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ARTICLE



## Should states prioritize child refugees?

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### ABSTRACT

In this paper I am interested in the question of whether and why states should prioritize child refugees over adult refugees in cases where they are not able to grant refuge to all those who are entitled to it. In particular I discuss three grounds on which such a prioritization could be based: (a) vulnerability, (b) efficiency and (c) life phase and life span. As can be shown, these grounds also apply, to some extent, to particular groups of adults such as women, the elderly, or people with special needs. Based on this I conclude that states should invest significant resources into filtering out those who are the most needy and vulnerable although there are several limitations to doing that. Only if such a selection process were impossible, or so costly and time-consuming that it would result in significantly fewer refugees being admitted, would states have good moral reasons to prioritize children without further screening.

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## Introduction

Children make up a large and significant portion of the worldwide refugee population and undoubtedly the situation of child refugees is precarious and they face significant dangers on their way to a safe haven (UNICEF 2016). Furthermore, many more children in need of help and protection from war, violence, hunger, and extreme poverty are not able to flee at all and remain stuck in their misery and deprivation. But the same can be said of many adults as well. Only a fraction of those who are facing grim injustices are, so far, on the move to find safety, food, water, shelter and a better life for themselves and their families. In this paper, I want to ask whether states should give moral priority to the admission of minor refugees if they do not have sufficient capacity to admit all refugees. I ask this question in the context of what is called non-ideal political philosophy. It is still necessary for me to make use of some simplifications, presuppositions and assumptions, which do not fully reflect the complexity of the reality of the lives of (child) refugees, and the actions and politics of states which deal with them but I hope that my considerations can actually be further developed to guide concrete policies for the benefit of those in need. Such a careful reflection on both the normative theory and the empirical evidence is the main task of applied political philosophy in my understanding.

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Let me begin by stating my assumptions and the framework within which I am going to move forward with my arguments. Firstly, I am concerned here with the obligations of states as single entities and not the global community of states collectively, or the community of rich states. That said, I believe that my considerations also apply to such a community of all or a few states (such as the EU) but some important conditions and possible conclusions would be different. For example, I am not concerned here with collective action problems (Thielemann and El-Enany 2010) or the just allocation of refugees among states (Holtug 2016). Secondly, I will assume that the possibility of states to admit refugees is limited and that this feasibility constraint is also crucial in defining their moral obligations towards refugees. Although I believe that it would be possible – in a better world – that (almost) all who need refuge could be granted refuge if the global community of states were to work together, the scenario that I have in mind for this paper is more realistic and I assume that a few states are confronted with many more refugees than they can admit because other states refuse to shoulder their share of the burden. So, some states are confronted with the necessity to make a choice mainly because other states are unwilling to take them. I think this is an accurate description of how things are today, for example in the EU, where some states refuse to admit any refugees. Although all states of the EU could do significantly more and none appears to be overburdened at this stage by the numbers of refugees they have admitted, I suppose that one state alone, for example, Austria, Sweden or Lichtenstein would be overburdened in many ways (economic, social, but also moral) if they were to try to shoulder the burden of all refugees who wanted to immigrate. So, thirdly, some states want to do what is right but cannot compensate (sufficiently) for the lack of effort by the many other states, who ignore their moral obligations towards refugees. Thus, states have to make some kind of selection and send some of the refugees away. I am not considering a way to establish how many refugees a state should take in and on what grounds a state could decide on this number. Radical solutions suggest that a state has a moral obligation to admit as many refugees as possible and that the limit is only reached if the welfare of the citizens of this state becomes as low as the welfare of the refugees waiting outside its borders. Others like David Miller (Miller 2016) argue that a state, and its citizens, have a political right to self-determination that allows them to close their borders after a fairly small number of refugees have been admitted. Having said that, I am agnostic towards this, I just assume in my scenario that more refugees want to come in than the state has a moral obligation to admit. Fourthly, I assume that all of these refugees who want to enter have a legitimate moral claim to be admitted as refugees. Although I would not want to confine this moral claim to being congruent with the right to asylum currently granted under the Geneva Convention, this is not important for my argument here. The scenario I have in mind seems plausible under both wider and narrower interpretations of who has a legitimate moral claim to refuge. That being said, I believe this moral claim is primarily a claim the refugees have towards the global community of states as a collective moral obligation but, because not every state is compliant, a few states face the situation that they are confronted with a large number of people with moral claims to refuge. Fifthly, an everyday definition of childhood is used here, that is, anyone who is under the age of 18. The use of this unspecific category of childhood is relevant because it is used in this way in everyday language, in many important legal documents, in the media, in politics and also in large

parts of philosophy and migration research. The fact that further differentiation is necessary in order to understand what can be demanded normatively with reference to the category of childhood is precisely one concern of this article.

