FEATURE

What's Political about Political Refugeehood? A Normative Reappraisal

Felix Bender

Political philosophers distinguish between two forms of refugeehood: a "political" account and a "humanitarian" account. The political account of refugeehood defends the reasoning underlying contemporary international refugee law. According to the 1951 Convention Relating to the Status of Refugees and its 1967 protocol, both part of the Geneva Conventions, persecution for (specific) discriminatory reasons determines refugeehood.[1] The convention defines a "refugee" as a person with a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."[2] Though there are several elements to this definition, defenders of the political account focus primarily on persecution and discrimination. The link to discrimination is known as the "nexus clause."[3] It should be said here that legal interpretations have undergone significant changes with regard to how the nexus clause, specifically, should be understood.[4] Regardless of how the nexus clause has developed since the founding moments of the convention, what has remained is the focus on discriminatory forms of persecution.[5]

While there remains no universally accepted definition of the term "persecution,"[6] significant changes in how the term is understood have materialized in court decisions as well as jurisprudence over the years. It can be understood as a form of "sustained or systematic denial of basic human rights demonstrative

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of a failure of state protection."[7] This, again, can be interpreted relatively widely, leading to the possibility of including various forms of persecution encompassing the violation of economic, social, or political rights. It should be noted, however, that such forms of persecution must amount to what qualifies as "serious harm." The mere nonrecognition of political rights, for instance, does not suffice for claiming refugee status according to this interpretation.

These objections have given rise to a second account of refugeehood, a broadly humanitarian counterpart.[8] The humanitarian account holds that refugeehood should be far more encompassing than the traditional focus on persecution. Natural disasters, wars, and environmental change can also displace people who do not experience persecution at the hands of the state: refugeehood should protect people fleeing these types of serious harms as well.

Yet, philosophers defending the political account have resisted the push to enlarge the definition of refugeehood. They argue that a political concept of refugeehood is normatively justified because refugeehood is a condition that expresses a lack of (political) membership in a person's country of origin. Corresponding to their status, refugees require a specific form of redress: membership in a new country. This is the function that providing asylum is supposed to fulfill.

In this article, I will argue that the political account is indeed correct, but that the connection between political membership and persecution is far from clear. I will argue that persecution cannot ground a political account of refugeehood. Instead, I will attempt to reclaim the political account by arguing that refugees should be considered all those who are politically oppressed—not just those who are persecuted.

To do so, I will outline current interpretations of the political concept of refugeehood and argue that while their general underlying arguments are correct, they should lead us to adopt a much broader understanding of refugeehood than their supporters traditionally advocate. I will argue that understanding refugees as those who are politically oppressed allows us to (1) retain the idea that refugeehood is a condition specific to those who have lost (or never had) political membership, and (2) maintain that refugeehood is a fundamental political tool for condemning states that do not offer political membership to their citizens.

My argument proceeds as follows. First, I will show that what is special about the predicament that refugees face is that their suffering cannot be remedied where they are. Yet, persecution is not the only form of suffering that cannot be remedied at home. Where autocracies rule, citizens and noncitizen residents

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suffer from indiscriminate harm and are subjected to different forms of repression that cannot be reduced to persecution. The logic of autocratic political survival makes foreign aid either ineffective or harmful to those it is supposed to help. At the same time, the different forms of repression that autocracies employ can lead to situations in which although widespread persecution and dissent are absent, tyrannical rule is not. The absence of dissent does not imply an absence of repression, terror, and harm. Rather, it means that repression has been especially successful. I argue that none of these harms can be remedied where people are and that this should figure into the concept of refugeehood and asylum. Persecution, thus, is seen as a special form of wrongful harm that requires addressing by another state. The difference between harms and wrongful harms is normatively salient in the discussion about persecution. Throughout the article, the harms that persecution entails should be understood as specific wrongful harms. They are not merely harms, which only suggest a setback of a person's interests, and not an infringement on their entitlements and rights. The distinction can be explained through the difference between "prosecution" as punishment and "persecution" as punishment. Both of these constitute harms, but only the latter constitutes an infringement on a person's entitlement. Refugeehood is then understood as a reaction to a specific form of wrongful harm. The article will argue that it is not only persecution that constitutes a wrongful harm but also political oppression.[9]

Next, I turn to the institution of asylum and its function as an instrument of international politics intended to condemn political oppression. I argue that focusing on persecution alone, at best, leads to sidelining other forms of repression equally worthy of condemnation and, at worst, is counterproductive in that it attempts to condemn the illegitimate use of political power but fails in doing so, and sometimes even encourages it.

Finally, I will show that while this understanding is more expansive, it is not overinclusive. I will show that the charge of overinclusion often levied against approaches that lead to wider definitions of refugeehood is based on incorrect empirical assumptions. What has been described as the "political picture of refugeehood" is thus, at best, only *ostensibly* political. A truly political account must incorporate political oppression as a qualifying reason for refugeehood and asylum.

To clarify: The interest this article takes is primarily normative. Just as the ostensibly political account of refugeehood does not aim at a legal interpretation

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of the refugee definition but at a normative justification or reconstruction of its reasoning, this article will also address the normative justification underlying the concept of refugeehood as opposed to offering a legal re-interpretation of the existing definition. Because the political account attempts to defend a particular aspect central to the definition of "refugeehood" in the Geneva Conventions,[10] I will sometimes refer to legal scholarship but only insofar as it matters for the ostensibly political account. What I am after is less an understanding of the law than making a normative argument for persecution to remain the central aspect of the moral norm of refugeehood.[11]

The Political Account of Refugeehood

The documents founding the international refugee regime—the 1951 Convention Relating to the Status of Refugees and the 1967 protocol—are historically rooted in the European conflicts of the 1930s and 1940s. In line with criticisms of these documents from activists and politicians, many scholars have called for an expansion of the definition of refugeehood. Broadly categorizable as "humanitarian accounts," these arguments hold that refugeehood should be expanded to include anyone fleeing from a serious threat of harm. Those who defend this account argue that such a category is necessary given that most persons flee not persecution but indiscriminate forms of harm, such as those occurring during wars, famine, and environmental disasters. The humanitarian account argues that no normative difference exists between persons who fear harm from persecution and persons who fear harm emanating from war or ecological disasters.[12]

Over the years, different ideas for broadening the concept of refugeehood have emerged, for instance, suggesting either that any form of inflicted violence should count toward a claim of refugeehood[13] or that the inability to provide for the basic needs of a population should lead to such a claim.[14] Despite their prominence with many philosophers, these calls for widening the definition of refugee have always been met by resistance from scholars who defend the centrality of persecution to the concept of refugeehood.

Advocates of the so-called political account resist the idea—which is the central and uniting aspect of humanitarian accounts—that all forms of harm matter equally for a claim to refugeehood.[15] Instead, they argue that there is something normatively distinctive about persecution, as opposed to other forms of harm, that translates into a form of protection—namely, asylum—that also functions

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as a political tool in the arena of international politics. Ultimately, this sets persecution aside as something that warrants specific normative attention, and it is for this reason that the definition of refugeehood should not be widened.[16] But what distinguishes persecution as a special form of harm?

