

## REFUGEES TODAY: Rescue or Containment?

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The British Broadcasting Corporation produced a television movie several years ago called *The March*. It tells a tale of starving Sudanese refugees who march across the Sahara to the Straits of Gibraltar. Joined by hundreds of thousands of other Africans they come ashore in Europe. The story ends before we learn the response of the Europeans to this suffering invasion.

In a melodramatic way, the BBC movie symbolizes one possible future, a strange new world of poverty and refugees and confrontation. Fearing such a future, the energies of the West are already being directed toward preventing the movement of people, especially poor people. In some ways the gateway to that future has been framed by the twin catastrophes of Bosnia and Rwanda. This paper will examine the global refugee crisis today and the response of the international community.

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I. The phenomenon of people who escape their home countries in order to seek safety is not new to the twentieth century. The concept of giving asylum is very ancient. In some ways it is a mark of a civilized society. Asylum generally refers to the protection given to someone who either arrives inside a country or is appealing for protection at its borders. Historically there was never any political or legal "right" to asylum. It was given at the discretion of the political authorities or the Church. The word "refugee" has a more recent coinage. It seems to have been first used to identify French Protestants, victims of Catholic persecution, who had to flee France after the revocation of the Edict of Nantes in 1695. It is only in the twentieth century that the term began to be applied more generally to a class of people forced to migrate across an international border. The twentieth century needed a word to describe this phenomenon because it was producing the largest numbers of forced migrants in history. It is no exaggeration to say that this is the "Century of the Refugee".

Who is a refugee? Something we did not have before the 1950s was a technical legal definition. Today we have not only a formal definition but also reasonably clear refugee laws that are laid out in binding international treaties and adopted into the domestic legal codes of more than a hundred countries. These laws spell out the obligation of governments toward people whose own government is unable or unwilling to protect them. A permanent intergovernmental bureaucracy has been created to care for and protect refugees: the U.N. High Commissioner for Refugees. The fundamental legal obligation of nations toward refugees is simply stated: not to send them back to a place where they will be persecuted. At the heart of the entire refugee legal system is the definition which is based on the 1951 Convention Relating to the Status of Refugees, and modified by the 1967 Protocol:

A refugee is any person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable-or owing to such fear, unwilling-to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

This Convention definition consists of four core elements: 1) The definition includes only persons who have left their country of nationality or former place of habitual residence; if they have not crossed an internationally recognized border, they are not considered Convention refugees- 2) the person must be objectively at risk; 3) fear of persecution must be the motivation for leaving. Fear is a subjective emotion; therefore built into the definition is a strong subjective element which is difficult to assess. 4) The harm faced by the person must be connected to his or her race, religion, nationality, membership in a social group, or political opinion. The formal definition speaks in terms of the individual but the Convention was designed to offer protection for groups of people who fall into a certain persecuted class.

The definition is deliberately both narrow and complex. It often does not correspond to the popular usage of the word "refugee" which is far less restrictive. There have been some efforts to liberalize and expand the legal definition. In 1969 a regional instrument-the Convention on Refugee Problems in Africa-was adopted by the Organization of African Unity This Convention, applicable only for African signatory countries, includes as refugees people fleeing "external aggression, internal civil strife, or events disturbing public order." The OAU approach avoids stressing the need for proving any determinate specific causes for fear. It is enough to point to general political chaos, violence, and insecurity as a reason for flight and refugee status. In 1984 a less daring but still expanded definition was adopted in the Cartagena Declaration to cover Central American refugees.' Despite these regional legal norms, most industrialized Western nations refuse to alter the basic 1951 definition of a refugee. This original Convention is still the basis for judging resettlement or asylum cases.

The formal definition reflects all the standard historical presumptions of international law which regarded the sovereign states as the main subjects of the law and the individuals as mere objects of state policy. Under international law, rights belonged to states not to individuals. The right of diplomatic protection, for example, was completely state-centric. The state could protect its citizens abroad. The citizens had no right to demand protection. Similarly if a person manages to fit the official definition of a refugee, then he or she might gain access to the protection system set up through international law. As is often noted in debates about asylum seekers, under international law a person has a right to make an asylum claim; he or she does not have a right to receive asylum. The most basic document in human rights law, the 1948 Universal Declaration of Human Rights, affirms that everyone has the right "to seek and enjoy asylum." The Declaration, however, unlike the Refugee Convention, is not legally binding.

It is illegal for a nation to send a Convention refugee back to the country of persecution, but this principle of "non-refoulement" is the only obligation that a nation has to a refugee. Everything else can be interpreted by the governments as discretionary. Although states are not by nature generous or even moral, they have tended to honor their treaty legal obligations, which is why the definition of a refugee under law takes on such importance. Maintaining the existing legal system of protection for refugees becomes a key humanitarian priority.

Over the years a sharp distinction has arisen between social and economic migrants - those fleeing poverty - and political refugees - those fleeing persecution. Psychologists and spiritual directors have consistently told us that human motivation cannot be so easily unraveled. To say that someone is a refugee is to speak in legal abstractions. It is a way of classifying people. It may or it may not accurately reflect the actual human experience. A more dangerous aspect of status determination is the fact that most refugees of the world are poor. They often look like they are escaping poverty,- they do not always look like they are escaping persecution.

Even for economic ends, it takes a huge effort to leave one's homeland. Of all the needs of the human spirit, the need for roots is perhaps the most basic. Without permanent roots it becomes difficult for culture, land, language, family life, even food to flourish. That is why the uprooting of someone is never a casual experience. It is always a major never-forgotten event in a person's life. It is a form of suffering that has almost an ontological quality to it because once one starts to run away, everything in life seems to change.

Because it takes enormous pressure to uproot people - to make them move-refugees become strong social indicators.' They are symptoms of social disorder. If you find a refugee floating downstream, you can be certain that upstream, where he or she came from, is a society under great stress. If refugees are warning signs, what can it mean that the number of refugees since the mid 1970s has been climbing dramatically?

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II. No one knows how many refugees there are today. It is almost impossible to find a humane and accurate way to count the heads. In 1951 when the U.N. High Commissioner for Refugees was established, there were an estimated 1.5 million Convention refugees. In 1980 there were 8.2 million. Today the UNHCR speaks of at least 20 million refugees in the world. Sometimes it is stated in popular literature that "most refugees are women and children." In fact we are unable to describe with certainty the global composition of the refugee population; although it does appear that a high proportion of refugee women are heads of households.

Even harder to count are the people who are forcibly displaced but stay within their own countries. They have most of the characteristics of a refugee but we cannot officially call them refugees because they have not crossed an international border. The number of internally displaced exceeds the number of global Convention refugees but, unlike official refugees, they have no formal international legal protection or structures, except on a very ad hoc basis. If the refugee and internally displaced numbers are combined, we are probably talking about more than 50 million people who have been forcibly uprooted today because of violence, persecution, civil disorder, and natural disasters. This figure exceeds the total displacement of people from World War II.

The causes of refugee flows are varied. The legal definition does not take into account that people flee from environmental degradation, severe poverty, famine, or are forcibly driven from their land by large social development projects such as the construction of large dams. The primary reason for refugees, however, is the same today as it was in the 1940s: armed conflict. Hundreds of low- and high-level conflicts are raging across the globe. The greatest number of refugees live in Africa and the Middle East but it is important to note that the war in former Yugoslavia has produced the largest refugee movement in Europe since World War II.

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III. Since 1945 there have been roughly four major refugee cycles. The first cycle began during the last years of World War II and extended into the mid-1950s. These refugees were all in some way a result of the war and the postwar geopolitical realignments. The great Palestinian refugee issue emerged in the Middle East. Responsibility for assisting the Palestinians was given to a newly created special U.N. organization (UNRWA). In Europe it took more than ten years to find homes for the thousands of Europeans displaced by the War. During this cycle the forcing of communism on Eastern Europe generated a new flow of refugees into the West.

In the second cycle, extending from the last half of the 1950s until the 1970s—the refugee flows that had arisen during the first cycle began to decline. The War refugees had finally been resettled. The Soviet hold on Eastern Europe tightened enough to prevent any

major emigration. The first of several large refugee movements from Cuba began after the Castro revolution; these movements were handled, even encouraged, by the United States. Although decolonialization conflicts created large numbers of refugees, most of these refugees voluntarily returned home after independence.

The third cycle ran from the mid-1970s until the late 1980s. During this time there was a dramatic increase in refugees-especially from the Third World. The political competition between communism and the West was played out in such regional conflicts as Central America, Southeast Asia, and Southern Africa. The fall of Saigon to communists in 1975 generated a massive refugee flow of Vietnamese. Large, often well-organized refugee camps sprang up all over Asia and Africa. The primary way these refugee flows were handled in Asia was through resettlement in the developed countries of North America and Australia. More localized solutions were attempted in Africa. An unusual development was the creation of complicated in-country refugee processing posts in Vietnam and eventually inside the Soviet Union to facilitate direct legal departure of refugees. Other characteristics of this cycle were rapid advances in communications and transportation. People became more interconnected. Social and political distances began to shrink. It became increasingly possible for both refugees and general migrants to reach Europe, the United States, Canada, and Australia from the Third World.

After 1989 a new cycle in global refugee movement began to emerge. The collapse of communism in the Soviet Union and Eastern Europe should not only have ended the need for refugee flows from the East but also allowed the West to concentrate on clearing up some of the outstanding residual refugee problems of the Cold War. Whatever initial optimism there may have been in 1989, it was soon swamped by new realities that not only prevented an easy finish to the old refugee problems but added a vast new source of refugee flows. What are these new realities?

The post-1989 cycle seems to be characterized by three salient and interconnected features: localization, globalization, and the weakening of the nation-state.

*Localization:* With the unscrewing of the communist cap, hundreds of local ethnic identities have been free to surface-including some ugly strains of ethnic nationalism. The fall of the USSR, however, is only part of the picture. Throughout the world there is a growing awareness of local community-based interests, often expressed through ethnicity and "grass roots" political action groups. These local communal interests can often run counter to policies of the central government. This is true even in most developed countries. Ethnicity is only one facet of this pull toward local interests, but, in terms of refugees, it is the most dangerous. Refugees used to be the by-products of war and political conflicts; today, creating refugees has become one of the primary objectives of going to war. The deliberate refugee-generating aggressions of Serbs and the Rwandan Hutus are prototypes for this new refugee era.

*Globalization:* A strong countervailing force to localization has been pulling countries

more and more into a global network. This force goes directly against the traditional way of treating societies as if they were bounded, self-contained units on a **map**. The clearest example is the globalization of the economy which is grounded in the communication-information networks. Begun in the sixteenth century, economic globalization has only recently been completed. Capital now can move freely across national borders-even Chinese communist borders. Governments have a great deal of difficulty trying to contain these capital movements. Although labor is not nearly as free as capital, the traditional central governments have less control over their economic borders. We can expect in the future that more and more people will begin to migrate in search of work. While the global marketplace becomes larger and more dominant, if people cannot find ways to work and participate in that economy, they will become de facto marginalized. They have no role to play in the global market. Consequently, we witness an even starker division between the world's rich and the world's poor. Given this reality, the number of people migrating for economic reasons of survival is bound to increase. The classic refugee-as defined in international law-could easily become lost in a much greater wave of general migration. Already in the popular mind the distinction between general migrant and a refugee needing protection has been eroded. So a tightening of immigration controls seems inevitably linked to fewer refugee admissions.

