

Virtue after Foucault: On refuge and integration in Western Europe

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journals.sagepub.com/home/ept**Muhammad Ali Nasir** 

Marmara University, Turkey

Abstract

I suggest that virtue ethics can learn from Foucault's critical observations on biopolitics and governmentality, which identify how a good cannot be disassociated from power and freedom. I chart a way through which virtue ethics internalizes this critical point. I argue that this helps address concerns that both virtue ethics and the critical scholarship inspired by Foucault otherwise ignore. I apply virtue ethics to the contexts of refugee arrival, asylum procedure, and immigrant integration in Western Europe; I then see how Foucault's critical thought provides a counterpoint to virtue ethics; I finally analyze how incorporating that critique allows virtue ethics to make sense of both the context and the stakes involved.

Keywords

Asylum, biopolitics, Foucault, integration, MacIntyre, refugee, virtue, virtue ethics

In *Three Rival Versions of Moral Inquiry*, Alasdair MacIntyre (1990) notes that Foucault, as 'Nietzsche's intellectual heir' (MacIntyre, 1990: 47), follows a 'genealogical' method of moral inquiry. Genealogy aims to unmask a self's 'disguises, concealments, and negotiations' (MacIntyre, 1990: 54). Viewing Foucault's genealogical method as a 'rejection of any table of virtues' (MacIntyre, 1990: 209),

Corresponding author:

Muhammad Ali Nasir, Department of Political Science and International Relations, Marmara University, Beykoz, Istanbul, Turkey.

Email: Muhammad.alinasir@hotmail.com

MacIntyre considers Foucault a rival to the method of moral inquiry presupposed by virtue ethics, which MacIntyre himself subscribes to. Unlike genealogical method's sole focus on 'unmasking', MacIntyre argues that virtues provide us with resources with which 'to rationally justify ... types of judgment and activity' (MacIntyre, 1990: 64). My aim is to challenge this assertion of rivalry. I suggest that, despite an initial difference in perspectives, the lines pursued by both can overlap. I do this by presenting an account that outlines such a compatibility.

Interestingly, Michel Foucault's ethical observations pursue this line. In the 1983–1984 Collège de France lecture course *The Courage of the Truth*, Foucault sees how truth-telling (*parrhēsia*) is a virtue based on courage and conviction. The truth-teller takes 'some kind of risk [in speaking] this truth which he signs as his opinion, his thought, his belief' (Foucault, 2011: 11). Moreover, the truth-teller anticipates 'the interlocutor's courage in agreeing to accept the hurtful truth that he hears' (Foucault, 2011: 13). Similarly, in *The Care of the Self*, published in 1984, the year of his death, Foucault focuses on the 1st and 2nd century moral philosophers to comment on 'the ethical work of the self on the self' (Foucault, 1986: 91). Yet, the extent to which this line of inquiry pursued by Foucault interacts with both virtue ethics and his earlier work on biopower and governmentality remains underdeveloped. This has led some commentators to differentiate early Foucault from later Foucault. They argue that later Foucault 'contradicts his ... theory of sexuality offered in *The History of Sexuality: Vol. I*, and charge that he later 'romanticizes' what he had earlier critiqued (Butler, 2006: 127-128). My aim is to dispel this interpretation of Foucault's thought to see how his ethical explorations can be interpreted as a continuation of his critical concerns.

I address both of the aforementioned points by providing a virtue ethics narrative that internalizes Foucault's critical observations about it. I find resources in Foucault's ethical explorations for such a reading. Such a narrative tells us that a good cannot be disassociated from power and freedom. This sheds light on social regulation from a virtue ethics position. That is, how standards of evaluation governing what appears to the agent as morally salient are shaped through institutional knowledge and dynamics. This is a topic which virtue ethics otherwise ignores. Such a narrative tells us how virtues relate to a community's self-understanding, as it regulates social affairs. This sheds light on institutional design and rational evaluation, a topic which Foucault's emphasis on self-cultivation and 'technologies of self' otherwise leaves out. Thus, my account provides an institutional corrective to virtue ethics and lends rational coherence to the ethical and social thought of Foucault. By implication, my interpretation shows that the two lines of thought are neither rivals (against MacIntyre) nor incommensurable (against some of Foucault's interpreters). The narrative that I offer makes its point with an empirical focus on refugees and immigrants in Western Europe.

My argument proceeds in four steps. The first section lays out a virtue ethics narrative of refuge and integration. I explain the importance of goods in contextualizing social behavior, the role of practical wisdom in guiding the ethical

behavior of agents, and the importance of virtuous agency in ethically transforming the context. The second section shows how Foucault's concepts of biopolitics and governmentality view things differently. I analyze how these concepts deny that one can explain goods without looking at the history of knowledge, that the talk of practical wisdom is sufficient to make sense of social regulation, and that agency can itself explain how practical contexts are constructed. The third section then lays out my narrative that reads both together. I provide a narrative that aims to dispel the impression that virtue ethics and critical scholarship inspired by Foucault's observations only talk past each other. I suggest that a good cannot be disassociated from the questions of power and freedom, that social regulation both gives form to the good and can be critically analyzed in its name, and that the relationship between agency and contexts is two-way. The fourth section shows how an account that reads both together addresses concerns that both lines of thought otherwise ignore.