So, this is the scenario that I am going to examine, and as I said, I am interested in one particular question: should a state prioritize children when choosing which refugees to admit? In the next three sections I will outline three arguments in favour of such a prioritization: (a) vulnerability, (b) efficiency and (c) life phase and life span. The argument based on vulnerability refers, on the one hand, to the greater harm that child refugees suffer and, on the other hand, to their increased need for protection and care. The efficiency argument points to the assumption that children are cheaper and more easily integrated into the host society, which among other things increases the number of refugees that can be admitted. Finally, it seems as if states should prioritize children simply because they are younger, which means that they have had less from their lives so far compared to adults and so have a moral claim to being able to enjoy their own “fair innings”. This provides a *prima facie* argument to prioritize children. As I will show in section 4, these reasons also apply, to some extent, to particular groups of adults such as women, the elderly, or people with special needs. Based on this I conclude, in section 5, that states should invest significant resources into filtering out those who are the most needy and vulnerable although there are several limitations to doing that. Only if such a selection process were impossible, or so costly and time-consuming that it would result in significantly fewer refugees being admitted, would states have good moral reasons to prioritize children without further screening.

### On the vulnerability of child refugees

A first argument to prioritize child refugees can be derived from the particular vulnerability of children. The normative significance of vulnerability in general (Straehle 2017) and that of children in comparison to adults in particular (Hurst 2015; Mullin 2014; Gheaus 2018, 87) has received some attention over recent years. The reference to vulnerability is also present in many public and policy contexts like health care and social services and is used to justify special treatment of children and other groups deemed vulnerable. It is also commonly used in legal texts. In the context of this paper, which cannot do justice to the complexity of the concept, children’s vulnerability is understood as a dynamic feature, which is closely tied to the developmental processes which characterize childhood as both a social and biological phase (Schweiger and Graf 2017).

A first useful distinction is that between inherent and situational vulnerability. In my understanding, which is slightly different from that of Carolyn Mackenzie, Wendy Rogers and Susan Dodds (Mackenzie, Rogers, and Dodds 2014), inherent vulnerability refers to such vulnerability as relates to features of children’s bodies and minds, and their respective developmental pathways. A good example is the risk of severe and permanent brain injury if a baby is shaken. Situational vulnerability refers to such vulnerability that relates to social practices and norms in children’s lives. A good example for a situational vulnerability is child labour and economic exploitation. Both inherent and situational vulnerability are intertwined with other particular features of a child such as gender, sex, race, or class. So, the inherent and

situational vulnerability of boys and girls are different, based on their different biology and on the different practices and norms in their lives. In addition, both the inherent and situational vulnerability of children is dynamic throughout childhood. Some vulnerabilities diminish as children grow-up and become more mature, others enter children's lives as they get older. A baby that cannot crawl or walk is completely dependent on the care of others, but it cannot harm itself by running into the street or turning on the stove. Furthermore, the dynamic vulnerability of children implies that they can be harmed in their development with sometimes permanent consequences. I already mentioned the case of the shaken baby, another example would be stunting or wasting, both effects of malnutrition. If such harm is not prevented, it often cannot be reversed (or healed) later on.