The political account of refugeehood understands persecution as

1. the repudiation of political membership, which constitutes a special form of harm because refugees cannot be helped at home;[17] which
2. gives rise to asylum as a form of protection that promises a new form of membership and (according to some interpretations) possesses an expressive function: condemning the rights violations of other states.[18]

While a lack of protection of people's basic needs is morally problematic, the political account argues that persecution must be understood as a distinct form of harm. Most people suffering from a lack of basic security and food or who are threatened by ecological disruptions can be helped at home. However, persecution denotes the repudiation of membership from a political community and cannot be resolved except by providing those fleeing this harm with a new form of membership. Refugeehood is not particularly effective at alleviating suffering in emergency situations. Instead, other forms of humanitarian aid may be better suited to help those in need of food, emergency relief in cases of flooding and other environmental disruptions, or military interventions where the lives of many people are endangered by warring regimes.[19] These situations often displace people, but refuge is often not the best answer. Conflict frequently follows those on the move even across borders; refugee camps are sites of insecurity and danger; (neighboring) host states often do not provide adequately for the needs of those on the move; movement across international borders often signifies that other forms of intervention or assistance have come too late or not at all. Those in need of (emergency) aid can be more effectively helped at home, while those fearing persecution cannot. The latter group require a form of protection that differs in form from the provision of refuge. They require asylum, understood as a provision not only of protection but of a new form of membership.[20]

The specific harm that refugees face is thus intrinsically connected to the institutional response. It requires not just any but rather a specific remedial response to the form of harm that refugees face. Advocates of the political account do not argue against the existence of other forms of providing sanctuary or refuge, such as temporary protected status in the United States or temporary protection

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in the EU, but that asylum is the institutional-political reaction to the specific form of harm refugees experience.[21] These other forms of refuge would, by contrast, only provide for basic needs and emergency relief, while asylum requires providing a new form of political membership, even including, according to many, the political enfranchisement of refugees prior to acquiring the citizenship of the host country.[22]

Moreover, asylum is not only directed at those who receive it but also at those responsible for persecution. It performs an expressive function—and vice versa a function of identity reverification.[23] Asylum plays a role in the relations between states insofar as it is used as a signifier for condemning the policies, actions, and even political structures of states producing refugees. Asylum expresses condemnation in a way that emergency relief, even in the form of providing humanitarian aid through refuge (such as refugee camps), does not.[24]

While this justification may succeed in distinguishing "necessitous strangers"[25] from refugees based on type of harm, and while the ostensibly political account may thus sufficiently argue that refugeehood is a distinctive concept referring to those who cannot be helped at home, the link between the repudiation of membership and persecution is far from clear. This purported connection leads to questioning whether the political account of refugeehood should not instead be open to a definition of refugeehood that substitutes "persecution" for "political oppression." The arguments levied by the political account—the claim of the specificity of harm as well as the function of asylum as a political instrument both of providing membership and of condemning other political regimes—are most consistent, I will argue, only when substituting persecution for political oppression as the basic pillar of refugeehood.

In the following, I will understand political oppression as a characteristic that describes life in autocracies as subject to unaccountable political rule. This definition differs to some degree from an understanding of "oppression" more generally. The philosophical discourse has defined oppression as the systematic unfair or unjust treatment of groups of people that may occur based on unwanted or unconscious presumptions on the part of the oppressor, but is, more generally, built into social structures.[26] As such, this form of oppression may be characterized as a social form of oppression. My focus, political oppression, is narrower in scope. Understood in a procedural fashion, it refers not only to the absence of political freedom, but to political institutions wielding illegitimate political rule over subjects. It describes the condition of a people subjected

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to unaccountable political rule and thus all those who are subjected to rule, characterized by the denial of the six institutional guarantees, as outlined by Robert Dahl: elected representatives; free, fair, and frequent elections; freedom of expression; alternative information; associational autonomy; and inclusive citizenship.[27] As we shall see, political oppression understood as the active denial of these six institutional guarantees entails a great many strategies and forms of repression that include, but are not limited to, persecution or any other single form of repression. This difference also underlies much of the empirical assessment in differentiating autocratic from democratic rule.[28] In sum, I will define political oppression for the rest of this article as a denial of these institutional guarantees.

What Is Special about Persecution?

The understanding of persecution as a special form of wrongful harm derives primarily from the assumption that it cannot be remedied at home. This makes sense. One cannot credibly argue that persons persecuted can be durably protected in their home state when they are being actively targeted by the government. On the surface, this clearly distinguishes persecution from other forms of harm associated with the need for humanitarian aid—such as food, shelter, and basic security in conflict zones—as well as development aid aiming at the alleviation of poverty through policy-based aid programs. Yet, this raises the question of whether persecution is the only form of harm that cannot be remedied at home. This includes the question of whether all situations of dire need can always be remedied at home, as well as the question of whether there are other forms of harm not previously taken into consideration that cannot be remedied at home. We will begin by looking at the first question.

Political philosophers have argued that a strict division exists between forms of harm that persons suffer and the ability to remedy them in the countries where they occur. The situations requiring humanitarian aid, such as ecological disasters and poverty, usually fall into the category of being able to be remedied in one's current location. Yet, as I will show, this division is problematic for two reasons. First, people living in autocracies can often not be helped in their own countries in scenarios leading to indiscriminate harm where the sovereign power of the host state is still intact.

Second, the provision of aid (developmental or humanitarian) to such countries may bolster authoritarian regimes and therefore help stabilize them. This would

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contradict the idea of condemning refugee-producing states for their autocratic makeup. We will deal with the first aspect here, on the division between helping at home and abroad, and turn to the second in the following section.

The idea that those in dire need of basic goods can simply be helped where they are is incorrect. Even if the readiness of donor countries is assumed, the receptiveness of countries in which suffering occurs cannot be. That is, whether people can be helped at home depends to a large degree on the political regime of the country in question. Authoritarian regimes often reject humanitarian aid, and developmental, policy-based aid is ineffective (and possibly harmful) in autocracies.[29] The reasons for these conclusions lie in the different strategies that autocracies pursue to guarantee political survival compared to democracies. Autocracies rely not on the favor of the voters but on a considerably smaller coalition of supporters that can be divided into the "selectorate" (a subset of the population that contribute to selecting the leader) and the "winning coalition" (a subset of the selectorate that is sufficient in size to maintain the leader's power).[30] To maintain power and guarantee survival, leaders in autocracies will thus pursue policies that cater to the selectorate and the winning coalition rather than to the population at large. Autocracies thus often reject humanitarian aid where the winning coalition is small and the leaders are not dependent on the support of the general population for political survival.[31]

The same reasons apply when explaining why developmental and policy-based aid is ineffective or even harmful for those living under autocracies.[32] Aid often functions as a supplement to government income, being designated for a particular area (such as education). Governments will then adapt their budget to reflect the new form of income; in effect, transferring the money it would have spent on education to other areas. What this money is used for then depends on the nature of the political regime. In democracies, such funds may be used to improve the quality of life for its citizens, but in autocracies, the funds often flow to groups that ensure the political survival of the regime; thus, the funds are spent on elites or further instruments of repression such as police and the army, in order to maintain power.[33] In many cases, developmental aid even leads to a decrease in the quality of life in autocracies.[34] What this means is that people in dire need cannot always be helped at home. A consistent political account of refugeehood should keep this in mind. Thus, persecution is not the only form of harm that cannot be remedied at home.