*Weakening of the Nation-State:* The rise of the global economy has not been matched by a rise in global political authority. As many commentators have pointed out, the central reality of our time is the disintegration or disorganization of the nation-state system. The two previously mentioned trends-globalization and localization-have both undermined the central state authority. When one considers that the entire international system of law and organization is based on the sovereign state, its blurring and weakness mean that our traditional ways for handling refugee issues become less effective. Refugees who flee their home countries can no longer always look to other governments or intergovernmental bodies for protection. In fact, as states disintegrate, the problems of "stateless" people will become more commonplace; the ability of states to protect their own citizens will decline, but the international mechanisms for coping with this phenomenon will become weaker because even the most developed state systems are slowly being undermined. As governments become circumscribed, new centers of power will begin to emerge. A good illustration is the growing importance of nongovernmental organizations in dealing with refugee crises. In many local refugee situations these NGOs are far more powerful and competent than the host governments. NGOs can at times undermine the authority of the central government by controlling major social institutions such as health care and schooling.

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IV. There has been no shortage of theorists and commentators who look at these trends and try to develop some new conceptual paradigms for analyzing the world today. What follows

is a small sampling of their ideas:

Journalist Robert Kaplan has been criticized for painting a crude and racially charged view of the new world. But his deeply disturbing article has been taken very seriously by many military and political leaders in America. He depicts a globe beset by lawless, criminal anarchy. He sees a "run down planet of skinhead cossacks and juju warriors influenced by the worst refuse of Western popular culture and ancient tribal hatreds battling over scraps of unused earth in guerrilla conflicts that will ripple across the continents." Kaplan says that the future map of the world, citing the work of University College of Dublin Professor Anne Buttimer, will be an ever-mutating representation of chaos. He sees the general breakdown of Africa as a harbinger of a worldwide disintegration of civil order. "Borders will mean increasingly little and sedimentary layers of tribalistic identity and control will mean more."

Kaplan mentions the provocative article by Samuel P Huntington at Harvard's Olin Institute for Strategic Studies which argues that the world has been moving rapidly from nation-state conflict to ideological conflict and now to cultural conflict." The importance of national borders will decline and the next great war could be between civilizations, for example, Christianity and Islam rather than between countries. History, language, religions will be the defining features of the conflict.

Hans Magnus Enzensberger studying the violence in German and American cities, sees the rise of a purposeless, pre-ideological, random violence which escapes the civic controls of governments. There are frightening zones of brute force within the advanced industrial societies which mirror what is going on in many poor countries in Africa. Enzensberger expects these civil wars to break out everywhere; this violence goes beyond even "ethnic cleansing" to a kind of self-destructive attempt at depopulation.

Max Singer and Aaron Wildavsky argue that the essential feature of the new order is the fact that the world is deeply bifocated. One part they call a zone of peace and democracy; the other part is the zone of turmoil and development. Western Europe, Japan, Australia, New Zealand, Canada, and the United States all fall into the zone of peace. The rest of the world-which includes all the refugee generating situations-finds themselves in a zone of turmoil. Singer and Wildavsky are less pessimistic than the other writers but even their optimism seems based on a world where we are faced with a violent Hobbesian "state of nature" situation in one zone and a much more pacific "Lockean social contract" in the other zone.

What so many of these thinkers have in common is an analytic framework based on the decreasing significance and control of the classic nation-state system. In the absence of that system what they see is chaos. The "chaos theory" seems to unite many of the most interesting new geopolitical thinkers in the post-Cold War era. While none of these writers spends much time dealing with the problem of refugees, they all seem to point to potentially large refugee flows on the horizon. Faced with a Hobbesian environment people would naturally try to escape into the calmer protection of the advanced industrial world. Chaos

generates refugees-especially violent chaos.

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V. With these kinds of conceptual scenarios in front of them, decision makers in the West are asking themselves how they should respond to large disorganized migrations and refugee flows in the future. An inchoate strategy may already be emerging. Using the Singer--Wildavsky framework, one could argue that the two zones should be kept as isolated from each other as possible. The guiding thought is that the "chaos" needs to be "contained." One key element of that strategy is to view refugees not primarily as people in need of rescue, but as potential threats to national peace and security. Humanitarian concern for the refugees has not disappeared, but it is being carefully subsumed under security goals of the sovereign states. In some ways this is nothing new. Humanitarian concern for refugees has often been determined by foreign policy considerations. What is new is to see the question of refugees on the national security agendas where refugees are viewed as part of a general migration threat. What constitutes national security in the post-Cold War era? The perception of a threat is usually grounded in economic, political, and cultural considerations. Refugees, for example, are seen to compete with citizens for jobs or become dependent on the social welfare payments. Because many refugees carry with them unfamiliar religions and languages, they are seen to pose a danger of undermining the common cultural integrity of the receiving country. Refugees might represent a threat to the political order of the host country. If combatants or persons linked to terrorism are found in a refugee population, the insecurity of the receiving nation can be heightened."

The logic of containment dictates that as few refugees as possible be allowed to enter the developed zone of peace. Already the U.S. Congress is preparing a bill that would dramatically cut the number of refugees admitted for resettlement. In the UNHCR, resettlement of refugees from poor countries to rich countries is considered politically unpopular and statistically insignificant. The United States has fewer and fewer overseas posts which can actually process refugees for resettlement.

Stress is put on encouraging repatriation. The voluntary nature of that repatriation is sometimes questionable but repatriation is politically the most popular recommendation. Both voluntary and involuntary repatriation reinforces the containment reflexes of Western governments: keep refugees as close as possible to their countries of origin.

Few refugees come to the developed world. More often they flee into neighboring poor countries. For example, the country of Djibouti has a population of approximately 500,000 people. At one point this small country was hosting 96,000 refugees from the Horn of Africa; a citizen-to-refugee ratio of 1:8. No rich country has ever come close to that level of hospitality. Unfortunately, one of the insidious effects of increased restrictionism in the rich world is less receptivity to refugees in the poor world. Governments of the less

developed countries use the same arguments as the developed world-security threats, cultural disruption, financial burdens-to justify closing their doors to refugees. Even in Africa, a continent renowned for giving refuge, instances of mass deportations are multiplying.

Preemptive controls over population movements - using the military - have become common. The ground - breaking step of refugee containment as an actual military strategy occurred in northern Iraq after the Gulf War in 1991 when a coalition of military forces and the U.N. created protected safe zones for Kurdish refugees. The military essentially disregarded the sovereignty of Iraq and tried to protect the Kurds inside the country of persecution. Similar strategic thinking is behind the proliferation of so-called "safe havens" in Bosnia, Rwanda, the Caribbean. In former Yugoslavia a clear decision was made to prevent refugees from leaving Bosnian territory. The same was true for refugees trying to escape Haiti. At first, the entire country was blockaded; later a "safe haven" was created at the U.S. Naval Base in Cuba. The United States recently announced that future "boat people" trying to escape Cuba will be sent back. Future refugees from Cuba will have to line up at the U.S. Interests Section in Havana and file an application. For some human rights activists, to be seen applying for refugee status while still inside Cuba will be a dangerous act.

Governments will speak rhetorically about the importance of prevention and getting at the "root causes" of refugee and migration flows through increased economic and social development aid. In fact, however, development aid has achieved little. Africa is poorer today than it was in the 1960s. Moreover, development aid is in a period of decline. Western budget deficits and increasing emergency assistance demands have cut deeply into development funds. The United States is closing many Agency for International Development missions. The agency itself may be closed or merged with some operations of the State Department. In any case, it is hard to imagine that the effective answer to refugee flows is to "throw money at them over there so that they won't have to think about coming here."

Movement of people within the zone of peace has become easier with the recent implementation of the Schengen agreement which eliminates border controls between certain European nations. Many developed countries waive any visa requirement for travel between them. For citizens of rich countries, travel across borders is becoming simpler. Movement, however, from poor to rich countries has become much more difficult. The United States, the European Union, Canada, and Australia are gradually building a well-fortified wall of exclusion around themselves. These fortifications include tighter visa requirements for poor countries; fines on airlines transporting people without documents (even though, by definition, a refugee often has no documents!); development of highly sophisticated national and international identification systems; a fast-track process at airports for assessing asylum claims-, coupled with a list of "safe countries" in the zone of turmoil to which people can be deported. One example illustrates the burden that the new "protectionist" system in the rich world puts upon refugees: a Bosnian fleeing the general horror or individual persecution taking place in his country cannot show up at the airport in London expecting protection

without showing a valid visa. But the U.K. does not issue visas in Bosnia; instead the refugee is sent back to the country (in this case Croatia) where he or she managed to find transit. The poor refugee is caught inside a Kafka-like "Catch 22." This nightmare will soon become the standard operating procedure in advanced industrial societies.

Sociologist Anthony Richmond, in a new book, suggests that this fortification strategy operates in a way that is similar to the old South African apartheid laws." It is primarily a social exclusion and control mechanism that achieves its power through an elaborate classification system. Refugee status determination is very much part of that control and classification. Refugees seeking resettlement in the United States, for example, must be processed at special embassy posts throughout the world. Those processing posts are shrinking. To press their claims for refugee protection in the developed world refugees are forced to travel unreasonable distances. The more countries they travel through, the more likely they will end up being classified as "economic migrants" and refused formal refugee protection. There are endless examples of these phenomena: Somalis stranded for months outside the airport in Moscow; Iraqi Christian refugees stuck on Malta; Azerbaijanis arriving at the Mexico-U.S. border. To get to the "gates" of the zone of peace is becoming easier; to enter that zone, to be rescued as a bona fide refugee, is becoming impossible.

Perhaps the new containment strategy is doomed for the same reason as apartheid: despite its power, the population of the advanced industrial democracies (the zone of peace) is a minority within the world system, and it is difficult to "imprison" the spirit of human mobility. Given the total population of the planet, the current general migration of people is not particularly enormous. But it could become overwhelming. Unfortunately it took forty years for apartheid to fall apart. In forty years, protection for refugees could easily become protection from refugees.

The bitter fruits of refugee containment are already on vivid display in Bosnia and Rwanda. The West, through the United Nations, in order not to reward ethnic cleansing, kept many victims from escaping Bosnia and yet refused to stop the genocidal acts of the aggressors. It was containment at great moral cost. In Rwanda, despite clear early warnings of impending disaster, the developed nations did nothing to intervene until after the massacres. A huge migration of people took place before the West acted. It began to seem as if even most egregious violations of human life could be tolerated in the West as long as it stayed contained in that zone of turmoil.

The ultimate irony is that the West-not willing to stop the genocide or rescue its victims-is now willing to put the perpetrators on trial. The first war crimes trials since Nuremberg after World War II have begun in the Hague. Testimony will be taken from Bosnian and Rwandese refugees. Instead of feeling heartened by this search for legal justice, some observers see these trials as "flickering lights" of a dying international legal order. The refugee protection regime, so painfully constructed on ruins of World War II, is already in

danger of crumbling. As the nation-states feel more threatened by the chaos that surrounds them, they are more likely to ignore their obligations under international law to protect the refugee. A few more Bosnias, a few more Rwandas, and that protection system will be consigned to the history books.