The vulnerability-based argument for a prioritization of child refugees claims that they are more vulnerable than adult refugees because the inherent and situational vulnerability of children is greater. The argument here is that states should give priority to minor refugees because they are more vulnerable than adult refugees and vulnerability is not a neutral quality but corresponds to moral obligations. These are on the one hand duties to protect vulnerable people (protection) and on the other hand duties to care for them (care). Greater vulnerability is associated with stronger moral claims. The vulnerability of minor refugees is greater because, compared to adults, children are more likely to be harmed, more severely harmed and harmed in particular ways if they were to stay in the situation from which they are fleeing (UNICEF 2016; Manion 2018; Hopkins and Hill 2008). Also the flight itself poses a greater risk of harm for children (Donato and Sisk 2015; Kanics, Hernández, and Touzenis 2010). Children cannot protect themselves from the harm inflicted by war, violence or hunger because they lack physical and mental abilities and because they lack economic, social or political resources. But that inability to protect themselves is only one side of children's vulnerability. The other is that children are in need of care and nurture to develop properly and to stay healthy or even alive. More so than adults, children are in greater danger of getting harmed by neglect and the absence of certain actions of caregivers and guardians such as being fed or receiving education. Additionally some types of harm, which have only mild consequences for adults, can have lifelong and irreversible consequences for children because of their developmental needs, for example adults are more robust in withstanding phases of malnutrition or acts of physical violence. This is an essential part of children's inherent vulnerability and it is one that gets particularly virulent in the context of child refugees, the countries from where they flee and the places where they will end up if they are not granted refuge. So the situational vulnerability of child refugees makes it much more likely that they will be harmed. This means that children's inherent vulnerability of being in need of care is endangered in the situations of war, severe poverty or dictatorship and where children are on the brink of ending up uncared for, unprotected, exploited or harmed. That said, fleeing is often not an option for children, though, because they lack the means to do so, and they are stuck (Schweiger 2016). I am not going to examine this issue here since the scenario I am investigating is concerned with those children who are actively fleeing and seeking refuge.

## The efficiency of admitting child refugees

Another possible argument to prioritize child refugees is that their admittance is particularly efficient. So the question here is not who should the state take in to protect the most vulnerable group, but who should it take in if it wants to make the admission as effective as possible. Effectiveness is above all an instrumental value that should be realized in order to achieve other values or goals in the best possible way. I will discuss four of these values: low economic costs, cultural peace, better long-term outcomes, or maximizing the number of people that can be admitted. The extent to which these goals are morally justified or should take a back seat to other moral considerations (e.g. is it a moral duty to receive all refugees even if it breaks down the national welfare system?) is controversial and I am agnostic about this. What is important is that these goals can claim some normative power and that they are used in this way in philosophical and political debate.

I want to distinguish two separate meanings of efficiency here. On the one hand, it means that granting refuge to children is more efficient for the admitting state from an internal viewpoint, for example because it supports its economic development. On the other hand, it means that it is more efficient for other goals, apart from internal affairs, that the admitting state wants to achieve. Such other goals are that the admitting state wants to help as many people as possible overall (counting both those admitted and those not granted refuge), to avoid future costs of development aid, to combat world poverty, or to achieve peace if war is one of the main drivers of refugees. I am not going to examine all the possibilities of goals which a state wants to achieve internally or externally but stick to a few stylized options.

Option one is when the state has an interest in its economic welfare and, knowing that admitting refugees is costly, aims to keep costs as low as possible. To keep costs low is also believed to be a worthwhile goal because it allows the state to bring on board the majority of its current population, who would otherwise not be convinced of the need to support granting refuge (to such a large number of people) on moral grounds alone. Now, the state can look at short-term or long-term cost efficiency, and I suppose that, political short-sightedness apart, the state has an interest in prioritizing the latter in most cases. Thus the state will prioritize those refugees who have the best overall balance of costs and expenditures over the whole period of their stay. The latter condition makes the calculation especially difficult. If refugees stay for a short time it seems as though the cheapest are those with high skills, who are easy to integrate into the labour market. These are most likely healthy adults, preferably males with no care obligations. If refugees stay for a longer period of time, say 40+ years and are finally to become full members of the admitting society, it seems as if children have some advantages because they can be socialized and educated in the admitting society, which reduces language barriers and other issues such as the lack of appropriate skills and qualifications. There appears to be some consensus in the economic literature that overall migration is beneficial, although the benefits are small, and that age is one of the decisive features in that younger migrants are more likely to benefit the receiving state (Kerr and Kerr 2011). The age of arrival seems to play an important role in integration success and later economic welfare, and this effect is particularly present in younger children (Hermansen 2017). Another piece of evidence that points in the direction of

children is that language proficiency has clear positive effects on wages and socio-economic status as well as other relevant outcomes such as health. One recent study suggests that for this reason families with younger children should be favoured in migration schemes because that would significantly improve the welfare of potential first- and second-generation immigrants (Güven and Islam 2015). Given that most refugees who currently come to Europe and other highly developed countries are lacking the required skills and knowledge, and the training of them is costly, time consuming and often does not show promising results (Newman et al. 2018; Lundborg 2013), this seems to speak for a prioritization of children.