This is not only the case because aid does not arrive in autocratic states, is used for different purposes by them, or simply rejected, but also because many forms of

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indiscriminate harm are caused by autocratic states. The legal interpretation of persecution on which the political account is based excludes from consideration indiscriminate harm as counting toward a claim for refugeehood. Even in its most encompassing interpretation,[35] refugeehood excludes harm that cannot be linked to a discriminatory reason.[36] Yet, indiscriminate violence both appears in and is used as an instrument by autocracies to control their subjects. The violent suppression of protest and uprisings may occur without persecutory intent and affect the population of a specific part of a country indiscriminately.

While many forms of indiscriminate harm may not be intentionally used to control the population, they may nonetheless be a direct consequence of autocratic rule.[37] The harm involved in some cases of poverty and famine, and often following natural disasters, can be traced back to the consequences of autocratic rule.[38] Poverty strikes for many where authoritarian regimes establish "crony capitalist" systems to satisfy the economic demands of the winning coalition and where their interest in keeping power does not only lead to the persecution of the intellectual and oppositional elite, but where the emigration or imprisonment of skilled personnel leads to economic downturns for the country as a whole.[39] Famines, too, are a product of autocratic rule.[40] The distinct political structure of autocratic states, as compared to that of democratic ones, leads to clogged or inexistent information channels between those for whom famine looms and those with decision-making power.[41] Even where mechanisms exist for combatting dooming famine, politically oppressive regimes will often not employ them if saving the affected population is not strictly necessary for political survival.[42]

In all these cases, those faced with indiscriminate harm cannot be helped at home for the same reasons that those facing persecution cannot. Autocratic sovereign control of the territory where they reside forbids aiding those affected in place because their suffering is accepted as part of the equation for the autocratic state's political survival. While persecution cannot be remedied at home because it is an integral part of autocratic political survival, (the responses to) natural disasters similarly occur within the political space of autocratic rule.[43] When they happen, they appear as exogenous shocks in the equations of political regimes that assess how much these and their possible responses will affect their political survival.[44]

Thus, the political account errs by looking at persecution as the marker for distinguishing harmful situations that cannot be resolved at home from those that can. Focusing only on persecution would lead to dismissing many other forms of harm that can equally not be remedied where people are. The political account

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is right to argue that refugeehood denotes a particular repudiation of political membership that expresses itself as a specific form of harm requiring a specific remedial response, but this repudiation must include the subjection to unaccountable political rule more generally. That is, it must take political oppression as a marker for the repudiation of political membership. This expansion would encompass those that suffer from indiscriminate harm and cannot be helped at home and those affected by political oppression even if they have not been so straightforwardly harmed. I will argue why the latter should also be included in the next section.

Tyrannical Peace

The ostensibly political account does not take into consideration another crucial aspect of life under autocratic rule: tyrannical peace.[45] The account assumes a linear relationship between repression and dissent: People voice their displeasure and autocratic regimes strike back in response—persecuting them for their political opinion. This relationship between dissent and repression has, indeed, been shown through quantitative studies to be a robust one. Autocratic regimes do react to dissent with repression.[46] Yet, this is not the only way repression and dissent interact. Studies on autocracies and repression have shown that the relationship between these two variables is endogenous—it is a bidirectional relationship.[47] Repression is not only reactive, but preventive.[48] It targets the capacity and will to dissent even before dissent has taken place.

Persecution in this sense also functions as a deterrent affecting the will to dissent of many who have never themselves experienced persecution.[49] Regimes also resort to "restrictions" as a form of repression that preemptively curtails dissent.[50] Political bans, curfews, the surveillance of citizens, targeting by tax and other regulatory agencies, imposing legal sanctions, press censorship, and curtailing the freedom of movement and assembly aim to increase and set a high price on dissent.[51] Citizens will think twice about taking to the streets or publicly criticizing autocratic regimes when their privacy, jobs, or security are on the line, even if the policies and laws significantly and negatively impact their lives.

What we can observe in regimes in which repression is particularly successful is: nothing. We observe neither violent forms of repression nor dissent.[52] Both the regime and the citizenry act in reciprocity based on what they expect from each other. The regime implements restrictions with minimal violent repression with

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the expectation that the citizenry will find the threat of negative sanctions credible, aiming not at breaking but at limiting the capacity and will to dissent.[53] The citizenry, in turn, does not dissent, based on the expectation that a credible threat of negative sanctions underlies these restrictions. It leads to the self-censorship of the citizenry.

For autocratic regimes, this arguably represents the best of all worlds. Violent repression is often politically risky and costly.[54] A situation in which autocratic regimes can modify the behavior of their citizenry and curb dissent before it appears allows the population to be controlled with minimal risk to the regime itself, avoiding the negative ramifications associated with the application of violence.[55] Yet the absence of overt forms of violence does not mean that people are not negatively impacted by autocratic rule. Quite to the contrary. It means that repression has worked, and the citizenry has been successfully subdued, so that they will abide by restrictions and refrain from dissent in the anticipation of possible (not actual) negative sanctions.

Focusing on persecution alone not only disregards the many other instruments of authoritarian control but it also asks people to seek harm's way as a precondition for applying for asylum. Admittedly, refugee law—and, by assumption, the political account—is "forward-looking,"[56] meaning that it does not require persecution to have already happened but only that there is a credible threat of persecution in the future. However, this qualification has negative implications when it comes to persecution based on "political grounds" and concerns what has been called "unexpressed political beliefs."[57]

To establish whether future persecution is likely, courts refer to either certain innate characteristics possessed by or immutable beliefs, such as religious beliefs, held by an asylum seeker.[58] Courts determine that a risk of future persecution exists were the asylum seeker's country of origin to find out who she is or what she believes in. This is, of course, easier to establish when it comes to determining refugee status based on some of the 1951 convention grounds, such as race or religion. It is not as easy when we turn to "political beliefs." Courts have consequently struggled with what they call "unexpressed political beliefs."[59] Since the convention refers to "political beliefs" and not to "political activities," what matters goes beyond overt political action. The convention also covers political beliefs that remain unexpressed. How can unexpressed political beliefs be established as convention grounds for a right to refugeehood?

Legal practice has turned to the way risk is assessed with regard to the other convention grounds; specifically, to the persecutory risk based on religious

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grounds.[60] Religious beliefs are often intrinsically tied to specific practices. Yet, the organization of clandestine meetings or concealed places of prayer may, in principle, be detected by the state. In order to claim asylum, one needs to prove that confrontation with the state and harm are likely: that there is a reasonable chance of the state finding out about one's clandestinely performed actions.[61]

While such reasoning may work with regard to belief systems that are intrinsically linked to a specific practice (and, often, to specific times and places where one is in communion with others), the same can hardly be said about unexpressed political beliefs. Political beliefs do not necessarily require that a person act on them. If the regime is successful in its repression, many people will withhold dissent because they are afraid of possible sanctions. Repression, after all, is not only reactive to dissent that has already occurred but aims to curtail the capacity and break the will to dissent before it occurs.