We are clearly entering a dangerous new age of migration and refugees. Christians and Jews were, from ancient times, encouraged to treat the refugee with kindness because we were, all of us, "aliens" in this world. In light of the mass movements of refugees in the twentieth century, the refugee became an object of international charity and law, handled by humanitarian organizations and often ignored by central political authorities. The refugee, in the new age, is still an object; but less an object of charity and more an object of *security concern* to the much threatened sovereign nation-states. This change suggests that any effective response today needs to be as much political as it is charitable. To think politically, as well as charitably, about refugees will require a stronger articulation of social justice in terms of the refugee experience. This experience can raise some deep and vexing questions: What is a nation? Who belongs? Where does our responsibility for refugees begin and where does it end? What is national security? Above all, how do we transform the abstract refugee "object" into a human person who can become, with great dignity, his or her own best advocate in an increasingly hostile world?

**CATHOLIC CHURCH TEACHING and DOCUMENTS**  
**REGARDING IMMIGRATION: Theological Reflection on Immigration**

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## **1. CHURCH TEACHINGS ON MIGRATION**

Why should anyone be concerned about immigrants and in particular about treating them justly? Can a Christian simply support positions on immigration applauded in the media and in the halls of Congress? What do Jesus' attitudes toward those on the fringes of his society say to us today? Is there a response that makes a specific Christian contribution to the debate today? How might Catholics on all sides of the migration debate respond to the statement of the *Catechism of the Catholic Church* that "the goods of creation are destined for the whole human race"? The same question can be asked about this statement of Pope John Paul II: "Peace and prosperity ... are goods which belong to the whole human race: It is not possible to enjoy them in a proper and lasting way if they are achieved and maintained at the cost of other peoples and nations by violating their rights or excluding them from the sources of well-being." Or what about the pope's often-raised concern about the increasing gap between the rich and poor of the earth?

Questions like these are the backdrop of this paper, which tries to give some answers based on official Catholic Church teachings. Its major social documents always have a bearing on migration issues, and so do hundreds of other documents since *Rerum Novarum* of 1891. Their sheer number and frequency confirm that migration is a sign of our times and a perennially relevant concern of the Church and the world.' Since this paper is limited in scope, it will draw mainly from the documents directed to the whole Church from 1960 to the present.

## **II. THE RIGHT OF THE CHURCH TO SPEAK UP ON MIGRATION ISSUES**

The frequency with which the documents explain the Church's right to speak on social issues, and migration in particular, indicates this point needs more understanding, both within and outside the Church.' The Church has this right and duty as an "expert in humanity" and does not allow restricting religion to selected areas of life." Her contribution, however, does not lie in technical solutions but in presenting the vision of Jesus Christ.' People are on the move whether in search of work, to improve lives, or to escape war, fear, or persecution. The Church cannot be silent on this sign of the times.

## **III. THE BASIC TEACHING: HUMAN BEINGS CREATED IN THE IMAGE OF GOD**

The first principle of Catholic social teaching is the affirmation of the dignity of the human person, created in the image of God, capable of knowing and loving the Creator, and entrusted with a stewardship of the earth. Not created to be alone, the image of God is male

and female (see Gn 1:27). Their companionship produces the primary form of interpersonal communion. Social by nature, they must relate to one another, or else they cannot live or develop their potential.

Jesus Christ reveals the extent of this dignity through the incarnation, which unites him with every person. "In the mystery of the redemption man becomes newly 'expressed' and, in a way, is newly created.... How precious must man be in the eyes of the creator ... if God 'gave his only son' in order that man 'should not perish but have eternal life.'" That dignity belongs to every human person without exception though it is often not recognized: "It is not irrelevant," says Pope John XXIII, "to draw the attention of the world to the fact that these refugees are persons and all their rights as persons must be recognized. Refugees cannot lose these rights simply because they are deprived of citizenship of their own states." This also applies to all migrants.

That dignity is the source of the basic rights of migrants: to life and a means of livelihood, to cultural identity, to a family, to social and political life, and to work befitting a human person. Church documents even speak of "the right of families to migrate" to fulfill one's duties for "the physical, spiritual and religious welfare of the family." The state, for its part, has the duty to "accept such immigrants and, so far as the good of their own community, rightly understood, permit to further the aims of those who may wish to become members of a new society."

The right to migrate includes the right to be with one's family. This needs urgent attention today since families are most vulnerable to the negative aspects of emigration. Everything connected with the human person takes priority over production and profit. That leads John Paul II to decry "systems that perpetuate the forced separation of spouses" or of parents from children. The unity of the couple and of the family comes first: "The Church repeats with insistence that ... the protection of families, and particularly of those burdened by further difficulties of being migrants and refugees, constitutes an indispensable priority... 'What God has joined together, let no one separate' sounds like an implicit condemnation for a society that grants economic advantage to the detriment of moral values."

In proclaiming migrants' rights, Church documents also recognize another tenet of Catholic social doctrine: the common good, which has personal, societal, national, and international dimensions. The promotion of the same common good does not exclude regulation of emigration at national levels and international levels, for the Church believes that adequate solutions to migration and refugee questions can only be reached with the cooperation of all nations. However the control of emigration, even when it is for the common good of a particular country, cannot ignore the universal destination of **earthly** goods and the gospel demand for solidarity among peoples.

## **IV. MIGRATION AND LABOR**

"Human work is a key, probably the essential key, to the whole social question." Since migrants make up a significant part of the work force in so many countries, Church documents on human labor enlighten their situation too. "The Church is convinced that work is a fundamental dimension of man's existence on earth." It is rooted in the human person as a participation in God's creative act of being fruitful, multiplying, filling the earth, and subduing it. Thus work is not only for making a living but also for developing the personality, family, culture, social, and political life.

Church documents are well aware of migrant laborers' grave problems: discrimination and xenophobia, trickery, treatment as tools of production or as foreign competition, long working hours, unhygienic conditions, low pay, poor housing, and non-integration into social life. The message the same documents send to governments is clear: They must protect all workers from these evils, even if they are migrants and not citizens, and work together with all nations to deal with labor migration at its roots, which means seeking a just global economic order.

## **V. THE CHURCH AND THE MIGRANT**

What is the Christian community called to be when faced with the complex reality of migration? Church documents present it as hospitable, culturally rich, and enriching, caring, prophetic, dialoguing, and evangelizing.

### **A. *A Hospitable Church***

The title of the 1992 Migration Day message, *Welcoming the Stranger with the Joyful Attitude of Someone Who Knows How to Recognize in Him the Face of Christ*, indicates the basic attitude of the Church towards migrants. Migration today is often a question of survival, leaving little distinction between refugees and migrants, legals and illegals; their common denominator is necessity. Welcoming migrants and realizing communion with them lets local churches authenticate and strengthen their sense of being Catholic" and mirror the will of the Father, who embraces all in his love. This testifies that Church unity is not based on ethnic or national origin but on "the Spirit of Pentecost that makes of all nations a new people, which has the Kingdom as its goal, as condition the freedom of sons, as law the command of love." This newly redeemed solidarity replaces "xenophobia" with "philoxenia." Doing all this in today's multi-ethnic societies depends on Catholic lay people exercising their charisms and excelling in the struggle against injustices and for human promotion.

Hospitality includes helping to free them from isolation, to reunite their families, and to coordinate efforts of aid organizations. Its aim is to get refugees and migrants to hope and to have confidence in themselves. The hospitable Church repeats in many ways what Pope

John Paul II said to a group of refugees in Thailand: "Our world... needs you and your contribution."

### **B. *A Culturally Rich and Enriching Church***

The title of the 1981 Migration Day message is striking: *Respect and Increase the Cultural Identity of Migrants*. Promoting migrants' cultures is a special task of the local church. This is because culture is closely linked with migrants' faith and personal and spiritual identity. It also gives them something to fall back on in dealing with the attitudes of secularized society.

When migrants feel at home in a local church, their integration on equal footing with the faithful of their churches can take place. Still "they have to be able to remain complete themselves regarding language, liturgy, spirituality, particular traditions, to reach that ecclesial integration, which enriches the Church of God and which is the fruit of the dynamic realism of the Incarnation of the Son of God." When not forced ahead nor held back, migrants make their own contribution to the catholicity of the Church, i.e., that "complete openness to the other, a readiness to share and to live in the same ecclesial communion."

### **C. *A Caring Church***

Church documents show a deep awareness of migrants' fragile situations: social and cultural uprooting, legal problems, and insecurity about even the basic necessities of life. Their difficult situation calls on believers to open their hearts and pay greater attention to their needs.

(1) **Migrants' fragile religious situation:** Migrants, when still not integrated socially and legally into their new society, are an easy prey to the often insistent and aggressive methods of sects and new religious movements. The response is, first of all, for the migrants themselves to be on guard and, secondly, for the local church to intensify its efforts to be a welcoming community. Welcome authenticates the catholicity and reflects the tenderness of the redeemer. "May the community of believers in Christ," Pope John Paul II prays, "never show the sad face of someone who feels disturbed in his daily commitments and projects but express the joyful face of someone who has met Christ, awaited and recognized in the stranger."

(2) **Migrant workers:** Local churches are called to solidarity with migrants and efforts at getting the Christian attitude of welcome rooted in public opinion and expressed in concrete action promoting justice. Pastoral action tries to connect the light of Christ with work. Christ belongs to the world of work, looks upon it with love, and sees it reflecting the likeness of the Creator. Viewed that way, work can strengthen migrants' Christian life and let them be proud of their cultural identity. Work then is also the occasion for forming

friendships so necessary in times of suffering and disappointment.

**(3) The migrant family:** The Church, conscious of being sacrament of salvation, reaches out pastorally to the special needs of migrant families. Thus she defends basic family values, freedom of movement and decision-making, and the family's right to educate their children. To the state she points out the obligation to assure immigrant families have what it guarantees its own citizens. She also denounces what opposes this and makes clear that the family has preference in cases of conflict between society and family. There should be no discrimination against migrant families.

The whole Christian community is called to this solidarity and burden sharing. But this involves more than providing "things": Migrants are looking above all for understanding, liberation from what weighs them down, and support for their desire to improve their lives. Their profession of faith, held in common with the local church, is an appeal for welcoming migrant Christian families and recognizing a responsibility for their spiritual welfare. These families should find a homeland everywhere in the church, the sign of unity in diversity. Then they have the support needed to become "domestic church" and a vital part of the wider church community. Pastoral approaches also should guide migrant families with children to avoid work detrimental to family peace and happiness. The papal documents appeal to the Christian community to accept immigrants so that no one is without a family in this world. The Church should be that family, especially for the heavily burdened.

Concretely, that includes efforts to keep migrant families fully united, promoting and assuring young immigrants of a good preparation for marriage. The issue is particularly important when one partner is not Catholic, especially if the Catholic partner will eventually live in a country where it is difficult to remain a practicing Catholic." The evangelizing function of the emigrant family should not be forgotten either: Evangelized themselves, they become evangelizers of many others.

**(4) Migrant women:** The 1994 Migration Day message for the international Year of the Woman focused on the increasing number of woman migrants, married and unmarried, as a special pastoral concern of the Christian community. Women have to bear many consequences of migration: separation from family and homeland, support of families involved in migration, child care while working full time, and even sometimes the degrading aspects of illegal migration (e.g., drug trade, prostitution). Pastoral agents in the home country have to be active among potential women emigrants, preparing them for their new situation and helping them, among other things, recognize untrustworthy employment agencies. In the country of immigration pastoral efforts need to promote working conditions, security, social benefits, housing, schooling, and tax reduction for migrant women equal with other employees. Migrant women also have evangelizing opportunities, e.g., those who care for children, to whom they can impart religious formation.