Option two is where the state has an interest in cultural integration and wants to make integration go as smoothly as possible. It wants to avoid so-called 'parallel societies' and friction between the 'old' population and the 'new' members of its society as well as friction between subgroups within the refugee population (Lentin and Titley 2012). That such friction can evolve is not news, although it has been questioned to what extent it really exists and how it comes about. Furthermore the value of such social and cultural 'peace' can be questioned – what is its value in a liberal and pluralistic society – and what is the means to achieve it (Holtug 2010)? I believe that such social and cultural integration can take many forms and that a thin version of it – integration that focuses on a small set of core values – is acceptable in most theories of justice (Mackenzie 2010). Belief in the equal moral status of all human beings regardless of their age, gender, sex, race or sexual orientation, or the vaguer understanding of the socially equal standing of all members of a society would be an example of this. As is the case in regard to economic efficiency, such cultural efficiency can only be calculated based on knowledge about the refugee population that seeks refuge. Is it a population from a similar cultural (or legal) background or not? How likely are tensions to arise because of cultural differences? What influence does the trauma of poverty, war, violence and flight play? I cannot dig deep here and the evidence, as far as I know, is also not very strong on this, but given the developmental potential of children it seems that it would be easier for them to adapt to a new culture and learn how to integrate more easily and quickly than it would be for adults (Fokkema and de Haas. 2015).

Option three is for the state to look at the long-term effects for both those granted refuge and those denied refuge. The issues involved in all such calculations are complex and highly contested, in philosophy and elsewhere, but some research suggests that it would be more efficient to prioritize children in order to avoid greater future harm, which is both more severe and more costly to compensate for (Doyle et al. 2009; Heckman 2006). One example is health where there are certain preventive measures which are quite inexpensive during childhood, such as vaccinations. Proponents of the efficiency argument will point to this and argue that it is more efficient to vaccinate many more children than to use these funds to treat far fewer adults. Likewise it can be argued it is more efficient to help more minor refugees instead of investing these funds to support adult refugees. I will come back to similar arguments in the next section.

The fourth option is where the state is interested in admitting as many people as possible. This, again, is linked to the two points discussed above, because if costs are low (both money and social costs) it is likely that more refugees can be taken in. If the state needs to spend €100 on each child refugee and €1000 on each adult refugee, it can support ten times as many children as adults with the same amount of money. Such calculations always come with some risks and are based on previous experiences and

some debatable assumptions about future developments but they are still necessary to guide long-term policy decisions. Furthermore, if an investment of €1,000 saves 10 children from severe suffering, while the same investment only saves 1 adult from mild suffering, it looks to be more efficient to spend the money on the children. This has its analogy in health care priority setting.

### Age and child refugees

A third possible argument to support the prioritization of child refugees can be borrowed from bioethics where the allocation of scarce resources (such as organs or medical aid) is discussed. It appears to me that in bioethics there is a more or less robust consensus that age is a relevant criterion and that thus children should be prioritized in such cases. This argument therefore does not claim that children are more vulnerable or that it is (economically or culturally) more efficient to admit children, but that minor refugees should be admitted because they are younger than adult refugees and the years they have lived and are expected to live justify moral claims to be treated with priority. One explanation for this is the fair innings argument (Nord 2005) which states that children's health needs should be prioritized because they have not had their fair innings, while older people have had theirs. The fair innings argument can take two forms: either it defines a threshold, say 70 years, and discriminates against everyone above that threshold because they have had their fair innings, or it can be used to discriminate in cases where the age difference is substantial, say a ten-year-old and a forty-year-old. Proponents of the fair innings argument would not imply that the forty-year-old has already had her fair innings, but they would claim that she had enjoyed her life for a longer period of time than the ten-year-old meaning that the ten-year-old should be prioritized to give her the chance to also live for another thirty years. Others have advocated for a life-cycle argument, which claims that each person should have an opportunity to live through all the stages of life, because each life stage is valuable and each person should have the opportunity to experience it (Emanuel and Wertheimer 2006). Whilst the fair innings argument looks only at the length of life, it has been argued that this is not a good measure and that we should look instead at quality adjusted life years (Ottersen 2013). If it is established that the forty-year-old can be expected to live a reasonable quality of life for another ten years, while the ten-year-old will live a reasonable quality of life for only three years, we should prioritize the forty-year-old. If one also looks at the population level, however, this favours children because in general children have a greater expectancy of good quality of life years remaining compared to adults. As my argument covers the population of children, I suppose that both the fair innings and also the quality of life years arguments support my claims.