If this is the case, it seems difficult to argue that concealed political opinions would eventually lead to a confrontation with the state. When people discuss their views in meetings or even just among friends, the concerted effort to keep political opinions concealed would trigger a claim to refugeehood only if the attempts were unsuccessful. Those that succeed in concealing their political opinions would have no such claim. This also has the perverse implication that a court could logically reject the asylum claims of activists on the grounds that they could instead just cease to be so openly activist, and just better conceal their political opinions.[62]

All in all, persecution-based refugeehood accounts are faced with an impasse. They either give up on their forward-looking aspirations or acknowledge that political repression is not only reactive to but preventive of dissent. Even though the first option seems untenable, the political account seems to tend toward this direction. It essentially asks people to seek harm's way as a requirement for seeking asylum—even if not in theory, often as a practical consequence. It results in a performative contradiction: Those fleeing from a risk of harm can only seek protection if they first seek harm's way. The politically oppressed are asked to test the seriousness of the regime to repress its people.

To make this clearer, consider the following hypothetical: Imagine there is a group of ten people living under a repressive dictator. Assume one member, person *X*, holds political view *A*, while person *Y* holds political view *B*. *X* voices view *A* and, as a result, gets summarily punished by the dictator. Yet the dictator does not specify why person *X* was punished, what parts of political view *A* were

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objectionable or sanctionable, how far she is allowed to go in voicing her political opinion, or whether this license applies equally to other political opinions. Person *Y*, in anticipation of suffering a similar consequence, does not voice view *B*—she reacts to an unspecific but functional threat by self-censoring her own view. Even if not as a theoretical but as a practical consequence, it seems as if the political account would likely grant asylum only to person *X*. Person *Y*, to have a claim to asylum, would need to prove that she held view *B* even if she did not express it, that such view would have been sanctioned, and that it would have been sanctioned for reasons similar to those for sanctioning view *A* with person *X*. Person *Y* would therefore be asked to prove counterfactuals. What follows as a practical consequence of adopting the political account is that only the person punished will likely receive asylum, even if the silence of *Y* is the result of a functioning threat.

As I have argued, the general contours of the political account are valid: refugeehood designates the special status of those who cannot be helped at home. Yet, this argument has consequences far beyond the assumption that this includes only those who are persecuted. There are both non-persecutory harms that can also not be remedied at home and other nonviolent forms of repression that nonetheless lead to modified behavior motivated by a fear of suffering sanctions.

Condemning Illegitimacy: The Institution of Asylum

The political account is right when it argues that refugeehood designates a particular condition that requires a specific institution to remedy. Asylum is designed as an institution to provide surrogate membership to those whose political membership has been repudiated at home and who cannot be helped where they are. And yet, as we have seen, the consequences of this proposal reach far beyond the claim that persecution alone should be the marker of membership repudiation. Instead, I have argued that it is political oppression that marks the repudiation of political membership and prevents people from being helped where they are, based on the logic of autocratic survival. For those living under autocratic regimes, foreign aid is often either ineffective or detrimental. Likewise, those who are repressed and do not want to seek direct confrontation with the regime can also not be helped where they are. The only solution to their particular condition is to be provided surrogate political membership elsewhere.

Advocates of the political account, however, sometimes argue that there is yet another side to the institution of asylum that must be accounted for: Asylum

possesses a particular function within international politics that goes over and above conferring individuals with protection.[63] It possesses a condemnatory function.[64] By granting individuals asylum, the asylum-granting state engages in a performative act that essentially derecognizes the legitimate exercise of authority of another state. It expresses that the demand for surrogate membership is rightful, and thus that the origin state is illegitimate in its exercise of political power.[65]

The function of asylum is then not *only* to protect those in need. It is an expressive act of condemnation, and therefore possesses the function of an international political sanction similar to the withdrawal of diplomats, the imposition of economic embargos, or the financing of oppositional or military groups.[66] Granting asylum is thus not a politically neutral act. Far from it, it is designed as an interference in the internal affairs of states that are deemed politically illegitimate.[67] This expressive function thus is an important political instrument. If refugeehood were only a humanitarian tool to help those in need, it would equate those suffering from, say, natural disasters with those whose suffering was the direct intention of a state wielding illegitimate power.[68] It would not pay any attention to what had caused the harm in question, nor, as we have seen, to whether it could in principle be remedied where people are.

The condemnatory effect of asylum allows not only for the international entrenchment of norms against political oppression but for a clear moral judgment of situations that are caused by other human beings.[69] As such, it makes perfect sense to condemn persecutory actions. What does not make sense is limiting condemnation to persecution. As we have seen, the repertoire for repressive state actions stretches far beyond individually targeting specific people for specific reasons.

Autocratic states use a wide array of tools to repress their populations, ranging from inflicting or causing indiscriminatory harm to coercing the population into abstaining from dissenting. Focusing on condemning persecution alone may not only send the wrong message but may also be counterproductive. It may send the wrong message not because it would condone other expressions of political oppression but because these are equally worthy of international condemnation. If communicative acts of condemnation are to entrench norms against persecution, it is hard to argue that international acts of condemnation should not apply to other expressions of political oppression, too. Condemnation is then warranted not only when autocratic political structures crumble and dissent begins to appear, or in specific individual cases that serve the regime as exemplary forms of

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punishment aimed at subduing the remaining population, but when any tactics in the arsenal of politically oppressive regimes are employed.

Furthermore, focusing on persecution may also be counterproductive in attempting to entrench democratic rights elsewhere. As I have discussed earlier, providing asylum is not always the best way to aid "necessitous strangers." In many cases, humanitarian aid, poverty relief, or military interventions would be better suited to help those in need. Yet, this is not the case where people are politically oppressed. Both humanitarian and development aid are either ineffective or possibly detrimental to those living in politically oppressive regimes. An account that argues that we should deliver such forms of aid to autocratic states in order to avoid having to grant people from such states asylum may actually achieve the exact opposite of what the political account of asylum sets out to do. Rather than undermining illegitimate and (politically) harmful governance elsewhere, it may strengthen it. As I have argued, aid to such countries is often diverted into serving the selectorate and winning coalition. It flows into the military, police, and secret services, and bolsters the very institutions that repress the citizenry. Providing aid to autocracies as a substitute to granting asylum makes little sense if one intends to defend the aims and principles underlying the political account of refugeehood and asylum.

What remains? If the idea that refugees are, indeed, special is true and that they are those whose political membership was repudiated and can hence not be helped where they are, then a political account of refugeehood and asylum cannot only protect the persecuted. It must consider the causes of persecution and the other forms of repression autocratic regimes utilize and have at their disposal, as well as the constant state of coercion under which a politically oppressed people live. It must acknowledge that the harm coming the way of oppressed people does not only appear as persecution. It may be indiscriminate at times, or may manifest itself in policies, regulations, and laws backed by a constant threat of suffering from negative sanctions.