### ***D. A Prophetic Church***

The Church that cares for migrants exposes the underlying issues of migration to the Word of God and speaks out. The Church's social teaching contains many prophetic denunciations of the negative aspects of migration: sufferings, precarious situations, uncertainties, hard-to-enter social structures, low paying and dangerous jobs, etc. The believer cannot simply accept such conditions but struggles against them even at the cost of suffering injustice and so sharing in the cross of Christ.

The documents speak of lay peoples' role in seeking just solutions in the name of God and humanity. They have to work against rich countries closing their borders or making "their laws more severe, all the more so if the gap between rich and poor countries, from which migrations originate, gets continually greater." Instead they should promote "reflection on and a search for the most rigorous criteria of distributive justice applied on a world-wide scale, also for the protection of the universal good of peace." As "a voice for the voiceless," they let Christ's message be leaven for a more just and fraternal social order.

### ***E. A Missionary and Evangelizing Church***

Action on behalf of justice and participation in the transformation of the world fully appear to us as a constitutive dimension of the preaching of the Gospel, or, in other words, of the Church's mission for the redemption of the human race and its liberation from every oppressive situation." The Christian community's mission to migrants expresses this conviction and involves lay people in a special way, for they have been crucial in the spread of Christianity from the beginning." They are deeply involved in relieving the suffering, humiliation, and poverty connected with emigration and in this way promote the dignity of the human person by opening their hearts to Christ in the least of the brethren. Laity also have the special task in the politics of migration. For that reason pastors are to concentrate on formation of adults who in turn evangelize their civil society.

At the same time Catholic migrants themselves have a mission: to announce and witness to the Gospel among other migrants. Their pastoral task is to form "communities that, with full right, belong to the fabric of the church and contribute, along with others, to the building up of the Kingdom of God." They should take initiatives and organize themselves for evangelization. "The first immediate apostles of emigrants have to be the emigrants themselves." This is important for formation of families in faith and for being neighborly to those most affected by being emigrants. They can help make migration more of a journey of people toward universal fraternity.

## **VI. SOME POINTS FOR A THEOLOGY OF MIGRATION**

Migration is a sign of the times and belongs theologically to the history of salvation." It immediately recalls an underlying reality of the Church: It is a pilgrim people." There is thus something quasi-sacramental about migration, for it makes this pilgrim reality present not only as a problem but also as grace.

This grace transforms the Church when its members embrace their poverty as wayfarers in a passing world. That leads to affirming another sacramental aspect of migration, particularly in the case of forced migrants and refugees: the presence of Jesus in the least of one's brothers and sisters (see Mt 25:31-46), whom one can touch and minister to. For Christian communities that are tempted to withdraw from these realities, migration is a call to conversion and a new solidarity with the pilgrim condition.

Migration is also a way God has used to spread the Gospel to all nations from the beginning of Church history until the present. Today this is often a preaching by example as migrants carry gospel values into their own struggles and provoke in others the question of faith and its motives. From this point of view migration is graced even in difficult circumstances. Romans 8:28 holds good here for both migrants themselves and those who are touched by their witness: "We know that all things work together for good for those who love God, who are called according to his purpose." Loved by God, they are called to be good news, part of the ongoing mystery of redemption, contributing to solving the great problems of the human family.

Migration is also part of God's plan for the growth of the human family in unity This comes out especially when people become migrants not by force but when a certain well-being offers the possibility, as in the case of many foreign students. Migration then becomes part of an itinerary of human development, a kind of osmosis of cultural, social, and political values. Behind it are positive factors such as interest in other cultures, a sense of solidarity and of the dignity of the human person, and an extension of networks of international cooperation. This points positively to the movement of greater cultural unity and universal fraternity.

The symbol for this vision is Pentecost, and its opposite Babel. God's way rebuilds the unity of the human race using migration as a meeting with the Lord and with others. In Pentecost cultural pluralism is no more a reason for confusion and opposition. It means an ethic of encounter for the construction of a new humanity" In the migrant his or her nation is respected. Pentecost means the unity of peoples around faith in the one Christ, who came to gather the lost children of God. Because of God's love for every human being in Christ there can be no discrimination. Migration, by favoring mutual knowledge among people, attests to and perfects the unity of the human family The new heavens and new earth will be first of all in the hearts of men and women united in the Father. Solutions to the problem of human mobility will come when the human spirit is dominated by the firm conviction that all are brothers and sisters and that love is the most powerful force for transforming self and society.

## VII. CONCLUSION

The jubilee of the Year 2000 offers an important chance for taking to heart the Church's social teaching as a whole and its implications for migration questions in particular. As part of the preparation of the Holy Year, the apostolic letter *Tertio Millennio Adveniente* invites the Church to self-examination on a number of issues, including how well Vatican II has really been accepted. Since Vatican II is the basic inspiration behind the last thirty-five years of Church teaching on migration, attitudes toward it are part of this self-examination. For many Catholics in wealthier countries the demands of these documents will be disconcerting. Since many are unaware of their contents, getting the message out is important. It can then touch consciences, challenge fixed mindsets, form attitudes, and stimulate the efforts of individuals and communities being used by the Holy Spirit to renew creation and society. Coming to own it is not less of a challenge than owning the Sermon on the Mount.

Since the language of the documents is frequently exhortative, that confirms something well known: the gap between the vision of Christ and actual practice. The idealism of Church documents, however, should not become an excuse for ignoring their appeal or considering them impracticable:

The Church must strongly affirm the possibility of overcoming the obstacles which ... stand in the way of development.... Ultimately, this confidence and this possibility are based on the Church's awareness of the divine promise guaranteeing that our present history does not remain closed in upon itself but is open to the Kingdom of God.... There is no justification then for despair or pessimism or inertia.... At stake is the dignity of the human person, whose defense and promotion have been entrusted to us by the Creator. and to whom the men and women at every moment of history are strictly and responsibly in debt.

One possible problem connected with these thirty-five years of documents on migration is the danger of a certain paternalism. The documents frequently speak about migrants as objects of pastoral concern. This is certainly a justified and necessary approach, because the Christian community is continually challenged to respond to Christ present in the least of the sisters and brothers. However other approaches present in the documents need further development and support. Migrants, for example, have a responsibility for evangelizing one another and the receiving churches. They have cultural and religious contributions to make. They have a mission of actively drawing the Church into the event of Pentecost.

The theme of the Kingdom of God could be more developed in relation to migration issues. The Kingdom is central to the preaching and person of Jesus, who embraces all, especially the lowly, and makes them part of it. The Kingdom is still the driving force of the People of God today. More attention to aspects like these will hopefully form part of a more complete approach to migration issues that will be good news, because the pilgrim Church

will more deeply reflect the unity created by the Holy Spirit from the diversity of peoples and cultures, a foretaste of the Kingdom on earth.

## ABBREVIATIONS

- AA Vatican Council II, Decree on the Apostolate of the Laity, *Apostolicam Actuositatem*, 1965 (F) (\*)
- CA John Paul II, 100th Anniversary of Rerum Novarum, Centesimus Annus, 1991 (W) (\*)
- CCC *Catechism of the Catholic Church* (\*)
- CD Vatican Council II, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, 1965 (F)
- CIC *The Code of Canon Law: A Text and Commentary*, commissioned by The Canon Law Society of America (New York, Mahwah) 1985
- DM John Paul II, On Divine Mercy, *Dives in Misericordia*, 1980 (W)
- EN Paul VI, On Evangelization in the Modern World, *Evangelii Nuntiandi*, 1976 (W)
- GS Vatican Council II, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, 1965 (W) (F) (\*)
- IGP2 Teachings of John Paul II, *Insegnamenti di Giovanni Paolo II*, (Vatican City, Libreria Editrice Vaticana) 1979-1994
- JW Justice in the World, Synod of Bishops, 1971 (W)
- LE John Paul II, On Human Labor, *Laborem Exercens*, 1981 (W) (\*)
- LG Vatican Council II, Dogmatic Constitution on the Church, *Lumen Gentium*, 1964 (F) (\*)
- MM John XXIII, Mother and Teacher, *Mater et Magistra*, 1961 (W)
- PC Vatican Council II, Decree on the Up-to-date Renewal of the Religious Life, *Perfectae Caritatis*. 1965 (F)
- pp Paul VI, On the Development of Peoples, *Populorum Progressio*, 1967 (W) (\*)
- PT John XXIII, Peace on Earth, *Pacem in Terris*, 1963 (W) (\*)
- RH John Paul II, Redeemer of Man, *Redemptor Hominis*, 1979 (W) (\*)
- SRS John Paul II, On Social Concern, *Sollicitudo Rei Socialis*, 1987 (W) (\*)
- TMA John Paul II, The Coming Third Millennium, *Tertio Millennio Adveniente*, (Vatican City Libreria Editrice Vaticana) 1994
- (F) Documents so marked are in Austin Flannery, ed., *Vatican Council II: The Conciliar and Post Conciliar Documents*, vol. I (Northport, Costello Publishing Co.) 1992
- (W) Documents so marked are in Michael Walsh and Brian Davies, *Proclaiming justice and Peace* (Mystic CT, Twenty-Third Publications) 1991. The numbering of sections of the documents follows the system in this book. The intention of referring to these collections of documents is simply to indicate where an American reader can get easy access to translations of key texts.

(\*) Documents so marked are available from Publishing Services, U.S. Catholic Conference; Washington, D.C. 1-800-235-8722.

**THE RIGHTS of PEOPLE REGARDING MIGRATION:  
A Perspective from Catholic Social Teaching**

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In the remarks which follow I shall treat the topic of migration in three parts:

1) some empirical elements about the present situation regarding migration and the United States; 2) what migration means as a "sign of the times" for us today; 3) how Catholic social teaching approaches the issue of migration and offers guidelines for addressing the situation.

**I. MIGRATION AND THE UNITED STATES**

In this paper I shall distinguish between migrants and refugees. Migrants are people who pick up and leave one setting and move to another. The reasons why they do so are manifold but in my usage they do so voluntarily as well as involuntarily. The prefixes "em" and "im" before migrant simply designate migrants from the vantage point of the place of departure or arrival. Refugees are that sub-group of migrants, who flee a place involuntarily and must journey against their wishes because their homeland is no longer inhabitable. War and natural disasters are common causes of refugees, forcing people from familiar surroundings where they would prefer to stay under ordinary circumstances. So being a migrant, as I use the term, is the more inclusive category and generally has a voluntary aspect whereas refugee denotes a particular kind of migrant, one who involuntarily must flee a locale.

Today there may be as many as 100 million people migrating across our globe, with about 17 million of these being refugees. The United States received about 700,000 documented immigrants in 1994, about 150,000 additional persons were accepted as refugees, and it is estimated that another 250,000 entered the country illegally. Today about 1 in 12 U.S. residents is foreign-born, which is higher than the 1 in 20 of 1970, but lower than the 1 in 7 during the decades from 1860 to 1920. More dramatic is the change in origin of immigrants to this country. As late as the 1950s about two-thirds of all legal immigrants were from Canada and Europe. Today they represent 14 percent. In the 1990s people of color constitute 80 percent of legal U.S. immigrants. Asia provides 44 percent and Latin America 40 percent. It must be considered that the racial and ethnic make-up of the immigrant population, as much

as the numbers of immigrants, is a factor in contemporary American attitudes toward immigration. Also a factor is that the immigrant population tends to cluster in a small portion of states. Seven states contain more than 75 percent of legal immigrants. California alone has 40 percent of those who entered the country legally Texas, New York, Florida, Illinois, New Jersey, and Arizona are the other states which receive the bulk of legal immigration to this nation. The unequal burden among the states which such settlement patterns create is another part of the immigration dilemma today.

