Whose Responsibility is the Syrian Refugee Crisis? From Justice between States, to Justice for Refugees.

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The recent Syrian refugee crisis opened a debate on the under-theorized issue of migration law regarding the status and the rights of refugees and asylum seekers. According to UNHCR estimates, Turkey accommodated within its jurisdictional boundaries, since the conflict in Syria begun, the most conspicuous number of refugees (around two million), but none of them recognized legally as a refugee. Turkey, one of the signatory states of the 1951 Geneva Convention, still applies "geographical limitations", namely does not grant refugee status to non-European to be-refugees, but extends to the latter a status of 'temporary protection'. The paradox is that Turkey grants a legal refugee status to European applicants (consider the very trivial number of applicants in need of refuge from Europe after 1951), whereas millions of non-European 'proper' refugees, including those currently in the country won't be granted refugee status. What can we learn philosophically from this law and practice?

Most philosophers concur with granting refugees a fundamental human right, in line with the Kantian hospitality principle, to sojourn in other territories *temporarily* and also more *permanently*, including a lifetime. It is incorporated in Geneva Convention on the Status of Refugees, as the principle of "non-refoulment" (United Nations, 1951), obliging signatory states not to forcibly return refugees and asylum seekers to their countries of origin, if doing so would endanger their life. Furthermore, asylum seekers and refugees' claims to admission and more broadly to human rights protection are legally incorporated in the international human rights regime, and subsequently accepted by states (Benhabib, 2004).

The fundamental human right to admission regards the admission of the asylee and refugee and not that of immigrants whose admission remains "a privilege", in the sense that it is up to the sovereign to grant such "contract of beneficence" (Benhabib 2004). David Miller argues that when it comes to protecting human rights, states' action, should reflect primarily the 'terms' of states, as they see fit: "your human right to food could at most impose on me an obligation to provide adequate food in the form that is most convenient to me (i.e. it costs me the least labor to produce), not an obligation to provide food in the form that you happen to prefer"; furthermore, states do not have a duty to *automatically* admit refugees, if for example, other similarly well off states can admit them, and the principle of non-refoulment is fulfilled (Miller, 2013). Miller rules out the theoretical possibility of human rights violations, in claiming that a state can deny entry to refugees, only if they are not returned to the country of origin and third countries, where their human rights will be violated, and provided that some other state would take charge of them. Miller's state-centrist view assuming the point of view of states primarily, and second, wrongly assuming that the only theoretically salient feature is when refugees *do not* receive admission, and as a result, their human rights are violated, has pernicious implications. Alternatively, I argue that human rights are possible primarily when we view their defense as *a primary moral concern*, rather than *instrumental* and *contingent* upon what states see fit. I propose instead a philosophical view that *genuinely* assumes and act upon the need of refugees primarily, in both being admitted and rejected to sojourn in new territories.