Furthermore, as I have discussed, asylum functions not only as a tool to protect and provide surrogate membership to those who have lost or never had such form of membership but also as a condemnatory act in international politics. Focusing on persecution would put at risk the internal consistency of a foreign policy aimed at condemning illegitimate and nondemocratic harmful governance elsewhere. It may also be counterproductive if substituted with international aid that bolsters rather than erodes autocratic rule. In other words, a truly political account of

refugeehood must not only consider persecution but also turn to political oppression as defining both refugeehood and asylum. What is the upshot of such a concept of refugeehood? Is it overinclusive? This is the charge often brought against other approaches attempting to widen the category of refugeehood, and it is often levied by the ostensibly political account of refugeehood. Does it apply here? I examine this question in the last section of this article.

The Charge of Overinclusion

One of the main criticisms the political account levies against other approaches is the charge of overinclusiveness. Its proponents argue that a narrower definition of refugeehood should be preferred because that would make it easier for states to fulfill their moral obligations toward people in need, and that extending the definition would overburden states and lead to a backlash against the asylum system.[70] This argument ultimately fails.

The argument is based on two problematic empirical assumptions. The first holds that a wider definition would necessarily lead to much more refugee migration.[71] Connected to this, the second assumption contends that resource scarcity requires that we make a selection among which people we should most protect by granting them asylum.[72] The first mistakes the definition of refugeehood as being a driver of migration. This overlooks the structural and personal constraints on the decision to migrate. Migration research has found that many different factors motivate movement or, respectively, the decision to stay in one's country of origin. The reason to leave is often complex and includes decisions based on social, economic, legal, and environmental, as well as political, factors. The decision will not be taken simply as a consequence of a change in the official definition of refugeehood.[73] This is not to say that a change in the definition would have no impact at all. But, while it is difficult to give well-grounded estimations of the number of refugees that such a change would result in, it would likely not lead to a dramatic increase in refugee migration. Even when it comes to life under autocratic rule, some people will decide to remain where they are. They may have social commitments, be culturally embedded, possess economic incentives, fear the uncertainty that comes with leaving the country, prefer to stay and fight for democratic change rather than migrate elsewhere, or simply be forbidden to leave, as is the case in some authoritarian states such as North Korea. Adopting a wider definition of refugeehood should then not be confused with a change in the drivers for people to

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move. It does not automatically lead to much more refugee migration, and estimations regarding the number of refugees such a change will result in will remain largely speculative. What this change does is simply to alter the criteria for evaluating whether someone who has chosen to migrate (for a variety of overlapping reasons) should receive refugee status.

The second empirical assumption turns to the claim of resource scarcity and our need to limit the definition of refugeehood to accommodate those who need protection the most.[74] This assumption is, at best, speculative and, at worst, wrong. It is speculative not only because it assumes that the resources presently allocated to refugee protection function as an upper threshold according to which states need to make decisions but also because it assumes that all other things must remain the same. The economic costs of refugee protection are often high partly because of the policies that affect refugees in their ability to pursue an education or enter the labor market. The costs of refugee protection are not just a matter of numbers but also depend on the interplay of policies (related to migration, labor, welfare, education, and so on) that significantly impact how much refugee protection will cost.[75] This is not to mention the immense bureaucratic apparatus that is associated with immigration cases, asylum decisions, and administrative requirements that drives up the price of refugee protection significantly.

In addition to being speculative, this assumption may also be wrong. Taking at face value what states proclaim to be their upper limit regarding resource scarcity may simply equate to giving way to whatever feasibility constraints a state cites, and have relatively little to do with the actual ability of states to accommodate refugees.[76] In fact, poor states often accommodate far more refugees than the rich states of the Global North.[77] While whether they should do this is a different question, it points toward the fact that refugee protection is often not predominantly a matter of resource scarcity but of allocation and political will. Some have assumed that political will to aid refugees is scarce in itself.[78] I do not dispute this. Yet, this form of the argument takes a similar route as the "resource scarcity" argument above and is ultimately speculative. It presumes a certain political climate as a given threshold against which we should judge how many refugees we should admit.

The political account is thus wrong when arguing that a narrower definition will allow states to better fulfill their obligations toward people in need. Why? It is not the case that the narrower the definition is, the better states would be able to fulfill

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their obligations toward people in need. This would cause significant normative problems. For if this were the case, we could continuously narrow the definition of refugeehood, allowing states to better fulfill whatever little obligations toward refugees remain. We would effectively call for an adaptation of the norm rather than for an adaptation of behavior in the face of noncompliance. The emphasis should not be on the "narrowness" of the definition. Instead, what the political account means to argue for is a conceptual point. It holds that the correct definition of refugeehood allows actors to better fulfill their obligations toward people in need, because some people could be helped by other means where they are. I have shown not only that this is correct but also that this necessitates a turn toward political oppression as a pillar of the definition of refugeehood. The overinclusiveness charge, then, does not hold. Not only are the empirical assumptions made by the political account at best speculative and, at worst, wrong. They also do not lead to a conceptual form of overinclusion. A reference to (a purported) resource scarcity should not lead us to adapt our normative criteria for judging who is a refugee.

Conclusion

The political account of refugeehood has classically defended persecution as a main pillar of the definitions of both refugeehood and asylum. It has argued that refugees are special. Their predicament can be described as having lost (or never having possessed) political membership in their country of origin. Expressed as persecution, such loss of political membership can only be remedied elsewhere. It is this that makes refugees special and asylum necessary.

Yet, as I have attempted to show, the connection between persecution and political membership is important, but persecution is not sufficient to capture the ways in which political membership can be lost. Further, I have argued that persecution is not the only harm that cannot be remedied where people are. What makes many remedies impossible to resolve in situ is the underlying cause for persecution: political oppression. It is political oppression that leads to persecution. Political oppression entails the use of numerous different instruments of repression, ranging from restrictions to surveillance, and the diffusion of fear from negative sanctions. It leads not only to harming the few but to coercing the many.

The political account of refugeehood is thus correct in its basic normative assumptions. Refugees are special. They are those that cannot otherwise be helped where they are, and they lack political membership. Yet, the defining factor for

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such loss and harm should not be persecution but political oppression. It is for this reason that this account is only ostensibly political. A truly political account of refugeehood would go far beyond the definition prescribed in international law and include all those who are politically oppressed.

Would this lead to masses of people knocking on the door of liberal democracies? I have argued that the overinclusion charge is overblown. Not only does it confuse the definition of refugeehood with a driver for migration but it is also speculative in its outlook. All in all, the political account of refugeehood needs restoration. It requires emphasizing that refugeehood and asylum should be determined by a lack of political membership characterized by political oppression.

NOTES

[1] Matthew E. Price, *Rethinking Asylum: History, Purpose, and Limits* (Cambridge, U.K.: Cambridge University Press, 2009); Matthew E. Price, "Persecution Complex: Justifying Asylum Law's Preference for Persecuted People," *Harvard International Law Journal* 47, no. 2 (Summer 2006), pp. 413–66; Matthew E. Price, "Politics or Humanitarianism? Recovering the Political Roots of Asylum," *Georgetown Immigration Law Journal* 19, no. 2 (Winter 2005), pp. 277–312; Max Cherem, "Refugee Rights: Against Expanding the Definition of a 'Refugee' and Unilateral Protection Elsewhere," *Journal of Political Philosophy* 24, no. 2 (September 2015), pp. 183–205; and Matthew Lister, "Who Are Refugees?," *Law and Philosophy* 32, no. 5 (September 2013), pp. 645–71.