No aspect of the immigration debate in this nation is greater than the issue of those persons who do not enter legally Because such people are by definition undocumented it is not clear how many there are and estimates vary widely Millions enter illegally but most of these persons return to their country of origin after a short period. The middle-of-the-road figures put the number of undocumented immigrants who stay in the United States at about 200,000 to 300,000 per year. More than half of this group actually enter the country legally but overstay their visitor or student visas and thus violate the law. The majority of those who enter without documentation cross the border from Mexico. California likely receives 40 to 50 percent of undocumented immigrants to add to its huge number of documented immigrants. In addition to Mexico, which ranks first, the other nations which are the chief sources of U.S. immigration today are: El Salvador, Guatemala, Canada, Poland, the Philippines, Haiti, Nicaragua, Columbia, and the Bahamas.

America has always been a nation of immigrants. The peopling of America started before recorded history with movements from the Pacific. Northwest downward toward the Southeast. It was the arrival of Europeans tens of thousands of years later who initiated regular waves of immigration. This continued right on up to the third decade of the twentieth century when an immigration bill was passed which instituted annual quotas. These quotas were abandoned in 1965, and since then no laws have been passed to reduce legal immigration; in fact, the Bush administration increased legal immigration by 40 percent. Present immigration law is complex but the most common categories under which people enter the country are family reunification, skilled workers with families, and political refugees granted asylum. The first category has a long waiting list. Even so, the 1990s are projected to be the decade with the largest number of legal immigrants in the history of the nation, greater than the decades from 1900 to 1920 before immigration law. America, which has been characterized as that "permanently unfinished" society, is once more a land of immigrants.

A major source of anger among Americans is that the 1986 Immigration Reform and Control Act aimed at stemming illegal immigration has not worked. As a result there is growing anti-immigrant sentiment which is fueled by a variety of sources: prejudice, misinformation, slow economic recovery in certain areas, government service cuts, higher local taxes, and certain events of terrorism or civil unrest which seem to involve foreign-born residents. Many people can mistakenly lump together related but distinct aspects of the issue and confuse legal and illegal immigration, migrants and refugees, multi-culturalism and cultural change. Faced with a new pattern of immigration and the varied reactions it is

necessary for people of faith to see the larger context within which immigration must be understood.

## **II. READING THE "SIGNS OF THE TIMES"**

The wider setting for discussing immigration and American society is the new global migration. There are some 100 million migrants living on the face of the earth today; roughly one-fifth are refugees. We are witnessing a huge movement of people across the planet comparable to any previous era of migration. It is important for Americans to grasp not only that this is happening but why.

It is the rare case indeed when one finds motive-less migration. People do not go through the trauma of uprooting for frivolous reasons. Migration always implies "a separation from country of origin, homeland, roots, culture, home, memory or childhood; it is always emigration, and the emigrant always runs the risk in the shorter or longer term, in a more or less stable and definitive way, of suffering a wound which will remain open, an exile without return. People, 100 million people, are in the throes of such a psychologically and spiritually painful dynamic at this time.

The present global migration can be explained by several key factors. "Poverty, hunger, violence, disregard of human rights, and the search for economic and intellectual fulfillment unavailable at home are among the root causes of the new exodus." In other words the global migration, of which the United States experiences but a small part, is "a red light of alarm" which signals the persistent problems of development and injustice in much of the world. Migration must not be looked at in isolation but only within the political and economic context of a world divided into the wealthy and powerful nations and the larger number of poor nations.

Any approach to migration which ignores the root causes is short-sighted and will ultimately fail. The great movement of humanity across borders today represents one of the key signs of the times that solidarity has not been achieved. A world marked by a yawning gap between rich and poor, a world characterized by oppression and violence within and between nation-states, is a world which will witness the ongoing migration of people searching for a better place to live out their existence. For Americans, the signs of the times mean no attempt to shut out the world by securing borders as the answer to migration. Rather engagement in the world, a serious effort to confront the global crisis of development, is the strategy which will be effective in curtailing the growing number of migrants today. In developing such a strategy there are foundational components available to American Catholics from within their faith tradition.

## **III. A CATHOLIC PERSPECTIVE ON MIGRATION**

The theme of migration is so common throughout the Bible that one could refer to the God of Israel as a God of migrants. At the outset of the patriarchal narrative Yahweh tells Abraham, "Go forth from the land of your kinsfolk and from your father's house to a land that I will show you" (Gn 12: 1). And the descendants of Abraham continued to move from place to place sometimes as a result of economic forces, familial disputes, war, or religious obedience. No lesson drawn from these experiences looms larger than the command, "You shall not oppress an alien; you well know how it feels to be an alien, since you were once aliens yourselves in the land of Egypt" (Ex 23:9). The experience of being in a land not one's own was to be indelibly impressed upon the imagination of the pious Jew. Each generation had to learn the lesson, "When an alien resides with you in your land, do not molest him. You shall treat the alien who resides with you no differently than the natives born among you; have the same love for him as for yourself; for you too were once aliens in the land of Egypt" (Lv 19:33). The experience of being an alien was never to be forgotten; but the lesson to be learned was not that one should never forgive the Egyptian, nor never permit the experience to occur again. Rather, the lesson was never to do to another what the Jewish people had themselves suffered. Remembering was not for the purpose of harboring a grudge but to learn compassion and practice hospitality.

The refrain is regularly sounded that "Yahweh "executes justice for the orphan and the widow, and befriends the alien, feeding and clothing him. So you too must befriend the alien, for you were once aliens yourselves in the land of Egypt" (Dt 10: 17). As Yahweh treated the Jew so must the Jew in fidelity to Yahweh treat others. The experience of being a migrant returned powerfully with the event of the exile in which the Jewish people were made refugees from their land (2 Kgs 25:21). And the lesson was taught once more in the voice of Deutero-Isaiah, who reminded the returning exiles that what Yahweh wanted of them was "sharing your bread with the hungry, sheltering the oppressed and the homeless" (Is 58:7). The New Testament literature continues to reflect God's nearness to the migrant. It is the Holy Family which is portrayed as refugees by Matthew in his account of Joseph's dream following the departure of the wise men. The angel of the Lord speaks, "Rise up, take the child and his mother, flee to Egypt" in order to foil the murderous intent of Herod (Mt 2:13).

Throughout his public ministry Jesus continually demonstrates an attitude of openness to the marginal person through his table fellowship and concern for outcasts. But initially the outcasts were fellow Jews. It is clear that early in his ministry Jesus of Nazareth understood his mission to be directed to the people of Israel: "I was sent only to the lost sheep of the house of Israel" (Mt 15:24). But in time several episodes expand the scope of Jesus' ministry to include even the foreigner. The encounter with the Roman centurion whose servant needed healing led Jesus to proclaim "I tell you, not even in Israel have I found such faith" (Lk 7:9). And most poignantly the Gospel writer portrays Jesus himself as learning to see the dignity of the stranger by his meeting with the Canaanite woman. She reminds him after his dismissal of her plea that "even the dogs under the table eat the children's scraps" (Mk 7:28), a reply which merited his responding to her request and seeing the woman before him in a

new way Later on, the Christian community continued to learn the lesson which Jesus embraced, and did so through the ministry of Paul and the expanded mission to the gentiles. In sum, there is a persistent theme running through the Bible of God's concern for the alien as a particular instance of the marginal person, and of Judaism and Christianity's evolving understanding of what the ramifications of God's expansive love are for human behavior.

It is especially true that American Catholics should be among those believers who are sensitive to the situation of migrants. With good reason American Catholicism has been called the immigrant Church. The sheer numbers of Irish and German immigrants, followed by Italians, Poles, French Canadians, and Mexicans who entered this nation from 1820 to 1920 altered the face of American Catholicism. Once a small minority of Anglo-American landed gentry in the eighteenth century, the Catholic Church in the United States became a working class, urban Church during the nineteenth century. The entire pastoral agenda of the Church changed to accommodate the new immigrants and their descendants. For today's American Catholics to have forgotten that history is akin to the prophets' claim about Israel's historical amnesia regarding the exodus or exile. A lesson of American history is the temptation of the settled to reject the newly arrived and the struggle of the immigrant to achieve acceptance. For those who were once viewed as outsiders the lesson must be remembered.- "You too must befriend the alien for you were once aliens yourselves in the land of Egypt."

Another part of the heritage of Catholics-which is not so much forgotten as never learned-is the social teaching of the Church. In his landmark social encyclical *Rerum Novarum* Pope Leo XIII made the connection between economics, justice, and migration. When people have a chance to acquire property and work land which is theirs "they prefer to remain in the land in which they were born and reared and they are less likely to leave it for foreign parts when it provides them with the means to obtain a better life." Pope Leo wrote at a time and in a culture in which agriculture was the way of life for many and the possession of land was equivalent to the means of production. His defense of private property and his comment on the linkage of the exercise of that right with migration makes the point that the opportunity to participate in the economic life of a nation is a key factor in the decision to emigrate or not. More recently, John Paul II has made the same point by warning of another threat to economic participation, the denial of economic initiative by an overly bureaucratic state. "This provokes a sense of frustration or desperation and predisposes people to opt out of national life, impelling many to emigrate and also favoring a form of 'psychological' emigration." From the papal perspective poor government oversight of the national economy, either overly laissez-faire or bureaucratic in manner, can encourage emigration.

Pope Pius XII in his 1941 Pentecost Address commemorating the fiftieth anniversary of *Rerum Novarum* extended Pope Leo's argument. Pius spoke of "the right of a family to

a vital space," meaning by that phrase the right of a family to stake out land that is agriculturally productive in order to satisfy proper needs. For Pope Pius, migration permits the exercise of this important family right and thus benefits both the country of emigration which may be overcrowded and lacking in available property as well as the country of immigration which profits by gaining stable and industrious citizens. Two decades later Pope John XXIII, referring to this speech of Pope Pius, saw a basis for a right to emigrate in the legitimate desire of people to acquire the humanly necessary level of material goods.

Two years after *Mater et Magistra* was promulgated Pope John wrote his final encyclical *Pacem in Terris* which asserted "where there are just reasons in favor of it, [a person] must be permitted to emigrate to other countries and take up residence there." Pope John was clear that "the fact that [a person] is a citizen of a particular state does not deprive him of membership in the human family," and it is on the basis of one's humanity not citizenship that the right to emigrate is ultimately founded. Once the individual migrates he or she does not lose all rights, for some rights are human rights which must be respected by all people within all societies. Decades later in his lengthy meditation on human labor John Paul II reflected on the moral urgency of protecting the dignity of migrants.

Every possible effort should be made to ensure that it [migration] may bring benefit to the emigrant's personal, family and social life, both for the country to which he goes and the country which he leaves. In this area much depends on just legislation, in particular with regard to the rights of workers..... The most important thing is that the person working away from his native land, whether as a permanent emigrant or as a seasonal worker, should not be placed at a disadvantage in comparison with the other workers in that society in the matter of working rights. Emigration in search of work must in no way become an opportunity for financial or social exploitation.