My empirical focus is on refugees and immigrants in Western Europe. Much of what I discuss is in the context of the post-2015 situation. Though I use states' engagement with refugees and immigrants as an illustration, and do not seek to address post-2015 EU refugee policy; my focus on refugee arrival, asylum procedure, and immigrant integration is useful as regards making the broader theoretical points with the aforementioned aim for three reasons. First, the post-2015 West European refugee context has generated a rich literature, both from critical scholars influenced by Foucault and from policymakers aiming to outline the contours of a sound institutional response. The first one is a critical scrutiny of the formulation of 2015 as a refugee 'crisis'; the second is an effort to practically respond to the 'crisis'. Second, a focus on the refugee and immigrant situation using insights from virtue ethics is helpful, as one 'is often unable to find a virtue ethics article addressing a particular issue' (Hursthouse, 2017: 466). Recent work in the field of environmental ethics (e.g. Jamieson, 2014; Sandler, 2007) has aimed to steer away virtue ethics from its limited focus on family, sports and crafts, and local communities. My focus on refugees and immigrants aims therefore to enrich this literature empirically. Third, at least the refugee scene in post-2015 Western Europe exhibits tendencies that virtue ethics and the critical scholarship explore. On the one hand, West European states generally give asylum based on 'individualized selection' (Fassin, 2013: 42, 44). It takes a procedure to identify 'refugees'; without passing which, they remain 'asylum seekers' in Western Europe. I show the importance that we should accord to the experiences of refugees (and immigrants) in theorizing virtue and good (Fine, 2019). On the other hand, volunteers have been conducting rescue missions in the Mediterranean to save refugees who want to enter EU territory from the North African and Turkish coasts using makeshift dinghies. For example, the resilient German-flagged rescue ship *Alan Kurdi* actively serves in the Mediterranean as of September 2020, the time of this article's composition. Yet, emotions run high at both ends. It would help if we could provide a narrative that makes sense of the roles of both asylum officials and rescue volunteers.

On the centrality of good

Virtue ethics can be ‘initially identified as the one that emphasizes the virtues, or moral character, in contrast to the approach that emphasizes duties or rules (deontology) or that emphasizes the consequences of actions (consequentialism)’ (Hursthouse and Pettigrove, 2016: 1). Looking at the post-2015 European context, the importance of virtues becomes clear in a crucial sense. The post-2015 asylum and refugee context in Western Europe showed us that we cannot speak of the rights of refugees in abstraction from the duties of states. Everyone has a right to seek asylum and states, collectively, have a duty to grant asylum to persons with valid asylum claims. This has made common ‘burden-sharing’ of asylum seekers among EU member states theoretically possible (Bauböck, 2018; Thielemann, 2018). Yet, the approach is often challenged for failing to encompass fair division of responsibility so that the right to seek asylum is fully and effectively realized. For example, in mid-2015, both the British response to put a cap on the number of asylum seekers and the German response to keep borders relatively open remained compatible with the current institutionalized form of such a duty-based refugee regime (Caporaso, 2018; Schimmelfennig, 2018). A virtue ethics perspective is useful here because it clarifies duties and rights, i.e. it helps us evaluate the official response and identify the limits of the current institutionalized approach.

The idea of duties, shared collectively, has limits in specifying particular duties to those who believe that they have discharged them or who think that they would discharge them as they see fit. For example, by mid-2015, the Polish, Czech, Slovak, and Hungarian governments publicly said that they preferred active churchgoing, or at least Christian, refugees (*Financial Times*, 2015; Reuters, 2015); by late 2015, Norway had introduced an ‘assisted return’ policy, whereby asylum seekers were offered 10,000 Norwegian Kroner as an incentive to leave Norway, and an additional 5000 Kroner if they ‘declared’ valid travel documents that they previously had denied possessing or had hidden from the authorities (*Telegraph*, 2016); Germany, while welcoming the highest number of refugees in absolute terms, was scrambling to ‘secure’ EU borders (*Guardian*, 2015; *Tagesspiegel*, 2015). On the other hand, the language of rights itself does not explain why those rights exist in that specific form now or why a particular institutional interpretation of rights is incorrect. This entails that we need to make sense of the law with recourse to its merits, i.e. the kind of goods that law serves or is expected to serve and the obligations that the nature of the good imposes on the community. I apply the findings of virtue ethics to this context. This is helpful, as it sheds light on the refugee regime and allows us to know the points that virtue ethics establishes. I identify three points to lay out a virtue ethics position: the importance of a good; the role of practical wisdom; and the relation of virtuous agency to the context.

First is the importance of a good. From a virtue ethics perspective, the importance of a good encompasses the right and defines a duty, but a good is more than both. The rights that refugees possess, and the duties that states collectively have,

exist in the light of refuge as a good. The legal regime aims to institutionalize such a good. Critique of institutional contexts that inhibit the good but guarantee the right only in name can be made by invoking that good. This also challenges the consequent institutionalization of duties and rights at any given moment in the name of the good. This means that there is a moral prism available to agents through which they can gauge institutions, and that in a number of contexts saying ‘Well, this is what the law is!’ should not be considered as a morally acceptable excuse. Such a status of good has benefits. It tells us that the lines of legal/illegal do not always overlap with ethical/unethical and just/unjust. On the other hand, it identifies the social side to the good. Whereas the political elite and the public authorities could limit the right to refuge at a given time, ‘the communities whose central bond is a shared vision of and understanding of goods’ (MacIntyre, 2007: 258) cannot be expected to limit any good. Unlike the right, the distribution of goods is continuous, if the community is to maintain its self-understanding in line with that good.