[2] UN General Assembly, "Convention Relating to the Status of Refugees," Art. 1(2), July 28, 1951.

[3] Colloquium on Challenges in International Refugee Law, "International Refugee Law: The Michigan Guidelines on Nexus to a Convention Ground," *Michigan Journal of International Law* 23, no. 2 (Winter 2002), pp. 210–21; and Michelle Foster, "Causation in Context: Interpreting the Nexus Clause in the Refugee Convention," *Michigan Journal of International Law* 23, no. 2 (2002), pp. 265–340.

[4] Generally, a trend toward a more dynamic interpretation of the nexus clause has been noted. Rather than sticking to a "fixed-list" approach, the nexus clause is interpreted as an "anti-discrimination" clause, more generally, that is capable of subsuming various forms of discrimination, not limited to persecution based on race, religion, nationality, political opinion, or membership of a specific social group. Specifically, the latter has been interpreted widely to include other forms of discriminatory persecution, such as gender-, age-, or disability-based persecution. See James C. Hathaway and Michelle Foster, *The Law of Refugee Status*, 2nd ed. (Cambridge, U.K.: Cambridge University Press, 2014), p. 363.

[5] This is not only something defended (morally) by legal scholars, such as by Hathaway and Foster (ibid., pp. 175–76), but is also something that remains of normative significance to theorists defending the "political account" of refugeehood. Discrimination remains tied to persecution in a way that is normatively significant, even though authors such as Matthew Price (*Rethinking Asylum*, p. 115) have argued for a deemphasis on and wide interpretation of the nexus clause.

[6] UNHCR, Art. 51, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status: Under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees* (1979; Geneva: UNHCR, 2011), p. 13.

[7] Hathaway and Foster, *The Law of Refugee Status*, p. 183.

[8] Alexander Betts, "Survival Migration: A New Protection Framework," *Global Governance* 16, no. 3 (July–September 2010), pp. 361–82; Alexander Betts, *Survival Migration: Failed Governance and the Crisis of Displacement* (Ithaca, N.Y.: Cornell University Press, 2013); Joseph H. Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2013); Matthew J. Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees* (Cambridge, U.K.: Cambridge University Press, 2004); Aristide R. Zolberg, Astri Suhrke, and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (New York: Oxford University Press, 1989); Emma Larking, *Refugees and the Myth of Human Rights: Life Outside the Pale of the Law* (London: Routledge, 2014); and Michael Dummett, *On Immigration and Refugees* (London: Routledge, 2001).

[9] I would like to thank an anonymous reviewer for this suggestion.

[10] As opposed to departing from other legal definitions as outlined in the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the Cartagena Declaration on the Rights of Refugees, or even alternative forms of protection such as the EU's subsidiary protection scheme. The normative foundation for arguing for (but not limited to) some aspects outlined in these conventions can be found in humanitarian accounts of refugeehood rather than in defenses of a "political picture" of refugeehood.

[11] A second caveat: This should also not be understood as an attempt to resuscitate a long-discredited distinction between political refugees and economic migrants. The discourse in refugee studies has proven that the two sides of the distinction are not mutually exclusive. This should be clear as soon as one recognizes that economic operations can be politically instrumentalized. In the literature on refugee law, these then appear as persecution through economic means. See Michelle Foster, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (Cambridge, U.K.: Cambridge University Press, 2007). Equally, the article does not seek to question the distinction itself. Some theories defending open borders have argued that the refugee concept becomes superfluous in a world in which everyone ought to have the right to migrate freely. See Chandran Kukathas, "Are Refugees Special?," in Sarah Fine and Leah Ypi, eds., *Migration in Political Theory: The Ethics of Movement and Membership* (Oxford: Oxford University Press, 2016), pp. 249–68. I will not engage in the debate on whether this is correct or not. There are good arguments to be made in favor of justifying open borders. Yet, I believe this to constitute a different debate than that on refugeehood, as these debates depart from different starting points. The debate on refugeehood begins from the nonideal starting point of the world being carved up into states. This is a starting point that assumes that states themselves reject the view of all-encompassing free movement but make an exception for refugees who are seen as being owed something that other migrants are not. We can and should question this presupposition, of course. Yet, doing so would tell us very little about a potentially more modest goal—of questioning whether the conceptualization of refugeehood should undergo change and asking states to reconsider a concept to which they have already subscribed.

[12] Carens, *The Ethics of Immigration*; and Gibney, *The Ethics and Politics of Asylum*.

[13] Zolberg et al., *Escape from Violence*.

[14] Andrew E. Shacknove, "Who Is a Refugee?," *Ethics* 95, no. 2 (January 1985), pp. 274–84; Gibney, *The Ethics and Politics of Asylum*; Betts, "Survival Migration: A New Protection Framework"; Betts, *Survival Migration: Failed Governance and the Crisis of Displacement*; and Carens, *The Ethics of Immigration*.

[15] Here it seems fair to note that there are notable differences between the various ostensibly "political accounts." Nonetheless, I believe they can still be grouped together. The condemnatory function of asylum is, for instance, not discussed or shared by all defenders of the political account of refugeehood. Specifically, Price argues for the centrality of the communicative function of condemnation that asylum plays. See Price, *Rethinking Asylum*; but also Jean François Durieux, "Three Asylum Paradigms," *International Journal on Minority and Group Rights* 20, no. 2 (2013), pp. 147–77. This is backed by more realist interpretations in international relations regarding refugeehood, even though they do not advance normative arguments. See Fiona B. Adamson and Gerasimos Tsourapas, "Migration Diplomacy in World Politics," *International Studies Perspectives* 20, no. 2 (May 2019), pp. 113–28, academic.oup.com/isp/article/20/2/113/5253595. Others, such as Max Cherem and Matthew Lister, do not discuss the communicative aspect of providing asylum. I include it here as an additional point that the political picture of refugeehood can but has not always made, yet has been recognized as relevant to the political account generally, and that raises an interesting aspect of asylum worth discussing. See David Owen, *What Do We Owe to Refugees?* (Cambridge, U.K.: Polity Press, 2020), pp. 64–65.

[16] Cherem, "Refugee Rights"; Lister, "Who Are Refugees?"; and Price, *Rethinking Asylum*.

[17] Price, "Persecution Complex"; Cherem, "Refugee Rights," pp. 190–92; and Lister, "Who Are Refugees?," p. 660. David Owen, "Differentiating Refugees: Asylum, Sanctuary and Refuge," in *The Political Philosophy of Refuge* (Cambridge, U.K.: Cambridge University Press, 2019), pp. 19–38, at p. 21.

[18] Lister, "Who Are Refugees?"; Cherem, "Refugee Rights," pp. 194–95; and Price, "Persecution Complex," p. 443; Price, "Politics or Humanitarianism?," pp. 295, 308–10. Owen, "Differentiating Refugees," p. 31; and Owen, *What Do We Owe to Refugees?*, p. 64.