The concern of Pope John Paul's remarks, due to the nature of the letter, focused on the work-rights of immigrants. But this does not exhaust the rights of immigrants as is clear from the teaching of Vatican II. Speaking of immigrants the council stated, "All the people, moreover, above all the public authorities, must treat them not as mere tools of production but as persons, and must help them to bring their families to live with them and to provide themselves with a decent dwelling; they must also see to it that these workers are incorporated into the social life of the country or region that receives them."

Catholic social teaching, therefore, acknowledges a human right to emigrate. At the same time this can and should be distinguished from the right to immigrate, which is valid but can be regulated. John's approval of a state permitting immigration specifies "when there are just reasons in favor of it." The acknowledgment of rights must be accompanied by an assessment of duties in Catholic social teaching. While generally one might presume that the emigrant is to be accepted it remains possible that a nation may have to regulate immigration in order to meet its obligations to those already within its borders. A nation-state can properly develop policies which protect the common good of the society and this may include

limiting immigration when goods such as communal integrity, cultural ideals, and material well-being are threatened by too many immigrants. But, as shall be discussed below, claims by governments in this regard are subject to scrutiny.

When Catholic social teaching takes up the question of refugees there is a strong concern that the basic rights of such involuntary migrants be defended and observed. In *Pacem in Terris* Pope John XXIII called attention to "the plight of those who for political reasons have been exiled from their own homelands. There are a great number of such refugees at the present time, and many are the sufferings-the incredible sufferings-to which they are constantly exposed." Pope John went on to note what to him was a simple fact: "these refugees are persons and all their rights as persons must be recognized. Refugees cannot lose these rights simply because they are deprived of citizenship of their own states." In the next paragraph John made clear that there is a "duty of state officials to accept" such refugees and - "so far as the good of their own community, rightly understood, permits-to further the aims of those who may wish to become members of a new society". Operative in John's thinking was a human right to asylum for legitimate refugees which ought to be respected and a conditional right to naturalization for those refugees in a host country. The latter right is contextualized by the common good of the host society. But the former right, that of asylum, seems to be a stronger claim with no stated condition.

In 1963 the numbers were great but not nearly as large as today. In our time Pope John Paul II has referred to the refugee situation as "the festering of a wound which typifies and reveals the imbalances and conflicts of the modern world." From the present papal perspective the number of refugees represents political and economic developments "destined to lead us more quickly toward death rather than one of concern for true development which would lead all toward a 'more human life.'"

Confronted by this "festering wound," two aspects of the Vatican position merit emphasis. The first is the expansion of the definition of who is a refugee. International law acknowledges as a refugee a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear is unwilling," to return to the country of origin. This understanding excludes a great many others who flee their homeland because they are innocent victims of armed conflict, natural disasters, or economic crisis. "For humanitarian reasons, there is today a growing tendency to recognize such people as *de facto* refugees, given the involuntary nature of their migration." The Vatican approves of this movement in the theory of international law, recognizing that there is still a line to be drawn between refugees and migrants. "Those who flee economic conditions that threaten their lives and physical safety must be treated differently from those who emigrate simply to improve their position."

The humanitarian significance of the distinction between migrants and refugees introduces the second noteworthy aspect of the Vatican position, namely the strong insistence

on a refugee's right to asylum. "Any person in danger who appears at a frontier has a right to protection." Furthermore, such acknowledgment by a host country "is not a simple concession made to the refugee: He is not an object of assistance, but rather a subject of rights and duties." Asylum is, in Catholic social teaching, a human right which may not be compromised. The large number of refugees claiming asylum has led some nation-states which traditionally have been generous in accepting refugees to tighten requirements and delay processing claims. With that in mind the Vatican observes a "trend of political decisions aimed at reducing the number of entries and discouraging new requests for asylum. While moments of economic recession can make the imposition of certain limits on reception understandable, respect for the fundamental right of asylum can never be denied when life is seriously threatened in one's homeland."

Catholic social teaching on migrants and refugees reveals several elements which can guide the formulation of policy.

1. Every person is the subject of human rights which cannot be denied on the basis of lack of citizenship because it is membership in the human family, not membership of a particular civil society, which is the foundation of human rights.
2. Among the rights which each person has are the right to asylum in situations of great peril or the denial of basic conditions of human dignity and the right to emigrate in order to better provide for the material well-being of oneself and one's family.
3. While conditions in the intended host country may permit limitations on acceptance of immigrants, this must be done with care. No refusal of asylum in cases of genuinely life-threatening situations is permissible.
4. Territorial borders and state sovereignty are useful structures for ordering international life but these structures are not absolute and may not be cited as reasons for refusing to meet the duties which flow from human rights.
5. Faced with the growing numbers of migrants and refugees, the nations of the world must address the root causes of why so many people leave their homelands.
6. The bonds of solidarity among members of the human family cannot permit indifference to the situation of others and call upon each person to befriend the alien and sojourner.
7. The challenge of solidarity is to respond to both the short- and long-term aspects of global migration and the related but distinct situations of the migrant and refugee populations. The long-term challenge is to address the causes which lead people to leave their homeland, voluntarily or involuntarily. The short-term challenge is to care for those people currently on the move.
8. The single most important thing which can be done is to develop long-term effective strategies for genuine development. Unless there is an effort to improve the social and

economic conditions in poorer nations it is inevitable that the inhabitants of these lands will search for a place which offers the hope of a better life. Provision of assistance to the poorer nations of the world by the richer ones is a clear obligation of solidarity. But development requires not only substantial humanitarian aid, but also the transformation of the international economy. As Pope John Paul II reminds us "it is necessary to break down the barriers and monopolies which leave so many countries on the margins of development and to provide all individuals and nations with the basic conditions which will enable them to share in development."

9. While stressing the economic aspect of the problem other factors ought not be ignored. As the Vatican suggests, "restructuring of economic relations alone would not be enough to overcome political differences, ethnic discord and rivalries of other kinds." There will always be those who are the "victims of the abuse of power." Needed, then, is a commitment to promote the dignity of people, particularly to defend the human rights of persons abused by their own governments. Questions of economic sanctions, military interventions and other measures used to restrain unjust regimes will need to be resolved as part of an overall strategy for responding to the migration situation.
10. Essentially, the long-term strategy must address not only rights of emigration and asylum, but also a "right to stay at home with a minimum of freedom and economic possibilities for a dignified existence." This is the point implicit in Pope Leo XIII's remarks about people not wanting to leave their homeland if they had the ability to live there in dignity. In order for this goal to be actualized the nations of the world must work together to promote authentic development and protect the human rights of all people in all nations. That is the only just method with any long-term hope of success in decreasing the numbers of migrants and refugees.
11. Hospitality is the dominant value which should guide short-term strategy. Hospitality suggests first of all a change of attitude. The stranger can be viewed as threat or gift. When the stranger is of a different racial, religious, or ethnic group than ourselves there is the risk that prejudice can incline us to see the stranger more readily as threat. This is in profound contrast to the words of Jesus at the final judgment scene of Matthew 25, "I was a stranger and you welcomed me."
12. Punitive approaches toward stemming immigration demean not only those to whom the policy is directed but undercut our own dignity, for such an approach contracts rather than expands the human spirit. Turning our borders into militarized zones and denying basic human services to people once within our borders will create a public environment that teaches not hospitality but fear and loathing. Furthermore such punitive actions would be unjust, for immigrants have rights, even those who are undocumented. Limiting access to basic goods such as education, health care, or housing violates the rights of people and further promotes a society of "haves and have-nots." As an alternative, hospitality suggests the creation of fair and reasonable

processes whereby basic services are provided for all residing within the borders of the United States.

13. On the matter of camps for refugees seeking asylum it must be remembered that "camps must remain what they were intended to be: an emergency and therefore temporary solution." It is not unreasonable for a potential host nation to establish standards to evaluate the claims of those who seek refugee status. But several cautions are in order. First, the process should be done with due speed, especially if the refugee is being interned. Second, the standards for establishing refugee status should not be so high or so narrow that they reflect the fears of host nations more than the needs of the refugees. Third, consideration ought to be given to the evolving definition of what constitutes a refugee even if the difference, between economic migrants and economic refugees is at times difficult to discern.
14. None can deny that the influx of large numbers of people into a region, state, or locale can be burdensome. Within our world most migrants are located in poorer regions, where nation-states are already under severe economic and political stress. Equity calls for a fair sharing of the burdens and this entails a willingness on the part of nations such as the United States to be generous with humanitarian assistance. It is clear that some states such as California must endure far more of the costs of migration than other states. Further complicating the situation is that many immigrants pay taxes which are largely federal but require services which are generally paid out of local and state budgets. This would suggest that the federal government assist those states with the heaviest amount of migration-related costs.

Hospitality and the commitment to authentic development are qualities of the fundamental virtue of solidarity, which help us to see the alien not as a problem but as a brother or sister. It is solidarity which challenges us to accept our share of the work which must be done to create a world where men and women can be at home in dignity.

## **IMMIGRANTS, CATHOLICS, and the MAKING of the AMERICAN PEOPLE**

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Introducing one of this century's most influential studies of immigration, Oscar Handlin wrote, "Once I thought to write a history of the immigrants in America. Then I discovered that the immigrants were American history." Indeed, in a fundamental sense, the story of the United States is the story of how a political community has molded itself out of the host of people coming to these shores. The United States has constituted itself by incorporating, in different ways and in different measures, a variety of migrant groups into a relatively cohesive national entity. In its treatment of newcomers-in the welcome it has at times extended to the poor and the persecuted, as well as in its periodic reactions of distrust and hostility-this community has shown both a devotion to ideals of freedom and equality and a capacity for xenophobia and racism. In response, migrant groups have wrestled with the tension between assimilating and maintaining their distinctive identities.' No case illustrates these dynamics better than that of America's Roman Catholic population.' In sketching the broad story of America's immigrants, this paper will assign a special role to the particular story of the Catholic community.

American attitudes toward immigration were cast in the crucible of North America in the two centuries leading up to the founding of the United States. This process began with the establishment of the English colonies in America, a history marked by the systematic displacement or killing of the tribal peoples who were the land's original settlers. Beginning in the late seventeenth century, the colonies absorbed, without undue stress, a stream of refugees-French Huguenots, British Quakers, German Mennonites, Scotch-Irish and Scottish Presbyterians-driven from their homelands by a combination of persecution and economic need. Two groups, however, did not find such a favorable reception. Africans, unwilling immigrants, were consigned to the institution of chattel slavery, while Catholics, viewed as religiously and politically threatening, were subjected to legislation limiting their rights and the practice of their religion in all thirteen colonies. As the new American nation was declared, the language, political culture, and Protestant religion of the English-a group constituting 61 percent of the white and less than half of the total population-constituted the norm on which full inclusion in the society became based.

The first fifty years of the new republic saw only a modest flow of political refugees from Europe and the Caribbean. Its relative isolation gave the young nation an opportunity to solidify its distinctive cultural and political ethos, and by 1830, a considerable homogenization of America's white population had occurred. Languages other than English had begun to fall out of use and churches were in the process of breaking away from their European sponsors. Nationalism blended with millennialism in the idea of America's "Manifest

Destiny," as the country's westward expansion became infused with a sense of civilizing, Christianizing mission. Within the confines of racial stratification, a cohesive sense of what it meant to be an American emerged.