Alternatively, such a virtue ethics narrative shows us that refuge is not simply a legal matter. It is up to the community that hosts a refugee to let that refugee know that they belong to that community and are not unwanted. In cases where a refugee remains a permanent stranger to their host society, it is the host society which, by default, fails the refugee. The same dynamic applies to the case of immigrant integration. Public institutions can provide support to enable A’s integration into the community; but it falls on the community itself to distribute goods like belonging and solidarity to A via A’s integration into that community. If A is whistled at by strangers at night, is given condescending or angry looks on public transport, or is avoided at a fast-food restaurant by members of the community, integration law itself would be of little help in rectifying these issues, and a collective soul-searching would be needed.

Yet, this should not be taken to mean that, at the collective level, the idea of refuge as a good is a monolith. Or, that having names yelled at you as an immigrant from the windows of speeding cars driven by drunk teenagers provides you with reason enough with which to judge a society. This brings us to the second point that virtue ethics emphasizes: the role of practical wisdom in spelling out goods. Practical wisdom requires that people possess a capacity to recognize ‘in any particular situation, those features of it that are morally salient’ (Hursthouse and Pettigrove, 2016; McDowell, 1979: 332–333). In any group, such a capacity is seldom equally divided, let alone possessed by everyone at an optimum level. On the other hand, those volunteers who help ‘irregular migrants’ clarify the place of good, as they ‘transform and enrich its interpretation through such an extension of human powers’ (MacIntyre, 2007: 193). They tell the community – which is a community in virtue of the respect of this good – the extent to which its members uphold a good, despite incurring personal costs and facing institutional constraints. For example, the French farmer Cédric Herrou who sheltered ‘illegal migrants’ and was tried before a court of law (*Monde*, 2020; *Parisien*, 2020) held a mirror up to those who might readily want to believe that such heroic actions are

criminal because they are illegal. Similarly, practical wisdom requires cultivation through proper social and familial contexts. The circulation of relevant material enables individuals to appreciate such actions and develop a capacity on their own to exercise practical wisdom. Stories of perilous sea-crossings by refugees, photos of refugees standing behind barbed wire, documentaries on their lives and journeys, academic seminars and invited speaker series are not only there to raise awareness or translate refugee stories, i.e. to show that they are “‘victims” of political oppression as well as of common misfortune’ (Fassin, 2005: 373). They also shape the moral character of the audience, to whom they pose the question of what kind of a community theirs would be, if it is to be one at all, if it launched ‘push-back operations and fails to respond to irregular migrants’ distress calls’ (Vaughan-Williams, 2015: 12; see also Andersson, 2014; Brewer, 2009: 13). Sadly, vigilantism, non-responsiveness, and pushbacks are not rare occurrences at Maltese, Italian, or Greek coasts (*New York Times*, 2020). One only needs to ask those vigilantes how they would feel if their own children or parents were in a similar situation to realize how they would be quite unwilling to withhold the good from the subjects then – or, in other words, how they would be insistent on nevertheless remaining a part of the community that respects this good.

The third point emphasized by virtue ethics is the relation of virtuous agency to the context. The case of Mr Herrou tells us that virtuous agency ethically transforms the contexts, as practical wisdom, or virtue in general, affects contexts and allows other individuals within the context to exercise virtue more easily. Preventing asylum seekers from entering one’s country is an act that a virtuous agent, even if its role is that of a corporal in border security, would not do and should feel self-annihilating if required to do. Within such contexts, a decision by an officer to lay down their baton or not to fire teargas onto the incoming crowd allows their colleagues to feel the ethical worth of such a stance. Even if virtue does not produce ripple effects, i.e. does not cause the colleagues to act in the same manner, it has a tendency to reveal the nature of good because we grasp ‘a conception of right conduct . . . via the notion of a virtuous person’ (McDowell, 1979: 331). Virtue ethics suggests that this is a fact which often gets hidden in specific institutional contexts. Virtue ethics levels its critique of institutional contexts, and of the insufficiency of justice viewed in legal terms alone, from such a perspective. Institutional contexts often make it difficult for the officials and managers to exercise practical wisdom, when and if they require them to serve rules without being concerned about the way those rules attach strings to the goods. MacIntyre in fact believes that modern bureaucracies would not even function without such a ‘cold’ outlook. ‘The manager treats ends as given, as outside his scope; his concern is with technique, with effectiveness in transforming raw materials into final products, unskilled labor into skilled labor, investment into profits’ (MacIntyre, 2007: 30). The fact that virtues are not something with which one solves problems but with which one shapes one’s own character tells why they cannot be completely institutionalized – and virtue ethics believes that that is a fortunate thing. Unlike laws, it is ‘quite implausible that any reasonably adult moral outlook admits of a

codification of virtues' (McDowell, 1979: 336). This fact allows virtues to also critique ethical indifference in modern public institutions that emphasizes objectivity and detachment, as virtue ethics specifies 'ideals of character that [one should] aim to reach' (Annas, 2015: 1).

In sum, this brief overview has shed some light on refuge, and clarified what a virtue ethics perspective says in such a context. It has identified three points: goods as providing a background to and informing rights and duties; the centrality of practical wisdom in discerning a good and expanding its shape; and the place of virtuous agency both within and without institutional contexts as regards agents' ethical transformation.