[19] Cherem, "Refugee Rights," pp. 191–92; and Lister, "Who Are Refugees?," p. 660. Sarah Song, *Immigration and Democracy* (New York: Oxford University Press, 2019), p. 120.

[20] Owen, *What Do We Owe to Refugees?*, pp. 5, 54–55; and Cherem, "Refugee Rights."

[21] Owen, *What Do We Owe to Refugees?*; and Owen, "Differentiating Refugees."

[22] Lister, "Who Are Refugees?," p. 660; Felix Bender, "Enfranchising the Disenfranchised: Should Refugees Receive Political Rights in Liberal Democracies?," *Citizenship Studies* 25, no. 1 (2021), pp. 56–71; and Reuven Ziegler, *Voting Rights of Refugees* (Cambridge, U.K.: Cambridge University Press, 2017).

[23] Asylum functions, then, not only as a condemnation of other states' political regimes but also reflects the values of the regime that grants asylum. See Durieux, "Three Asylum Paradigms."
[24] Price, *Rethinking Asylum*, pp. 69–95; Price, "Persecution Complex," p. 443; Price, "Politics or Humanitarianism?," pp. 308–10; and Owen, *What Do We Owe to Refugees?*, p. 64.
[25] Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (Basic Books, 1983), p. 45.
[26] Ann E. Cudd, *Analyzing Oppression* (Oxford: Oxford University Press, 2006); and Iris Marion Young, *Justice and the Politics of Difference* (Princeton, N.J.: Princeton University Press, 1990), pp. 39–65.
[27] Robert A. Dahl, *On Democracy* (New Haven, Conn.: Yale University Press, 1998), p. 85.
[28] Anna Lührmann, Marcus Tannenberg, and Staffan I. Lindberg, "Regimes of the World (RoW): Opening New Avenues for the Comparative Study of Political Regimes," in "Why Choice Matters: Revisiting and Comparing Measures of Democracy," special issue, *Politics and Governance* 6, no. 1 (2018), pp. 60–77.
[29] The terms "autocratic," "authoritarian," and "politically oppressive" will be used interchangeably to describe these types of regimes throughout this article.
[30] Erica Frantz, "Autocracy," in *Oxford Research Encyclopedias*, last updated September 29, 2021, oxfordre.com/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-3; and Bruce Bueno de Mesquita, Alastair Smith, Randolph M. Siverson, and James D. Morrow, *The Logic of Political Survival* (Cambridge, Mass.: MIT Press, 2003).
[31] Wooyeal Paik, "Authoritarianism and Humanitarian Aid: Regime Stability and External Relief in China and Myanmar," *Pacific Review* 24, no. 4 (2011), pp. 439–62. Of course, this means that humanitarian aid is not always rejected. Especially in regimes that do depend on the well-being of their population (regimes whose legitimization strategy for political survival is based on electoral mandates or economic development, for instance), humanitarian aid may be accepted. Yet, as I will discuss further in the sections that follow, these forms of aid usually support the political regime in question, too. They contribute to the political survival of autocratic states, contradicting the purpose of condemning (those same) refugee-generating states.
[32] Stephen Kosack, "Effective Aid: How Democracy Allows Development Aid to Improve the Quality of Life," *World Development* 31, no. 1 (January 2003), pp. 1–22; Mina Baliamoune-Lutz, "Foreign Aid Effectiveness," in Kenneth A. Reinert, ed., *Handbook of Globalisation and Development* (Cheltenham, U.K.: Edward Elgar, 2017), pp. 373–92, at pp. 385–86; Todd Moss, Gunilla Pettersson, and Nicolas van de Walle, "An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa" (Working Paper No. 74, Center for Global Development, January 2006); Stephen Knack, "Does Foreign Aid Promote Democracy?," *International Studies Quarterly* 48, no. 1 (March 2004), pp. 251–66; and Simeon Djankov, Jose G. Montalvo, and Marta Reynal-Querol, "The Curse of Aid," *Journal of Economic Growth* 13, no. 3 (September 2008), pp. 169–94.
[33] Kosack, "Effective Aid," pp. 12–13.
[34] Ibid.; and Baliamoune-Lutz, "Foreign Aid Effectiveness."
[35] Hathaway and Foster, *The Law of Refugee Status*, pp. 175–76; and Hugo Storey, "Armed Conflict in Asylum Law: The 'War-Flaw,'" *Refugee Survey Quarterly* 31, no. 2 (June 2012), pp. 1–32.
[36] The "Convention Relating to the Status of Refugees" outlines five reasons (race, religion, nationality, membership of a particular social group, and holding a particular political opinion) for which persecution must have occurred. See UNHCR, "Convention Relating to the Status of Refugees." More recent legal scholarship has interpreted the "membership of a particular social group" ground to include persecution based on sexual orientation and gender identity, while others have even understood it as encompassing any form of discrimination. The view that takes persecution as a shorthand for discrimination remains, however, contested. See T. Alexander Aleinikoff, "Protected Characteristics and Social Perceptions: An Analysis of the Meaning of 'Membership of a Particular Social Group,'" in Erika Feller, Volker Türk, and Frances Nicholson, eds., *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (Cambridge, U.K.: Cambridge University Press, 2003), pp. 263–311; and Guy S. Goodwin-Gill, "Judicial Reasoning and 'Social Group' after Islam and Shah," *International Journal of Refugee Law* 11 (1999), pp. 537–43. In legal practice, it is often interpreted significantly more narrowly. Even in its most broad interpretation, however, a clear nexus between persecution and discrimination must exist for harm to count as relevant for claiming refugee status. See Hathaway and Foster, *The Law of Refugee Status*, pp. 175–76, 363; and Aleinikoff, "Protected Characteristics and Social Perceptions.'"
[37] Felix Bender, "Refugees: The Politically Oppressed," *Philosophy & Social Criticism* 47, no. 5 (June 2021), pp. 615–33.
[38] Ibid.
[39] Paik, "Authoritarianism and Humanitarian Aid," p. 448. See also a court case decided on Haitians fleeing the economic consequences of dictatorial rule: Haitian Refugee Ctr. v. Civiletti, 503 F. Supp. 442 (S.D. Fla. 1980).