In the middle of the eighteenth century, however, immigration suddenly rose to massive proportions. A sharp increase in birth rates, combined with the effects of agricultural consolidation and industrialization, created a surplus population in Europe which, lured by the promise of work and the active recruitment of travel agents, took advantage of improved transportation to come to America. Four groups in particular constituted the bulk of the roughly fifteen million immigrants who arrived between 1820 and 1890. The largest was the Germans, predominantly poor and Catholic, who came in a surge that peaked around 1850 and again around 1880. A large influx of mostly Catholic Irish occurred in response to the potato blight ending in 1850. In the same general period, economic opportunity and various internal pressures led millions to emigrate from Britain and Scandinavia; smaller numbers also arrived from Western Europe, Canada, and China.

The arrival of these groups spurred a nativist backlash which revolved to a large extent around the traditional antagonism between Protestants and Catholics. Without a sophisticated understanding of the overall economic contribution of the immigrants nor of the dislocating effects of industrialization, natives found it easy to pillory the newcomers based on their presumed links with unemployment, crime, poverty, and disease. The 1840s and 1850s witnessed physical attacks on immigrants as well as political action against them: the American Republican party, often called the Know-Nothings, enjoyed a brief string of electoral successes by campaigning against immigration in the mid-1850s.

That many of the new immigrants, especially the poor, were Roman Catholic was especially provocative to the nativist movement. By 1850, Catholicism had become the nation's largest denomination, comprising 7.5 percent of the population. The menace of Catholicism, according to the nativists, lay in several factors: Catholics, owing their allegiance to the pope, could not be loyal Americans; their religion, with its authoritarian structure, was inherently undemocratic; indeed, Catholics were part of a conspiracy to overthrow the United States. Catholics were also criticized for engaging in celibacy and other alleged unnatural sexual practices as well as for their resistance to Protestant campaigns on behalf of temperance and Sabbatarianism. Perhaps the greatest incitement for nativists, however, involved the public school movement. Rather than support Protestant-run "nondenominational" schools, the Catholic Church requested public funding for its own schools, an unsuccessful bid that aroused considerable public rancor. In the face of this reaction, the Catholic leadership began an ongoing struggle with the question of the extent to which its distinctive character could be reconciled with an American identity.

In the years following the Civil War, the tension between cultural accommodation and resistance to assimilation was played out in different ways for the diverse groups of foreign-stock Americans. The Chinese, excoriated for their alleged immorality and viewed as

incapable of assimilation, became the first objects of immigration restrictions with the passage of the Chinese Exclusion Act in 1882. The immigrants from Britain and Canada, on the other hand, were quickly absorbed into the American mainstream. The Scandinavians, who were concentrated in the rural Midwest, remained in ethnic enclaves yet were largely spared conflict with the majority in virtue of their subscription to mainstream American values. The Germans, also a largely Midwestern population, went farther in attempting to maintain their discrete national identity and language, although ultimately they too began slowly to conform to the dominant Anglo-American culture. Finally, only the Irish presented a long-term challenge to the drive toward the homogenization of the white populace. The Irish were discriminated against because they were disproportionately poor, because they were perceived as primitive and inherently violent, and because their success in organizing politically was seen as a threat. Perhaps most of all, though, they faced opposition for their efforts, along with their German coreligionists, to maintain a Catholic presence in American society.

The Catholic leadership in the United States, dominated by Irish clergy, sought in this period to integrate its charges into American life while shielding them from some of its pressures. To this end, the Church established a set of institutions mirroring those of the broader society, universities, hospitals, newspapers, and a variety of social services. Most importantly and controversially, Catholic parishes were ordered to set up parochial elementary schools, while parents were officially instructed in the spiritual dangers of public schools. The parochial schools became the focus of an overarching debate concerning the degree of Americanization appropriate for Catholics. Liberal critics of the schools, led by Archbishop John Ireland of St. Paul, argued not only that public schools could be combined with suitable religious instruction, but that such a course was a necessary step in the development of an Americanized Catholicism that might place its stamp on the broader culture. Meanwhile, German clergy, who were involved in an effort to bolster ethnic churches of their own, pursued the creation of parochial schools along national lines and supported, in addition, a request in 1891 to Pope Leo XIII to appoint foreign bishops to immigrant populations. At this point, the Irish-American hierarchy joined with President Harrison in endorsing English-speaking education and affirming the allegiance of the immigrant church to America.

Between 1890 and 1920, as the industrialized American economy continued to require new increments of labor, a new and distinctive generation of immigrants filled the void. Propelled by population pressures, discrimination at home and the promise of economic mobility, 18.2 million immigrants arrived in this period, mainly from Southern and Eastern Europe and Asia. The new immigrants differed from their predecessors not only in their ethnic makeup, but also in the predominance of males and in the intention of many eventually to return home. The largest national group was from Italy, where a succession of domestic crises prompted emigration especially from the poorer southern regions. Another major group comprised various Slavic nationalities whose joint migration was a response to an agricultural crisis compounded by adverse political conditions. They were joined by a con-

siderable number of Jews fleeing repression and economic travails in Central and Southern Europe. The "new immigration" was rounded out by arrivals from Japan, Canada, and Mexico. In the same era, the United States experienced a large internal migration as close to two million blacks headed north in search of better opportunities. In most cases these groups, ill educated, unskilled, and objects of discrimination, quickly filled the bottom rung of the socioeconomic order.

Once more, the arrival of the immigrants met with a surge of nativist sentiments. The reaction against the immigrants was fueled by a sense that the limits of territorial expansion had been reached, that the need for new labor was shrinking, and that the nation's ability to absorb newcomers was becoming overtaxed. Immigrants were accused of being radical agents of labor unrest; they were also blamed for many of the social problems naturally accompanying the transition to an urban, industrialized economy. In addition, pseudo-scientific theories such as Social Darwinism, eugenics, and "scientific racism" purported to demonstrate the danger posed to society through the addition of inferior foreign stock. The result of these combined factors was a push toward the adoption of a restrictive immigration policy based on ethnic and racial exclusions. The groundwork for this policy was laid with the establishment, through the Immigration Act of 1891, of federal screening of immigrants, mainly at Ellis Island. As anti-immigrant feelings were stoked by groups such as the Immigration Restriction League and the American Protective League, the grounds for denying admission to the country, which had originally focused on individual characteristics such as disease or criminality, came gradually to target certain groups. In succession, the Japanese (1908), the illiterate (1917), and anarchists (1918) became objects of exclusion. The culmination of this movement was the Johnson-Reed Immigration Act of 1924, which fixed a ceiling for immigration and introduced admissions quotas based on the ethnic makeup of society as of 1920.

The large Catholic contingent among the new immigrants posed a special challenge to the Catholic Church in the United States. At the turn of the century, a controversy between liberals and conservatives over the degree to which Catholicism should accommodate itself to American culture ended with the circulation of an encyclical from Pope Leo XIII condemning the heresy of "Americanism." This development induced a retreat from the goal of rapid Catholic acculturation; at the same time, greater attention was given to easing the transition to America for the new arrivals. While an English-speaking Church remained the norm, this course meant that foreign-language services in newly created national parishes were countenanced, temporarily at least, in order to meet the psychological and spiritual needs of the immigrants. This tolerance of diversity resulted in a slowing of the overall assimilation of Catholics, the costs of which were to some degree balanced by the maintenance of a relatively cohesive Church.

The decades following World War I were once again a time of assimilation and consolidation of the gains from immigration, steps made possible by the maintenance and extension of the immigration system's racially and ethnically based mechanisms of exclusion.

Support for the quota system extended in the 1930s to include restrictions on Mexican, though not Canadian, immigration. During World War 11, Jewish refugees from Hitler were turned away, while an exception to existing restrictions was sought for English children threatened by the Blitz. With the onset of the Cold War, even as America welcomed refugees from behind the Iron Curtain, political beliefs were added to the grounds for exclusion as the internal Security Act of 1950 disqualified for admission all present and past members of Communist and Fascist organizations. With immigration reduced to a trickle, conditions became highly favorable for the speedy acculturation of the newest groups. Partly this process was aided by the efforts of a spectrum of Americanization groups which aimed, in various ways, at eradicating the distinctive cultures of the immigrants. The war effort, too, played a significant role in unifying an American society proud, among other things, of its diversity-although this came at the considerable cost of those Japanese Americans who were consigned to internment camps. At least as influential, however, were gradual developments such as the replacement of foreign languages by English and the inclusion of the new groups in political life.

The effects of isolation and Americanization pertained as much to the Catholic community as to any group. By the mid-1960s, Catholics constituted a well established, highly acculturated component of American society. In matters of religion, they had benefitted from a gradual shift in American society toward an emphasis on the common fundament for democratic values provided by the Judeo-Christian tradition. Protestant-Catholic tensions were further ameliorated by both a shared opposition to the atheism of Communism and the general spirit of ecumenism accompanying the reforms of Vatican II. In the political sphere, John Courtney Murray forcefully argued the compatibility of Catholicism and the Constitution, while the election of John F Kennedy in 1960 laid to rest the view that the White House was reserved for Protestants. In socioeconomic terms, Catholics registered steady gains in both wealth and education. Perhaps the most telling sign that the adaptation of Catholics had shaded into assimilation was the growing number of "communal Catholics," Catholics whose religious identity was no longer dependent on the traditional Church.

In 1965, the increasingly apparent tension between the nation's commitment to equality and its ethnically discriminatory immigration policy led the government to overhaul the immigration system, producing in the process distinctive new patterns of immigration. A set of amendments to the 1954 Immigration and Nationality Act superseded the national origins quota system, instead allotting a set number of visas for the Eastern and Western Hemispheres. In the apportionment of these visas, the new policy awarded pride of place to relatives of U.S. citizens and legal aliens, granting lesser preferences to professionals, other workers, and refugees. Parents, young children, and spouses were deemed eligible for admission independently of the visa ceilings. Refugees, too, remained eligible for nonquota admissions, a provision which enabled the influx of close to half a million Indochinese and Cubans between 1975 and 1980. The principal effect of the 1965 legislation was to open

access to America to large numbers of immigrants from the Third World. In the 1970s and 1980s, European countries were replaced by Asian, Latin American, Caribbean, and Middle Eastern nations as the primary sources of immigration. Though a new law passed in 1990 once again made steps toward promoting Western European immigration, it refrained from increasing constraints on Third World countries, and as a result the latter continue to provide the bulk of new arrivals.

The advent of a broad range of new groups has coincided with the rise of ethnic consciousness in American society. The civil rights movement's legacy of empowerment for blacks extended first to Native Americans and Hispanics, and then to other relatively unassimilated immigrant groups, creating an environment in which the distinctiveness of America's minority groups might be valued as much as their membership in a common culture. Over the last few decades, a trend toward greater pluralism and respect for diversity has made possible an appreciation not only of the crucial economic role of America's immigrants, but also of their many contributions to the tapestry of American cultural life.

At the same time, however, new fears have arisen in some quarters regarding the ability of the United States to hold together its many diverse elements. The current level of combined legal and illegal immigration, while not high when considered as a percentage of the total population, has nonetheless fostered concern about the possible effects for America's economy. As this sketch has shown, in the history of the United States periods of increased immigration have tended to elicit exclusionary reactions characterized by nativism, ethnic and religious chauvinism, and racism. This has occurred despite the fact that such reactions contradict commitments-to freedom, justice, and equality-that are fundamental to the character of the American political community. Whether Americans will depart from this pattern in the present instance remains to be seen.