An application of these arguments to the question of this paper seems pretty straightforward. Child refugees are younger than adult refugees and they will profit from getting refuge. In some circumstances refugees face life threatening situations (comparable to the situation in vital organ transplants) but frequently in many more situations granting or denying refuge will severely impact their welfare, in different dimensions and using many different measures (e.g. capabilities, subjective well-being or basic needs). So, if the situation of all refugees is fairly similar but they differ in age, the state should conclude that it has a moral obligation to prioritize children because both the fair innings argument and the argument to maximize quality adjusted life years point into this direction.



## The fuzziness of the real world

So far I have discussed three arguments to prioritize child refugees. I assume for reasons of simplicity, that all three arguments have more or less the same normative force and that all of them are more or less robust although their robustness is dependent on certain theoretical and empirical claims, which I cannot explore in greater depth. Furthermore in the case of child refugees they all seem to lead to the same conclusion so there appears to be no need to order them and to decide which trumps which. That said, for the rest of this paper I am interested in looking behind the *prima facie* and I will discuss arguments against prioritizing children on the grounds of vulnerability, efficiency, and age alone. I will begin by exploring the vulnerability argument and then move on to the efficiency and the age argument.

The main counterargument against the conclusion that child refugees should be prioritized on the basis of their vulnerability is based on two observations. Firstly, a group of children encompasses human beings with vast differences in characteristics and abilities. The vulnerability of a baby is not the same as that of an eight-year-old and the vulnerability of the latter is different in many aspects from that of a teenager (Schweiger and Graf 2017; Graf and Schweiger 2017). But children also differ within age-groups, individually and between the sexes. Some children, teenagers, show more or less the same characteristics and abilities – and thus vulnerability – as adults. Secondly, some adults are not only just as vulnerable as older children, some are as vulnerable as very young children as well (Dixon and Nussbaum 2012). Very old people, sick and injured adults, adults with severe disabilities and so forth also need to be considered. Furthermore the distinction between inherent and situational vulnerability gives insight into the social framing of vulnerability, and from that perspective groups of adults can be considered to be equally or even more vulnerable than children. In a patriarchal society which does not condemn violence against women, but invests in safeguarding males from the time they are born, women become more vulnerable than male children. Likewise children who belong to the ruling ethnicity would be better protected than adults from the subjugated ethnicity in a racist society. While it would be true that some children are more vulnerable than adults, not all are. This complicates things, probably up to the point where the assumption that children, and hence child refugees, are more vulnerable is no longer valid and does not allow us to justify the prioritization of children. Rather, a state that wants to protect the most vulnerable needs to look deeper into the issue.

In part the problems mentioned so far can be dealt with if the group of children is confined to younger ones. If one includes older teenagers in the group of children the differences from adults become less and less clear, and more children who show similar traits and abilities to adults can be found. Still this does not solve all the problems. Some adults are at the same cognitive level as very young children. Referring to the developmental potential of children can solve some issues here but probably not all. It is true that children are distinct from adults with disabilities and from the elderly in that they will become adults and that the limits to their abilities are not permanent but part of the (natural and social) process of growing-up (Schweiger and Graf 2017). But, unfortunately, this is not true for all children and some impairments of adults are also only temporarily, and they need protection and care in this particular phase of vulnerability. Furthermore, the lowering of the age limit comes with certain (moral) costs.

This disadvantages many children just because some other children are more mature and show faster development or certain traits and abilities, which they do not possess. Even if one does not restrict prioritization to very young children, there are still questions about where to draw the line between those worthy of preferential treatment and those who are not young enough. There is also the matter of biological differences between boys and girls, since girls mature more quickly than boys, at least in some areas of development.

The above observations on vulnerability, which serve to weaken the force of children's vulnerability to justify their prioritization also apply to the arguments about the efficiency of prioritizing children and, partly, to the age argument. Even if the evidence shows that the admission of children, overall, is more efficient than that of adults, this is not true for any child compared to any adult. A disabled child will be costly (in economic terms) for her whole life time, while a healthy adult has a greater chance of labour market integration and of generating welfare for herself and others. I also already mentioned that efficiency concerns are highly time sensitive. To admit young children will only be efficient (economically and culturally), if they stay for a substantial time, and their refugee status is open to integration. If the goal is to send refugees back as soon as possible and this is (possible and) done after a few months, then the economic and cultural perspective changes. In most cases though such a short-term perspective is not realistic since – just to mention two legitimate flight causes – most violent conflicts are ongoing for years and severe poverty also persists (leaving aside here other considerations of the admitting state to encourage refugees to stay and become citizens, for example if the state needs people for the labour force).