[40] Amartya Kumar Sen, "Democracy as a Universal Value," *Journal of Democracy* 10, no. 3 (July 1999), pp. 3–17.
[41] Jean Drèze and Amartya Sen, *Hunger and Public Action* (Oxford: Oxford University Press, 1989), p. 210.
[42] Amartya Sen, "Development: Which Way Now?," *Economic Journal* 93, no. 372 (December 1983), pp. 745–62, at p. 757.
[43] Paik, "Authoritarianism and Humanitarian Aid."
[44] Ibid.
[45] Christian Davenport, "State Repression and the Tyrannical Peace," in "Protecting Human Rights," special issue, *Journal of Peace Research* 44, no. 4 (July 2007), pp. 485–504.
[46] Christian Davenport, "State Repression and Political Order," *Annual Review of Political Science* 10 (June 2007), pp. 1–23.
[47] Emily Hencken Ritter and Courtenay R. Conrad, "Preventing and Responding to Dissent: The Observational Challenges of Explaining Strategic Repression," *American Political Science Review* 110, no. 1 (February 2016), pp. 85–99.
[48] Ibid.; and Dag Tanneberg, *The Politics of Repression under Authoritarian Rule: How Steadfast Is the Iron Throne?* (Cham, Switzerland: Springer, 2020), p. 21.
[49] Abel Escribà-Folch, "Repression, Political Threats, and Survival under Autocracy," *International Political Science Review* 34, no. 5 (November 2013), pp. 543–60, at p. 546; and Mesquita et al., *The Logic of Political Survival*, p. 349.
[50] Davenport, "State Repression and the Tyrannical Peace," p. 487; Christian Davenport, *State Repression and the Domestic Democratic Peace* (Cambridge, U.K.: Cambridge University Press, 2007), pp. 47, 49; and Tanneberg, *The Politics of Repression under Authoritarian Rule*, pp. 3–4, 19–28; Others differentiate between high- and low-intensity repression. See Lucan A. Way and Steven Levitsky, "The Dynamics of Autocratic Coercion after the Cold War," in "Democratic Revolutions in Post-Communist States," special issue, *Communist and Post-Communist Studies* 39, no. 3 (September 2006), pp. 387–410.
[51] Davenport, *State Repression and the Domestic Democratic Peace*, p. 77.
[52] Ritter and Conrad, "Preventing and Responding to Dissent," pp. 87–88.
[53] Escribà-Folch, "Repression, Political Threats, and Survival under Autocracy"; and Davenport, *State Repression and the Domestic Democratic Peace*, p. 47.
[54] Davenport, *State Repression and the Domestic Democratic Peace*, p. 81.
[55] Ibid., p. 49.
[56] Hathaway and Foster, *The Law of Refugee Status*, ch. 2.
[57] Note that this problem does not occur in all instances regarding persecution based on political grounds. After all, the present definition includes persecution originating from nonstate actors and cases in which grounds (such as political opinion) are imputed by the persecutor, rather than actually held by the persecuted.
[58] The terms "innate and immutable characteristics" were defined in the seminal case *In Re Acosta*, tried in the United States, and have informed the dominant view of the international community in interpreting the text of the Geneva Convention Relating to the Status of Refugees. The approach is applied in major common law countries such as the United States, the U.K., Australia, and New Zealand. See Talia Shiff, "Revisiting Immutability: Competing Frameworks for Adjudicating Asylum Claims Based on Membership in a Particular Social Group," *University of Michigan Journal of Law Reform* 53, no. 3 (May 2020), at p. 570, repository.law.umich.edu/mjlr/vol53/iss3/3/.
[59] Hathaway and Foster, *The Law of Refugee Status*, pp. 407–9.
[60] Peter J. Smith, "Suffering in Silence: Asylum Law and the Concealment of Political Opinion as a Form of Persecution," *Connecticut Law Review* 44, no. 3 (February 2012), pp. 1021–55.
[61] Isaac T. R. Smith, "Searching for Consistency in Asylum's Protected Grounds," *Iowa Law Review* 100 (2015), pp. 1891–1915, at p. 1899.
[62] This is, of course, something that such a view intends to avoid. See Hathaway and Foster, *The Law of Refugee Status*, p. 117.
[63] Note, again, that not all theories included in the ostensibly political account argue for this. It is, however, an important argument brought forward in the attempt to defend the political picture of asylum and hence deserves discussion as part of it.
[64] Owen, *What Do We Owe to Refugees?*, p. 64; Owen, "Differentiating Refugees"; Price, "Politics or Humanitarianism?"; Price, "Persecution Complex"; and Durieux, "Three Asylum Paradigms."
[65] Price, "Politics or Humanitarianism?"; and Price, "Persecution Complex."
[66] Price, "Persecution Complex," p. 443.
[67] Price, "Politics or Humanitarianism?," pp. 294–95.
[68] Price, "Persecution Complex," p. 444.

[69] Price, "Politics or Humanitarianism?," p. 310.
[70] Lister, "Who Are Refugees?," see esp. p. 655. See also Cherem, "Refugee Rights" for a similar argument.
[71] Lister, "Who Are Refugees?," pp. 660–61.
[72] Cherem, "Refugee Rights," pp. 193–95.
[73] Mathias Czaika and Constantin Reinprecht, "Drivers of Migration: A Synthesis of Knowledge" (Working Paper No. 163, International Migration Institute, April 2020); and Kerilyn Schewel, "Understanding Immobility: Moving beyond the Mobility Bias in Migration Studies," *International Migration Review* 54, no. 2 (June 2020), pp. 328–55.
[74] Cherem, "Refugee Rights," pp. 192–95; and Lister, "Who Are Refugees?"
[75] A number of different policies matter in determining the eventual "costs" of hosting refugees. These range from settlement policies, which significantly determine the economic performance of refugees for decades to come (and thus also the costs), all the way to policies regulating labor market access (including the recognition of diplomas and other training). See Francesco Fasani, Tommaso Frattini, and Luigi Minale, "(The Struggle for) Refugee Integration into the Labour Market: Evidence from Europe," *Journal of Economic Geography* 22, no. 2 (March 2022), pp. 351–93; and Roger Zetter and Héloïse Ruaudel, *Refugees' Right to Work and Access to Labor Markets—An Assessment*, Part I: Synthesis (Washington, D.C.: KNOMAD, September 2016).
[76] We might consider here the apparent ability of states to accommodate millions of people on the move in some cases, while they cite resource scarcity (be it as a matter of political will or economic costs) as a reason for rejecting others. It becomes more and more apparent that the limits that states proclaim are matters of discretion. States in the Global North can accommodate many more refugees than they currently do. Referring to self-set limits for protecting refugees shows us relatively little about the capacities that states actually possess.
[77] Most refugees are, in fact, hosted by comparatively poor countries. Currently, Turkey alone hosts more refugees than all EU member states combined. For recent figures, see "Trends at a Glance," Global Trends: Forced Displacement in 2018, UNHCR, www.unhcr.org/globaltrends2018/. Additionally, the financial costs of hosting refugees may be far less than commonly assumed. Joakim Ruist ("The Fiscal Aspect of the Refugee Crisis," *International Tax and Public Finance* 27, no. 22 [December 2019], pp. 478–92) shows that if the EU were to receive all refugees currently residing in Africa and Asia, the average annual fiscal cost over the lifetime of these refugees would be, at most, 0.6 percent of the EU's GDP.
[78] Lister, "Who Are Refugees?," p. 660.

Abstract: What is political about political refugeehood? Theorists have assumed that refugees are special because their specific predicament as those who are persecuted sets them aside from other "necessitous strangers." Persecution is a special form of wrongful harm that marks the repudiation of a person's political membership and that cannot—contrary to certain other harms—be remedied where they are. It makes asylum necessary as a specific remedial institution. In this article, I argue that this is correct. Yet, the connection between political membership, its repudiation, and persecution is far from clear. Drawing on normative political thought and research on autocracies, repression, and migration studies, I show that it is political oppression that marks the repudiation of political membership and leads to various forms of repression that can equally not be remedied at home. A truly political account moves away from persecution and endorses political oppression as the normative pillar of refugeehood and asylum.

Keywords: refugees, asylum, autocracies, persecution, repression, oppression