On the non-rosiness of good

Though they share the critical attitude of virtue ethics as regards law and legal regimes, Foucault's concepts of biopolitics and governmentality offer a critique along different lines. Foucault used biopolitics to trace how from the 18th century onwards European societies saw biological life as something politics could do something about, 'as the highest function of politics was perhaps no longer to kill, but to invest life through and through' (Foucault, 1978: 139). Foucault used governmentality to trace how all social aspects could be understood in terms of regulation, the result of which has been that 'the state of justice of the Middle Ages became the administrative state in the 15th and 16th centuries and was gradually "governmentalized"' (Foucault, 2007: 144). The scholarship exploring these concepts has seen how the problem for modern law is 'not to govern *less* but to govern *better*' (Sokhi-Bulley, 2011: 255). This is most notably felt by those asylum seekers who stand at the other side of EU borders. Their right to seek asylum already contains limitations that the EU states they may want to enter into have a wide margin to interpret (Article 31(2) of the 1951 Refugee Convention states for example that 'The Contracting States shall not apply to the movements of such refugees restrictions *other than those which are necessary*' (emphasis added)). Administratively, those rights are often construed in such a manner that a right to seek asylum might clash with the rights of the state that would host asylees, i.e. economic progress, security, 'intake capacity', control of movement, securing entry and exit. These have been frequently used to justify 'draconian measures ... at the expense of obligations towards refugees' (Zolberg, 2001: 1). What this perspective then explores stands in contrast to the virtue ethics position, as it focuses on the question of social regulation. I lay it out along three dimensions, corresponding with the ones offered in the case of virtue ethics, to see what its points are, and I illustrate them with reference to refuge and integration.

First is what is to pass as good, i.e. what should be its specific shape at any given moment. In modern societies, there is some controversy over any understanding of good. This becomes visible from the perspective of those asylum seekers who realize that what their cultures considered as refuge is not exactly what West European states consider as refuge, and who accordingly need to prepare

documents in such a way that their asylum claims could successfully navigate the complex West European asylum procedure (Fassin, 2013; Fassin and d'Halluin, 2005). The same dynamic repeats itself in the case of integration of those who are formally given refugee status. Getting asylum in the West European context is not reason enough for them to reenact the lifeworld that they have lost. On the other hand, there exists some disagreement as to what signifies a proper attitude to refuge. In the post-2015 context, West European states, while using remote control measures designed to prevent asylum seekers from even reaching the territory of the state or of the EU, have broadened refugee resettlement schemes that would bring only 'genuine' refugees 'from the field'. For example, the UK has introduced Syrian Vulnerable Persons Relocation (since 2014) and Vulnerable Children's Resettlement Scheme (since 2016). Germany resettled 300 refugees in 2012 – a number which increased to 5600 in 2019. Moreover, the West European states have rolled out more aid to the states in the global South hosting refugees, as costs of 'maintaining' a refugee increase more than tenfold as refugees move to the global North (*Independent*, 2016). Yet, despite disagreement, institutions provide interpretations of those goods, once those who deserve it become objects of institutionalized power, in line with the historical evolution of knowledge. Given this, there is no vacuum of regulation, despite controversy and disagreement. Thus, from this critical perspective, we should better begin with those processes that mediate our understanding of those goods.

So, what we understand as a good stands for a number of processes and practices. For example, the idea of refuge as a good is one that comprises different procedures and practices 'employing a variety of techniques and forms of knowledge' (Dean, 2010: 18). Asylum seekers are recognized as asylees in the West European context, as they undergo interviews and interrogations, show bodily marks, present medical and travel history, undergo accent identification software, and consent to authorities possibly accessing their internet and cellphone data in pursuit of verification of their claims (BAMF, 2017b: 4; BAMF, 2017c: 42; European Migration Network, 2015: 19). So, the point is that the kind of focus that virtue ethics has on goods does not acknowledge that institutions classify people as asylum seekers, asylum shoppers, economic migrants, illegal immigrants, the undocumented – and that refuge is specified as a good worth distributing to only one category (i.e. asylum seekers). The distribution is a function of 'the boundary between the genuine and the bogus, between the legitimate and the illegitimate' (Ajana, 2013: 584). Alternatively, the talk of practical wisdom is insufficient to make sense of social regulation. It does not look at the function of the good, which is 'a mode of governing migration in the EU' (Kmak, 2015: 396). A volunteer can help asylum seekers cross a border into a specific country; yet the way that specific country is to judge an asylum seeker's case is a procedural matter. An asylum seeker can protest in favor of being granted access to proper procedure; yet, it would be quite odd if the protest were to happen demanding the resolution of the case in their favor after the highest appellate court has already turned it down. As what is taken as morally salient for an agent is an effect of institutional

dynamics, asylum seekers in Western Europe are seen as having a right to protest but not a right to inclusion as refugees. Those whose claims do not pass through the asylum procedure successfully are not excluded, as a matter of policy, from becoming a part of a pressure group advocating on behalf of the disadvantaged. Instead, the policy response generally aims to ensure their physical removal, though with uneven ‘success’ (e.g. European Migration Network, 2018: 6–7). Limitation, selection, detention, illegalization, and deportation are measures that are therefore implicated ‘in the international management of population’ (Walters, 2002: 267; see also Hindess, 2000: 1495).