Also the argument to prioritize children because early interventions are more efficient becomes fuzzy under scrutiny. Three points are particularly relevant here: firstly, as has already been said, children – especially younger children – are dependent on care that must be provided by adults (Mullin 2012). There are (economic and social) costs for the adults and the institutions that provide these care services. In most cases these are the parents, but also a system with foster or adoptive parents or institutionalisation is cost-intensive and the negative consequences of such placements are well documented in other areas (Braitstein 2015). In view of this, the economic efficiency argument comes under strong pressure. At the very least, however, it can be assumed that it will almost always be more efficient to accommodate at least one parent. Irrespective of a child's right to their family, it is therefore better for the state not to separate children from their parents, even for reasons of efficiency, if the care costs for parental care are lower, the development chances of these children are better and cultural integration is more successful.

Secondly, the example of health usefully demonstrates that efficiency considerations are confusing and complex. On the one hand, early intervention shows better outcomes and saves costs later on. So, a child, who suffers from malnutrition and lacks access to clean water benefits significantly if it is provided with these basic needs. The long term effects of such deprivation have been shown to be severe and often irreversible (Haas 2007). But, on the other hand, not all refugees are equally deprived and within the population of refugees it is the case that many children only need intervention to treat milder cases of deprivation, while a large group of adults is severely endangered in their well-being. Then it would seem plausible to prioritize those who are in greater danger

of suffering. Furthermore it is plausible to assume that an adult who not only suffers from malnutrition now and has no access to clean water but grew up under such harsh conditions, deserves compensation (and recognition of the wrongdoing) (Walker 2006). It is not clear how we should compare past, current and future harms and if forward-looking efficiency should be prioritized in all cases.

Thirdly, the efficiency argument is partly based on the type of children admitted or the type of adults they are compared with. The case here is analogous to the arguments against the argument of vulnerability and that of life years. It is certainly economically and culturally most efficient to admit a group of well-trained adult refugees who come from a similar cultural background with the same language as that in the host country. The efficiency argument is therefore based on the supposition that the group of refugees to be admitted would consist mainly of people whose integration is associated with high costs and a high risk of failure. In the real refugee situation in this world this will be true to varying degrees – however it can be assumed that a large part of the refugee migration from the global South to the global North (e.g. to the EU) is by people who cannot easily be integrated into the labour market and society (Newman et al. 2018), although this does not speak against their legitimate claims for refuge.

Lastly, the case to prioritize those who are younger depends on several assumptions. On the one hand, as I mentioned already, it depends on being able to calculate and foresee the effects for individuals (and groups). In the case of an organ transplant that is more likely to be possible because the outcome is often binary, life or death, and because much information (current health condition, likely progression of the disease, the effects of other treatments etc.) about those individuals can be made available to those who make the decision. In the case of refugees things are much more complex and complicated for principle and epistemic reasons, which I will discuss below in more detail. On the other hand, the age argument is, similar to the efficiency argument, only forward-looking. It does not take into account the suffering an adult (or child) faced before this decision was made. Having only lived for a longer period of time will not satisfy any reasonable understanding of having had one's fair innings or experienced quality-adjusted life years. Such considerations should be given some moral weight.

### Limitations in knowledge

What conclusions can be drawn from this? If the arguments from vulnerability, efficiency, and age have some merit, but in one case speak for the prioritization of a child and in another case for that of an adult, the most convincing conclusion to me is that states have an obligation to go beyond the *prima facie* and try to figure out who should be granted refuge, completely independent of age. However, I am not here to discuss the reasons why people have a right to refuge, but, as was stated at the beginning, to clarify whether anyone, and if so, which people within the group of those who have a legitimate moral right to refuge, should be prioritised.

This conclusion seems at first sight reasonable but its execution comes with several problems and limitations, among others, with respect to the information base needed to make such a fair selection including knowledge of the costs involved. These limitations, which I will now discuss, are of such a kind that in the end they provide sufficient arguments to fall back on the *prima facie* prioritization of children notwithstanding the above difficulties.

