rights. This is, of course, only one rather explicit example of the scary prospects of channeling aid into autocracies structurally designed to repress their citizenry and holds for autocratic regimes in less extreme situations, too. When it comes to refugees residing in such countries, the same question holds: if refugees are seen as those who flee human rights abuses, will channeling aid money into autocracies, bolstering instruments of repression, really be a good way to repair international legitimacy?

### **Resettling Refugees – To Autocracies?**

The second issue that appears when thinking about differences in regime types and legitimacy repair mechanisms concerns Brock's other suggestion: the proposition of a global resettlement scheme for refugees. Brock argues that a global resettlement scheme, modeled after similar plans in the EU, could function as a remedial response to the broken international system of refugee protection. We should, she holds, assign refugees to countries based on various factors: the size of the host country's population, total GDP, average number of spontaneous asylum applications and resettled refugees, and the unemployment rate (2020, 134). What is strikingly absent from the listed criteria are human rights records, rule of law criteria and regime types. As it stands, a global resettlement scheme that only looks at economic factors neglects one major aspect: how refugees will be treated. It would not only lead to potentially unequal outcomes for refugees with regards to destination countries, but to potentially dangerous allotments. Do we really want a global redistribution mechanism that sends refugees to human rights violating countries? Such an approach seems to promise the opposite of what it is supposed to remedy. A legitimacy remedying approach, according to Brock, is supposed to lead to the protection of human rights. It requires institutions that can enforce such protection. Given this condition, we may ask whether a response to retrieve international legitimacy requires a global redistribution mechanism or whether we should support much less encompassing proposals, some of which Brock mentions: the ability to file asylum applications in embassies, the abolition of carrier sanctions for flying refugees, and a stop to strategies of deterrence by liberal democracies to keep refugees at bay, combined with greater

willingness of these countries to admit refugees. This begs the question of whether we need a globally coordinated scheme of refugee protection for patching up the world's illegitimate state system or whether unilateral revisions of deadly admission and refugee policies be enough for triggering a wide-ranging change? Scholars studying the creation of refugee camps, detention centers in states such as Libya and protracted refugee situations more generally should concur in this regard. After all, all of these can be said to be the direct offspring of restrictive policies of states in the Global North (cf. Slaughter and Crisp 2009; cf. Gibney 2006; Hamood 2008; Palm 2020). A reversal of these policies may not solve all problems, but it may be both less demanding and potentially less destructive than a global resettlement scheme.

## **Development or Resettlement?**

Any efforts at repairing international legitimacy should thus keep in mind regime-differences when assessing different remedial options. Yet, even if we were to assume that a global redistribution mechanism includes safeguards against sending refugees to autocracies, such a proposal may nevertheless contradict the developmental approach outlined by Brock. If states can discharge their duties in the context of a redistribution mechanism by simply taking on their “fair share” of allotted refugees, then why should they invest in development projects elsewhere? The development approach seems to feed of the idea that states can discharge their duties, if not by admitting refugees, then at least by sending money to support the livelihoods of refugees elsewhere. The redistribution approach departs from the idea that our duties should not be met by paying off other countries to do one's share, but to take up the slack through admitting (a fair share of) refugees. If not contradictory, the two approaches then at least introduce a tension - a tension that a mixed account needs to resolve. Whether this is possible is another question. It would certainly introduce a host of distinct moral and practical difficulties. It would require asking the question of whether states should be left off the proverbial moral hook by paying off other states to fulfil their duties, whether and how human rights standards could be protected elsewhere, and whether these schemes would not only be fair to states, but also to refugees. After all, paying off other states has arguably led to grand-scale warehousing of refugees in the refugee camps of the Global South in which enforcement of human rights standards is difficult, and the re-distribution of refugees is likely to result in treatment of refugees akin more to goods rather than human rights bearing individuals that possess interests of their own. Even if Brock does not address these issues, her book certainly raises them, and this is exactly what one would want from an academic text: the potential to make us re-think a host of issues in the treatment of refugees. This is exactly what Brock's book has achieved.

## **References**

- Baliamoune-Lutz, Mina. 2017. “Foreign Aid Effectiveness.” In *Handbook of Globalisation and Development*, 373–91. Cheltenham and Northampton: Edward Elgar.
- Bender, Felix. 2020. “Refugees: The Politically Oppressed.” *Philosophy & Social Criticism*.
- Brock, Gillian. 2020. *Justice for People on the Move. Justice for People on the Move*. Cambridge: Cambridge University Press.
- Cherem, Max. 2016. “Refugee Rights: Against Expanding the Definition of a ‘Refugee’ and Unilateral Protection Elsewhere.” *Journal of Political Philosophy* 24 (2): 183–205.
- Frantz, Erica. 2016. “Autocracy.” *Oxford Research Encyclopedia of Politics*.  
<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-3>.
- Gibney, Matthew J. 2006. “‘A Thousand Little Guantanos’: Western States and Measures to

- Prevent the Arrival of Refugees.” In *Displacement, Asylum, Migration*, edited by Kate E. Tunstall, 139–69. Oxford and New York: Oxford University Press.
- Hamood, Sara. 2008. “EU-Libya Cooperation on Migration: A Raw Deal for Refugees and Migrants?” *Journal of Refugee Studies* 21 (1): 19–42.
- Kosack, Stephen. 2003. “Effective Aid: How Democracy Allows Development Aid to Improve the Quality of Life.” *World Development* 31 (1): 1–22.
- Lister, Matthew. 2013. “Who Are Refugees?” *Law and Philosophy* 32 (5): 645–71.
- Mesquita, Bruce Bueno de, Alastair Smith, Randolph M. Siverson, and James D. Morrow. 2003. *The Logic of Political Survival*. Cambridge, Mass. and London: The MIT Press.
- Moss, Todd, and Gunilla Pettersson. 2005. “An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa.” 11–05.  
[https://ecommons.cornell.edu/bitstream/handle/1813/55015/2005\\_WP11\\_Moss\\_Pettersson\\_vand\\_eWalle.pdf?sequence=1](https://ecommons.cornell.edu/bitstream/handle/1813/55015/2005_WP11_Moss_Pettersson_vand_eWalle.pdf?sequence=1).
- Owen, David. 2016. “In Loco Civitatis: On the Normative Basis of the Institution of Refugeehood and Responsibilities for Refugees.” In *Migration in Political Theory*, edited by Sarah Fine and Lea Ypi, 269–89. Oxford: Oxford University Press.
- . 2019. “Differentiating Refugees: Asylum, Sanctuary and Refuge.” In *The Political Philosophy of Refuge*, 19–38. Cambridge: Cambridge University Press.
- . 2020. *What Do We Owe to Refugees?* Cambridge and Medford: Polity Press.
- Paik, Wooyeal. 2011. “Authoritarianism and Humanitarian Aid: Regime Stability and External Relief in China and Myanmar.” *Pacific Review* 24 (4): 439–62.
- Palm, Elin. 2020. “Externalized Migration Governance and the Limits of Sovereignty: The Case of Partnership Agreements between EU and Libya.” *Theoria* 86 (1): 9–27.
- Price, Matthew E. 2009. *Rethinking Asylum: History, Purpose, and Limits*. Cambridge et. al.: Cambridge University Press.
- Slaughter, Amy, and Jeff Crisp. 2009. “A Surrogate State? The Role of UNHCR in Protracted Refugee Situations.” *New Issues in Refugee Research Series*.