This takes us to the second point that this scholarship emphasizes. Concepts of governmentality and biopolitics require us to see the room that is given to practical wisdom in an institutionally relevant sense. For example, the way through which a good is understood is seldom a matter of individual perspective. It is not that there is no room for practical wisdom; rather, the standards that a society holds to evaluate its exercise are reflected in the knowledge that guides those institutions. Hence the importance of doctors, linguists, lawyers, regional experts, forensic investigators, IT experts, and social scientists in asylum courts (Good, 2006). So, despite a policy divergence concerning border security among West European states in the 2015 context (the UK went for stricter border control; Norway limited border crossings; Germany relaxed border checks), there has been a policy convergence as far as these states have streamlined their asylum procedures. They converge because ‘sophisticated instruments to scrutinize the “truth” of the asylum applications’ overlap (Fassin, 2011: 221). So, it is the presence of this policy context that makes the consequent state, or even the whole EU, the relevant community.

The final point touches on, what some commentators have termed as, ‘the egoist focus of virtue ethics’ (Toner 2010). For critical scholarship inspired by biopolitics and governmentality, an egoist narrative informing virtue ethics is not handy enough to make sense of the way contexts are constructed in one form rather than in another. The focus of virtue ethics on specific goods relegates the entire problematic of social regulation to the margins. Refuge is now nested with welfare concerns in West European contexts – what one political theorist terms as states’ ‘integrative capabilities’ (Gibney, 2015: 458–459). It also leads to permanent residence and naturalization. Similarly, integration is nested with language acquisition, employment, education, and so on. No immigrant has a right not to be integrated (*Bundesgesetzblatt*, 2015: 1728). As integration translates one concern into other concerns, i.e. it sees the impact of a significant number of ‘new arrivals’ on the housing or job market, the extent of one’s good pursuit is seen to pressurize the extent of another. The fact that immigrants cannot be left to their own devices, but need to be integrated as a matter of policy, shows the pervasiveness of ‘relations of calculation, regulation and discipline through which the lives of [refugees and immigrants] are conditioned’ (Darling, 2011: 263). Similarly, virtue ethics does not look at the difference in meaning given to a good in virtue of the difference in discourses. The discourse that ‘Black and Brown refugees sexually assault White

European women' is different from the one that says that 'Muslim refugees are COVID-19 carriers', even if both come from the same far-right sources, e.g. NPD and AfD in Germany, Golden Dawn in Greece. In the latter case, these far-right actors have an idea that the 'prestige' of medical science in modern societies (Foucault, 1972: 51–59) can make their xenophobic public pronouncements less scandalous.

The perspective of biopolitics and governmentality gives us three takeaway messages: a good can stand for a number of processes and practices, and understanding which one entails uncovering the knowledge underlying them; social regulation is crucial in understanding the room given to practical wisdom; the whole egoist focus of virtue ethics on virtuous agency is misplaced as it cannot explain how specific contexts are constructed in this way rather than in another way.

Between power and freedom

It might initially appear that both lines of thought talk past each other, generating incompatible insights at best or reflecting deep disagreement at worst. From the perspective of perspective of virtue ethics, it might appear that the critical scholarship inspired by Foucault lacks precise standards that would rationally evaluate a legal regime, that it cannot elaborate the place of good or the role of practical wisdom, and that it cannot tell us how virtuous agency transforms contexts. From the perspective of biopolitics and governmentality, it might appear that virtue ethics cannot focus on social regulation, the discipline imposed by institutions, or the role of knowledge in spelling out any standard of evaluation.

MacIntyre himself argues along these lines. He faults Foucault in *Three Rival Versions of Moral Inquiry* for either not spelling out his normative stance or for being parasitic on one (MacIntyre, 1990: 50–55, 208–209). Yet, Foucault's ethical explorations tell us that his thought gestured towards the way 'moral rules can be adopted and problematized by the subjects themselves' (Oksala, 2018). From this viewpoint, we can note that Foucault's overall scholarly observation that the discourse on freedom led to an increase in social regulation presumes – to have its performative effects – a certain kind of society that considers that freedom and regulation should preferably not go together hand in hand. Moreover, it is by presuming such a society that we can understand the kind of scandal that occurs, when that society is shown that both freedom and regulation might in fact have gone together in the way it created its institutions. Foucault is thus careful to note that the practice of critique could make sense in a philosophical tradition which is 'constituted as a form of practice of true discourse' (Foucault, 2011: 33). The pervasiveness of social regulation does not rule out the possibility that a specific form of regulation is better than another, even when that too might end up being equally pervasive.

I now suggest that virtue ethics can internalize the critical findings of scholarship on biopolitics and governmentality. I provide an interpretation that reads both perspectives together. Alternatively, I suggest that the utility of biopolitics

and governmentality as concepts remains even within an overall virtue ethics narrative. I do this by largely drawing on Foucault's ethical explorations, which are quite clear in their emphasis that 'our freedom forces us to take ourselves as the object of all our diligence' (Foucault, 1986: 47).¹ Thus, my narrative addresses concerns that both perspectives might individually leave out. It enables virtue ethics to see how goods can make regulatory demands; it enables critical scholarship to see how it is possible to justify types of judgments and activity on rational rather than aesthetic grounds. To read both together, my narrative draws on both perspectives, while making amends to each. I suggest that a good involves considerations of both power and freedom, that social regulation both limits practical wisdom to certain institutional sites and can be critically analyzed in the name of those goods, and that the relationship between agency and contexts is two-way.