In the real world of people seeking refuge, and in non-ideal theory for that matter as it is discussed in this paper, the task to figure out who should be prioritized gets complicated for different reasons. On the one hand there are issues of differences between children and adults and within the respective groups. These are issues which can be sorted out if more knowledge were to be available. I suppose that some knowledge which helps to decide which refugees should be prioritized can be acquired if enough resources are invested. For example, it seems possible to find out how many of the adults are old and sick or disabled, how many of the children are terminally ill, what kind of skills and knowledge the adults possess and are these the skills that would make integration into the labour market more likely? Furthermore, there are issues that are not specific to such inherent characteristics of the children and adults in question but that have something to do with what I called their situational vulnerability. What is the situation like in the country from which they are fleeing? What exactly will happen to them if they are denied refuge? So, some relevant characteristics about the refugees and other information about their situation, which shift the balance between (some) children and (some) adult refugees, can be acquired and taken into account. That is also what needs to happen (partially) to decide whether their claim to refuge is legitimate in the first place – a question, to which I have not given an answer in this paper.

On the other hand, though, I suppose that some relevant information should not or cannot be acquired or weighted properly. I will follow in the footsteps of Lisa Herzog (Herzog 2012) and her proposal to take the issue of knowledge seriously, when doing non-ideal theory. A first type of limitation stems from the nature of normative reasoning itself, which is highly contested to such a degree that it leaves one pessimistic about whether major conflicts can ever be solved. How can different types of suffering and harm be weighted? How can we weigh up the harm of war against the harm of severe poverty? Should we use one metric for injustices and how can they be clustered to identify the most disadvantaged (Wolff and de-Shalit 2007)? There are answers to all these questions available but there is also persistent and deep disagreement regarding all of them. Even if some crucial disputes (like that of consequentialism vs. utilitarianism) are set aside I assume that to some extent we will never find satisfying answers, nor will we find answers of the kind that are particularly helpful for decision-making (in policy making). One example is that of tragic conflicts or tragic choices (Nussbaum 2000), where all choices are equally wrong (or equally good) and although the choice made may not be wrong it leaves someone harmed and not getting the justice they deserved. Such tragic choices imply that they are not based on mere lack of knowledge but they are inherent to the situation faced.

A second type of limitation is imposed by ethical constraints, which limit how a state should gather information and what kind of information it should gather. In the case, discussed here, of refugees, some problems are well known: are states allowed to conduct medical tests, for example to determine the age of a person (Aynsley-Green et al. 2012)? Other information is of such a nature that the person should have the right to decide not to disclose that information and that should not be held against her.

And, finally, a third type of limitation is for practical reasons. Such reasons are that the acquisition of knowledge is not possible because the sources such as documentation, photos, texts etc. are lost or were never made. In other cases the person remembers incorrectly, for example because of trauma. Refugees leave basically everything they have behind and it maybe that the countries which they

are leaving fail to, or are not willing to, provide information or have a vested interest in providing false information to hurt the case of the refugee (for example if she flees for political reasons). All this limits the possibilities of the state to get the information needed to make good judgements about the strength of competing moral claims for refuge made by children and adults. Furthermore, the provision of information is costly and demands the use of many resources which may not be available.

### Children: alone or with their families

My position here is that there are good moral reasons for states to give priority to admitting minor refugees. But what does this mean for the families and parents of these children? This text is being written at a time when states, in particular the USA, increasingly separate migrant and refugee children from their parents, inflicting serious harm on both, and putting children in detention under harsh conditions (Lustig et al. 2004; Linton, Griffin, and Shapiro 2017). In addition, there are many good arguments in the existing literature about why children have a right to a family in principle and in the context of migration and refuge, and why separation from their family is almost always associated with great pain, grief and anger. These normative and empirically well supported arguments are very serious. I suppose that the prioritization of a child is clearly compatible with a strong moral claim that they should not be separated from their parents (and minor siblings). This favours a prioritization of families as a whole, although argued from a child-centred perspective, which puts children's moral claims first with parental claims being based on them and not the other way around.

Nevertheless, it seems important to me to note first of all that these are two different moral rights of children (a right to prioritisation and a right to family), which also have weight and validity separately. It is difficult to weigh these two moral rights against each other – not only in the case of migration, but in all cases where the separation of a child from its parents or other family members has to be debated.