Virtue ethics scholarship considers goods to be central in defining virtues and community, whereas critical scholarship identifies power dynamics that a 'good's talk' conceals. I suggest that a good involves considerations of both power and freedom. To illustrate this point, we can look at the post-2015 asylum context. The need to refine asylum procedures so that asylum is given only to 'genuine' refugees has only become stronger (Bolt, 2017: 27; LovData, 2019; UK Home Office, 2015: 4; UK Home Office, 2018: 7). To be sure, the process has already been underway in Western Europe at least since 1989 (Little and Vaughan-Williams, 2017: 538–539), in the upheavals of which 'the socialist Prime Minister Michel Rocard made his famous statement, "France cannot welcome all the misery of the world"' (Fassin, 2005: 375). Again, the effects of this refinement of asylum procedures and the policy convergence on it do seem to lead to different recognition rates even in the case of statistically similar populations of asylum seekers across EU states (European Asylum Support Office, 2020). The point to note is that it is in the light of a good (such as refuge) that asylum seekers are subjected to a form of regulation signified by asylum procedure. Given this, limitations are also imposed on those who seek asylum, as the good is only distributed if they are seen to 'genuinely' partake in it (HM Government, 2018; Norwegian Directorate of Immigration, 2019). Consequently, the critical evaluation of the contexts works with reference to the argument that such a procedure might end up excluding genuine refugees, not that whoever comes forth to seek asylum should be accepted by the host West European state as a refugee. The initial skepticism which requires asylum seekers to speak presupposes that it is they who need to establish that they should be given refuge. This also entails that the distribution of a good should fall in line with the nature of the good being distributed.

Thus, asylum procedure means that asylum seekers do not have a right to remain silent but rather have an obligation to speak. Their speech allows the officials to see if all parts of their stories hang together and whether their storyline sufficiently establishes a 'well-founded fear of persecution' (as per the definition of refugee given by the 1951 Refugee Convention; in the European context, asylum procedures draw on this definition to justify the way EU states award 'refugee status' to asylum seekers; see also Article 18 of the EU Charter of Fundamental

Rights). The story of asylum seekers includes what their documents and photographs say, what their bodily scars show, and what their diseases and trauma express. So, Germany now punishes those who intentionally destroy their passports, provide false details, or hide crucial information, and allows the city authorities to cancel the residence permits of those who have been granted refugee status if it is later revealed that their asylum claims were fraudulent (BMAS, 2016a, 2016b). Similarly, the British Immigration Rules on asylum (Part 11: published 2016; updated 2019) deny refugees further stay if they had previously misrepresented or omitted important information (para 339AB) or if they later endanger the UK by engaging in extremist behavior at home or abroad (para 339AC). Now, one may want to help the migrants without conditions and question whether an 'ethos dominated by suspicion' (Fassin and d'Halluin, 2005: 606) provides the right prism with which to distribute any good. But then one would need to spell out an alternative institutionalization that realizes the good differently or to refer to goods other than refuge, such as national pride, liberality, camaraderie. In both cases, it is clear that we cannot disassociate goods from power.

Asylum procedures that focus only on the condition of 'fear of persecution' are inclusive with respect to this definition as they rule out excluding others based on any other criterion (e.g. ethnicity, race, religion), and are exclusive with respect to this definition as they include only those who fulfill this criterion. 'Wanting to live the European life' (akin to 'living the American dream') is an example to such an effect that might extend the understanding of the good being distributed, though it currently does not form a part of either asylum law or asylum procedure. Similarly, as both *The Care of the Self* and *After Virtue* identify, an extension of a definition of a good does not mean that the good would be distributed in the same way as it was before. In other words, a good requires certain disposition from the one to whom it is given, and excludes those who are seen not to deserve it. Familial love is not for strangers; literary awards not for the unskilled; refuge not for non-refugees. A good cannot work without power that sorts out family members and strangers, artists and the unskilled, refugees and non-refugees. A good cannot work without freedom that gives love to families, literary awards to artists, and refuge to refugees. In the backdrop of a good, power and freedom go together. In other words, we cannot talk about freedom without specifying the good that gives it its direction and the kind of power that it engages with; we cannot talk about power without critically scrutinizing the good to which it refers and the role it accords to freedom; and we cannot talk about a good without seeing the role of freedom in it and the kind of power it requires to realize itself.

The second point touches on goods and institutional evolution. West European states justify the way they now rely on biometrics, health histories, and language analysis software as that which helps them separate genuine asylum claims from fraudulent ones. It is possible to critique the evolution of the asylum procedure by saying that it violates the distribution of refuge as a good or dispossesses asylum seekers from other goods such as honor or self-worth in the process. Yet, the terms through which a community evaluates this dynamic often depends on the extent to

which it believes that existing institutions are thereby able to distribute the good in question ably. Even historically, what lent continuity to the evolution of institutions such as schools or hospitals is the way they were viewed as an attempt to deliver education or health as goods, though the understanding peculiar to both and the kind of institutions education or health generated have seen major historical shifts (Foucault, 1979, 1994). This gives practical wisdom an important if limited role, as the very shape through which a good is delivered, and the consequent virtue interpreted in that light, is a matter of social regulation. Heroic volunteers can bring stranded migrants safely to EU shores, but it is for the public authorities to grant asylum to persons with valid asylum claims. In other words, social regulation pins specific goods to institutional sites, and puts individuals seeking access to them under its discipline; yet, it remains possible to critique those institutions or the way they operate with respect to those goods.

This shows the ethics of social regulation, as ethics ‘comes to constitute a social practice, giving rise to relationship between individuals, to exchange and communications, and at times even to institutions ... and to certain mode of knowledge and to elaboration of a science’ (Foucault, 1986: 45). Immigrant integration is a case in point. The 2016 Norwegian White Paper (Regjeringen, 2016) on integration recommends policies that guarantee more on-the-job training schemes (Regjeringen, 2016: 9–10), counter passivity (Regjeringen, 2016: 10), involve voluntary organizations (Regjeringen, 2016: 10–11), expedite connection to the labor market (Regjeringen, 2016: 5), start education without delay (Regjeringen, 2016: 5), and ‘produce’ taxpayers (Regjeringen, 2016: 11) – all this, alternatively, requires ‘a considerable effort’ from the integrating subjects (Regjeringen, 2016: 6). A 2018 British Green Paper (HM Government, 2018) suggests a broadening of language programs, orientation courses, health-related interventions, local support, and the overcoming of employment barriers (HM Government, 2018: 21–25) – all this makes subjects ‘self-sufficient ... and benefits the whole community’ (HM Government, 2018: 23). So, those asylum seekers who have had their claims rejected and their appeals refused cannot ask to be integrated as of a right (for a European Court of Human Rights case law to such an effect, see *Hunde v. the Netherlands*, decision date: 5 July 2016). Alternatively, those who are recognized as refugees find themselves an object of institutional concern that seeks to integrate immigrants, and that develops appropriate social interventions in the light of their linguistic, social, and behavioral capacities. The policy aim is to prevent ghettoization, residential segregation, rough sleeping, a parallel society, recourse to criminality, unhygienic lifestyles, unsanitary living conditions, and welfare dependency (European Commission, 2016: 5). It is assumed that without such a policy context, things might get worse, wherein a number of immigrants may not understand the national language, may have irregular jobs, remain unskilled and uneducated, live in shabby parts of cities, be cut off from society, and hit their wives and children (BAMF, 2017a: 2; HM Government, 2018: 21–25; Regjeringen, 2016: 5, 6, 9–11).

Again, it is certainly possible to critique integration policy on its own terms, i.e. whether it delivers or inhibits integration as a good. Yet, it is also clear that the aim

of social regulation is to deliver integration in its economic, social, and normative dimensions (European Commission, 2016: 5). The ethical concern to integrate immigrants is not disassociated from the regulatory concerns to tailor education, market, housing, health services (BAMF, 2011, 2017a; Regjeringen, 2016: 15; UK Home Office, 2005: 5). In other words, institutions like public hospitals justify public health regulation to the community in the light of the way they deliver a good like public health. When we look at the informal institutions relying on alternative medicine as compared to hospitals, or the behavior of mercenaries in an armed conflict as compared to that of professional armies, it often becomes apparent that there is something preferable to the institutional site which has evolved in a way that signifies a community's dialogue with its goods and that it is possible for us to discriminate between rationally acceptable forms of each. This point is crucial for conceptualizing community. Virtue ethics argues that a shared affirmation of goods defines a moral community. Critical scholarship instead focuses on policy contexts to see how social regulation makes a state or states the relevant community. Yet, if an idea of a good informs social regulation and if social regulation can be critically analyzed in the name of a good, then it is possible to read both together to make three points: a shared affirmation of a good manifests itself in policy contexts; social regulation affects how a community defines itself, and vice versa; and being an object of social regulation entails partaking in that idea of community.

The third point suggests that the relationship between agency and contexts is two-way. Constructing institutions in one form or the other affects those who serve in them. Public officials seldom see themselves as 'Managers ... who represent in their *characters* the obliteration of the distinction between manipulative and non-manipulative social relations' (MacIntyre, 2007: 30). Instead, their professional lives form a crucial resource for them in the narration of their own life stories, and their self-worth hinges on playing out that 'character' well. This makes their self-understanding 'at once personal and social' (Foucault, 1986: 58). Similarly, the soundness of institutions hinges on placing the right person in the appropriate position, and trying to make the best out of those individuals. For example, in the post-2015 context, the German Federal Office for Migration and Refugees (BAMF) developed coding and matching schemes, ran security checks, looked at asylum seekers' previous occupational history and involvement in the conflicts they had fled from to identify 'asylum-shoppers'. Yet, in interviews with *The Atlantic*, the BAMF officials justified their roles in line with what the institution guarantees, and institutional justice as a part of their own self-definition. One can still be skeptical of this, as *The Atlantic* article later went on to label them as 'refugee detectives' (Wood, 2018).

Moreover, in institutional contexts, it appears that values like objectivity, independence, impartiality, inquisitiveness, consistency, and verifiability are now viewed by the institutions as virtues that ensure that refuge as a good is not 'corrupted' as institutions distribute them. Indeed, 'when scientific discourse is deployed as criticism of prejudices, of existing forms of knowledge, of dominant

institutions, of current ways of doing things – and it cannot avoid doing this, in its very development – it plays a parrhesiastic role’ (Foucault, 2011: 30). Alternatively, virtues that institutions aim to impart, such as objectivity or verifiability, are not stand-alone values; they refer to goods like refuge or integration to make contextual sense. It would thus be hasty to go with the critical charge that a mechanical society produced institutions, which, like machines, have no traditions, and ‘which can appeal to no rational criteria to vindicate themselves except their own effectiveness’ (MacIntyre, 2007: 26). In other words, agency also affects contexts. Officials evaluating asylum claims do not simply apply rules and regulations technically; they also refine their own roles, the regulations they should follow, and the way they distribute that good. Slow changes already occur in an institutional setup, which, if seen from the outside, its apparently fixed structure and hierarchy might hide. Similarly, the calls to transparency generally aim to render an institution’s dynamics clear to the community at large, in order to determine whether its specific shape at the moment is one that tallies in the community’s self-understanding. No wonder that ‘modern torture linked to policing is typically secret’ (Asad, 2003: 104). In other words, the way those contexts deliver the goods is not set in stone, as ‘a relatively constant metaphysics can produce variable stylistics of existence’ (Foucault, 2011: 164). This explains to us how agency can ethically transform the context and be seen as one of its products.