A legitimate case would be one where other family members pose a threat to the children – since in some cases the family has been shown to be a place of abuse, violence and neglect. Children then have a right to be protected from an abusive family, even if removing them from their families involves pain and trauma (Berger and Slack 2014). This must also be taken into account in the context of migration and refugees. Another case would be that of a sinking ship. If the lifeboat does not have room for everyone, it would then be morally correct to leave parents and other family members behind if this is the only way to save all the children. This scenario is extreme and there are good reasons to doubt whether it corresponds to the real refugee situation as we find it in the world today or whether it leads to too much injustice. I assume that states will almost always have the capacity to accept at least one parent without having to reject the children. However, should this happen, the separation of some or all children from their parents is less of a moral evil than non-admission, so long as adequate support is can be provided in the host country. But again I admit that this depends on certain assumptions including those about the harm inflicted by separation compared to the harm inflicted by not getting refuge. The details of this dilemma go well beyond the scope of this paper.

A third case is that of unaccompanied minor refugees, where the interpretation of the right to family becomes crucial. Firstly, it is necessary to distinguish here whether these children have a right to have their families join them or whether states have a duty to bring in their families, i.e. to help them flee. According to arguments relating to the best interests of the child and the rights of children to their family, which are also widely shared in the literature, it would be the case that independent family reunification with at least one parent should be accepted, provided that this does not jeopardise the ability of all children to be admitted. Active family reunification, however, is more difficult to assess. In cases in which the family is not able to meet its own needs, the *de facto* separation of children from their families is legitimate, as it would overburden the states to engage with all families. A second, not insignificant point should be noted here, namely that what is understood here as a family is not clear cut. Is it sufficient if one parent is present or are both important? Do minor refugees have a moral right not to be separated from their (perhaps already adult) siblings and other close relatives? I cannot give a satisfactory answer to this question here, as the normative status of close relationships deserves more attention in principle (Lister 2010; Ferracioli 2016) and there is a need to weigh up this value against other normative principles in a precarious emergency such as seeking refuge. While being accompanied by one parent does not have a significant influence on the argumentation structure presented here, it is the case that representatives of the position that children have a moral right to be re-united with large families and distant relatives would have to accept that some children will then be refused admission if the resources are insufficient.

### Concluding remarks: prioritizing children for practical reasons

I believe there is a *prima facie* argument to prioritize child refugees, which rests on certain generalizations about children, their characteristics and abilities, and their social and moral status. In general, if we do not know more about the case, children are more vulnerable than adults, it is more effective to care for their needs, and they have a strong claim to live their fair innings. But, as I have pointed out in previous sections, in real world cases, such as migration, injustices occur if (some) children are prioritized over (some) adults.

The limitations of knowledge discussed above give rise to two considerations. Firstly, the demand to find out who should be granted refuge based on vulnerability, efficiency and age leads to challenges, some of which are not resolvable. This weakens this demand significantly although the force of these limitations is equally debateable and can only be decided upon from case to case. Secondly, some limitations can be overcome if the state is able and willing to invest significant resources which otherwise should be used to admit more refugees or to provide better assistance both for those admitted and those declined refuge.

This leaves me convinced of the conclusion that the state has sufficient reasons to prioritize child refugees under two conditions. The first condition is external as it concerns things that lie outside of the state. If the situation is confusing and it is unlikely that the state can successfully determine who should be prioritized because of limitations in the knowledge required and it cannot alter these limitations, then it can assume that children should be prioritized. I have acknowledged that such a decision – who to prioritize – will be fuzzy and that it is debatable which dangers

or harms should count towards such a calculation. Possible solutions can be procedural (for example a public debate about them) or substantial, based on (scientific) evidence and moral reasoning. I do not believe that a large subgroup of adults with disabilities or dementia would swing it in the direction not to prioritize children, but if the probing shows that in the group there is a subgroup of women facing certain assault, rape and death if they were to be denied refuge, that would be sufficient to prioritize them over (older male) children based on the greater vulnerability of the former. The second condition is internal and brings us back to both the efficiency argument and the use of resources. If the state can reasonably expect that the resources it would need to invest in screening all those refugees are so high that this severely limits its capacities to admit refugees, it should refrain from investing those resources. In practice I assume that this demands from the state an investment of some resources and to probe a sample of the group of refugees in order to determine on this basis what to do. If there are no unusual results that indicate that a particular group of adults within this group of refugees faces certain severe dangers that clearly outweigh the dangers faced by the children, then it is justified to prioritize children over adults for this group of refugees, although this will lead to some injustices.

Such a prioritization of child refugees also implies that the state has sufficient grounds to deny refuge to adults if it can foresee that child refugees will seek refuge in the near future. In addition, although I did assume in the scenarios discussed in this paper that children and adults are at the borders of the state, I believe that this further substantiates claims of humanitarian interventions to particularly protect children (Schweiger 2016).

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