In sum, it is possible to read both virtue ethics and the concepts of governmentality and biopolitics together. That is, such a narrative insists that ‘the relations between truth, power, and subject can be analyzed without reducing each of them to the others’ (Foucault, 2011: 9). A narrative along such lines combines the strengths of both perspectives, while speaking of that which each otherwise ignores.

On the phenomenology of goods

Virtue ethics focuses on goods to connect descriptive and normative aspects of a situation. This is how MacIntyre addresses David Hume’s complaint that ‘no conclusion with substantial evaluative and moral content – can be derived from factual premises’ (MacIntyre, 2007: 57). To say that ‘our country hosts refugees’ is at the same time an injunction on us to ensure that our country offers to refugees what they need. Yet, an egoist interpretation of this observation fails to make sense of social regulation in the name of goods. Foucault’s concepts of biopolitics and governmentality critically scrutinize practices and institutions regulating human conduct. To say that ‘our country integrates immigrants’ is at the same time an assertion that tells those immigrants that they are not welcome here as they are and that they do not have much choice to do or be otherwise. Yet, there are some crucial silences in such an account, if we are to pursue this line alone. One such silence concerns the consequent appropriate design of institutions. Critique is an important way to reform institutions and resistance to dysfunctional institutions is crucial, but unless we specify its ethical terms it is unclear to what extent we would

like to reform or redesign the institutions and how. Foucault's ethical explorations can be seen to pursue the same point, i.e. spelling out the role of an ethical behavior as 'a relation to self' (Foucault, 1986: 65) and analyzing its place within a specific society and politics. My interpretation has extended this point. This means that when we talk about virtues, we also need to focus on the regulatory aspects of goods and their consequent discipline and exclusions. Alternatively, our talk of social regulation would be partial if we were to equate politics and virtues with critique and resistance. 'Indeed, what is most common in the history of popular struggles is the demand not for deliverance but for performance' (Walzer, 1983: 74). A complete story needs to acknowledge both dimensions.

As I made my point primarily with reference to refugees, I conclude this article by briefly noting what this narrative means for refugees themselves and for the place that should be given to their experiences. The analytical utility of this narrative lies in the way it allows us to make sense of the dynamics related to refugee arrival, asylum procedure, and immigrant integration. Asylum seekers can access the asylum procedure, as they enter the territory of a specific West European state; yet, it is not for that state to defray asylum seekers' travel costs (resettlement schemes are an exception to this general dynamic, and the annual resettlement quotas vis-a-vis the number of asylum seekers who enter their territories to seek asylum is low; the 2018 ratio for the UK was 1:6, and for Germany 1:53, for example). Asylum procedures do not mute asylum seekers' stories; yet, they process them, as the aim of asylum procedures is to sort out claims that are either incoherent or incorrect. Integration regulates immigrants in view of economic, linguistic, and social concerns; yet, it is such regulation and its effectiveness which connects refuge as a good to other goods (e.g. naturalization, education, employment). The dynamic might appear paradoxical if we are to disconnect good from power and freedom here. Furthermore, if goods need to be spelled out by social regulation, then a cross-cultural affirmation of the importance of a good does not entail the presence of equivalent modes of social regulation. 'Indeed, since there are also a diversity of traditions of enquiry, with histories, there are, so it will turn out . . . justices rather than justice' (MacIntyre, 1988: 9). This is most importantly visible when we look at the 'mass treatment [of refugees] in the global South' (Fassin, 2013: 42). It is here that the limits of purely ethical and legal responses come to light. The experiences of refugees themselves in both contexts are an important resource with which to subject such schemes to rational scrutiny and to identify which method of social regulation delivers goods in a better form, i.e. in 'testing specific modes of life and defining what is there in them that may be ratified and recognized as good, and what on the other hand must be condemned and rejected' (Foucault, 2011: 149).

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ORCID iD

Muhammad Ali Nasir  <https://orcid.org/0000-0001-9878-9430>

Note

1. Foucault critically evaluates a one-sided repressive understanding of power in his 1976 work *The Will to Knowledge* (Foucault, 1998). In the 1983–1984 Collège de France lecture course *The Courage of the Truth*, he complains that to depict his thought as ‘as an attempt to reduce knowledge to power, where there is no place for a subject, is purely and simply a caricature’ (Foucault, 2011: 8–9). In his 1982 seminar at the University of Vermont, *Technologies of the Self*, he describes his project as an exploration of four main ‘technologies’: ‘(1) technologies of production, which permit us to produce, transform, or manipulate things; (2) technologies of sign systems, which permit us to use signs, meanings, symbols, or signification; (3) technologies of power, which determine the conduct of individuals and submit them to certain ends or domination, an objectivizing of the subject; (4) technologies of the self, which permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality’ (Foucault, 1988: 18). In sum, he sought to clarify that his idea is to understand how production, knowledge, power, and freedom, ‘each of a matrix of practical reason’ (Foucault, 1998: 18), interact in a society, and without overlooking any variable or emphasizing its importance at the cost of the others. In this article, I look at Foucault’s ethical explorations with the same perspective to see in what manner its reconstruction can be internalized by virtue ethics.

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