## **UNITED STATES IMMIGRATION and REFUGEE POLICY:**

### **The Legal Framework**

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#### **I. THE HISTORICAL CONTEXT**

Debates over immigration have been a constant of U.S. history since the beginnings of the Republic, and the issue has often been a source of great tension. Despite the United States' origin as a nation of immigrants, the Founding Fathers did not explicitly confer to one of the three branches of government the authority to regulate immigration when they wrote the U.S. Constitution. Perhaps this was due to the fact that, at least initially, the United States permitted open borders, welcoming the influx of capital and labor from abroad. By the late 1880s, however, Congress began to address the difficult questions of who should be admitted into the country and in what numbers. Since then, it has on numerous occasions either expanded or restricted the number or types of individuals admitted, typically in response to economic or political considerations.

The history of U.S. immigration law offers a unique insight into how the United States defines itself as a nation. It is a history virtually unparalleled in any other country. Tens of millions of newcomers have been welcomed to U.S. shores, and they have in turn transformed and invigorated American life. The United States has resettled on a permanent basis more refugees fleeing persecution than any other industrialized nation. Moreover, it is still relatively easy to obtain U.S. citizenship.

However, while the American public often prides itself on its "melting pot" tradition, it is critical to remember that U.S. immigration laws have not always been fair. Particularly in times of economic stress or when there is a perceived threat to the national security, the United States has quickly turned inward and raised legal barriers to the admission of individuals from other countries.

In fact, when Congress enacted the first immigration law in 1790, it voted to limit naturalization, the process by which individuals acquire U.S. citizenship, to "free white persons" who had resided in the United States for at least two years. This requirement was not removed until 1952.

The 1800s saw increasing controversy on immigration issues. As the number of Irish Catholics entering the United States grew, nativist elements targeted the "Papists," attributing to them crime, disease, and moral depravity. The so-called "Know-Nothings," whose philosophy centered on "Un-American" foreigners, managed to win political control of six states in the 1850s. Similar movements rose again after the Civil War when "foreign despotism" was often linked to Catholic immigrants.

By 1875, Congress began to shape a comprehensive system to regulate immigration flows. For example, it restricted the admission of certain "undesirable" people, such as prostitutes, revolutionaries, and those carrying "loathsome or dangerous contagious diseases."

In 1882, Congress adopted one of the most blatant racially-biased immigration laws in U.S. history, the Chinese Exclusion Act, which the U.S. Supreme Court subsequently upheld and variations of which remained in U.S. law until 1943. The Chinese Exclusion Act responded to the wave of nativism sweeping the American West as the number of Chinese laborers brought to the United States to lay railroads and work in the mines grew from 40,000 to over 100,000. A California State Senate Committee put it in the following manner:

[The Chinese] fail to comprehend our system of government; they perform no duties of citizenship.... They do not comprehend or appreciate our social ideas.... The great mass of the Chinese ... are not amenable to our laws.... They do not recognize the sanctity of an oath. (As quoted by the Select Commission on Immigration and Refugee Policy).

In 1917, Congress overrode a veto by President Woodrow Wilson and enacted a literacy requirement that all new immigrants be able to read at least 40 words in some language. It also designated Asia, with the exception of Japan and the Philippines, as a "barred zone" from which no immigrants would be permitted entry.

In the Immigration Act of 1921, Congress for the first time set limits on the number of people to be admitted to the United States. It also established the so-called "national origins" quota system which served to discriminate against Southern and Eastern Europeans and Asians in favor of Northern Europeans. Admission numbers from each European country were limited to three percent of each foreign-born nationality in the United States, as counted in the 1910 census.

National origins legislation culminated three years later with the Johnson-Reed Act. In an effort to preserve the "racial composition" of the United States, immigration quotas were based on the ethnic makeup of the U.S. population as a whole in 1920. The legislation also capped European immigration at 150,000 and completely prohibited Japanese immigration. The Select Commission on Immigration and Refugee Policy noted in its 1981 analysis of U.S. immigration policy:

The Commissioner on Immigration reported one year after this legislation took effect that virtually all immigrants now "looked" exactly like Americans. Abraham Lincoln's

fear that when the nativists gained control of U.S. policy they would rewrite the Declaration of Independence to read: "All men are created equal, except Negroes, foreigners, and Catholics," seemed to be coming true.

The Great Depression, not surprisingly, brought a tremendous slowdown in immigration to the United States. Immigration in the 1930s was less than one-eighth that of the previous decade, and, in fact, more people left the United States than entered. In 1932, for example, emigration was 290 percent higher than immigration.

Immigration policy reached one of its lowest points just before World War II, when the United States failed to respond to the needs of victims of Nazi persecution. In 1939, using the rationale that it would exceed Germany's annual immigration quota, Congress actually defeated a bill to rescue 20,000 children from Germany, even though American families were willing to sponsor them. Also in that year, the United States prevented a ship called the "S.S. St. Louis" from landing in Florida, thus denying refuge to the almost 1,000 Jews on board desperate to escape the persecution they suffered in Germany. Many subsequently died in concentration camps.

After World War II, in response to a rejuvenation of the United States' commitment to democratic ideals, the horrors of the Nazi atrocities, and an improving U.S. economy, President Harry Truman issued a directive allowing for the admission of 40,000 war refugees. In addition, Congress passed a number of measures that benefitted refugees and immigrants. The War Brides Act permitted 120,000 alien spouses and children to join their families in the United States. The Displaced Persons Act of 1948 permitted the entry of an additional 400,000 refugees and displaced persons. Finally, the Refugee Relief Act of 1953 admitted another 200,000 individuals, including Hungarians fleeing Communism and 2,800 Chinese in the wake of the Chinese Revolution.

Fear of communism dominated immigration policy in the 1950s. The McCarran-Walter Act of 1952 consolidated all immigration laws into the Immigration and Nationality Act, but retained the national quotas system and barred the admission of anyone who might engage in acts "prejudicial to the public interest, or that endanger the welfare or safety of the United States." One positive development, however, was the setting of minimum admission "floors" for all nationalities, thus opening the doors to immigrants of nationalities previously excluded on racial grounds. The 1952 Act also considered family connections in determining immigrant admissions.

In the 1960s, increased support for civil rights and a greatly expanding U.S. economy brought fresh ideas to U.S. immigration policy. National origin quotas were finally eliminated. An overall immigration ceiling was set at 170,000 with a per country ceiling of 20,000 for all countries except those in the Western Hemisphere (an exemption that was removed in 1976). Preference was given to family members with close ties to U.S. citizens or permanent residents. The "quadratic equation" that results from this formula is still in effect today. As a result of these revisions, immigration from Asia and Latin America grew while the number

of immigrants from such countries as Ireland, Italy, and Poland dropped off.

This movement toward a more "pro-immigrant" policy continued through the beginning of this decade. The following discussion provides a detailed look at the immigration laws enacted from 1980 to the present. This is followed by a prediction of future immigration policy developments.

## **II. IMMIGRATION LAW IN THE PAST FIFTEEN YEARS**

While Congress previously had addressed immigration policy only every ten to twenty years, starting in 1980 Congress enacted major immigration reforms approximately every five years. A report issued by a commission of immigration and refugee experts appointed by President Jimmy Carter in 1979 provided the impetus for this increased attention. The Select Commission on Immigration and Refugee Policy chaired by Father Theodore Hesburgh, President of Notre Dame University, and including several members of Congress and cabinet officials released comprehensive recommendations on all aspects of U.S. refugee and immigration policy.

Many of the Commission's recommendations were enacted into law in three major reform bills. The bills, which form the basis for the current system, pertained to three aspects of immigration policy: 1) the protection of refugees, meaning persons fleeing political persecution; 2) the control of illegal immigration; and 3) the reform of the system by which persons other than refugees enter the United States legally as permanent immigrants.

### ***A. The Refugee Act of 1980***

World War II, and increasing public awareness of the human rights abuses that went unchecked in Europe while the international community looked the other way, gave rise to an international effort to establish a regime for the protection of individuals fleeing persecution in their homelands. The result was the adoption in 1951 of the United Nations Convention Relating to the Status of Refugees. The Convention laid out for the first time a generic definition of a refugee as a person who, owing to events occurring before January 1, 1951, is outside his or her country of nationality and has a "well-founded fear of persecution" on account of the individual's race, religion, nationality, membership in a particular social group, or political opinion. In 1967, a Protocol Relating to the Status of Refugees extended that definition to individuals fleeing persecution after the original cutoff date.

The United States ratified the Protocol in 1968. However, despite the fact that this new international regime did not reference any particular nationality, U.S. practice until 1980 was to admit refugees when it was in the United States' foreign policy interest to do so. In reality,

this meant that for the most part only persons fleeing from Communist countries were admitted as refugees. Prior to 1980, 99.7 percent of the more than one million refugees allowed into the United States came from Communist countries. Between 1975 and 1980, for example, approximately 400,000 Southeast Asians were admitted.

These individuals were admitted under the "parole authority" granted to the Attorney General by the McCarren-Walter Act. The parole authority allows the Attorney General to admit anyone "for emergent reasons or for reasons deemed strictly in the public interest." Admission of refugees was ad hoc in nature, with Attorneys General exercising their parole authority when refugee situations reached crisis proportions.

The Refugee Act of 1980 represents an attempt to regularize U.S. refugee policy and to establish a less biased system for the selection of refugees. The legislation incorporates the international definition of a refugee to reflect the 1951 Convention and the 1967 Protocol.

The Act also requires the Administration to consult with Congress each year regarding who will be admitted as a refugee and how many refugees will be admitted overall. The reforms also attempt to "de-link" refugee policy from foreign policy by restricting the Attorney General's parole authority. Finally, the Act authorizes federal assistance for the resettlement of refugees in the United States.

Implementation of the Refugee Act, however, has often been very different from the intent of its sponsors. For example, while the various Administrations consulted with Congress on refugee numbers, they continued to largely favor the admission of refugees from Communist countries, including Vietnam, Cuba, and the Soviet Union, even after the demise of Communist control in the latter. In 1980, after passage of the Refugee Act, refugee admissions were capped at 234,000, with 169,000 slots for Southeast Asians, 33,000 for the Soviet Union, 19,500 for Cubans, and 1,000 for the remainder of Latin America. Likewise, in 1985, when refugee admissions were reduced to 70,000 for the year, 50,000 were reserved for East Asia. Even now, persons from the former Soviet Union and Vietnam currently represent 80 percent of refugee admissions.

Other legislation has reinforced this bias. The so-called Lautenberg Amendment, which has been in U.S. law since 1988, grants preferential refugee status to certain individuals fleeing Indochina and the former Soviet Union, including Ukrainian Catholics, Pentecostals, and Soviet Jews. The Cuban Adjustment Act allows Cubans to obtain permanent residence in the United States without first completing the political asylum process through which all others seeking refugee status while in the United States must go. Even with this mechanism in -law, typically the refugee slots allotted to Latin America and the Caribbean under the Refugee Act are used primarily for Cubans.

The Refugee Act also mandates establishment of an asylum procedure to protect individuals with a well-founded fear of persecution in their homeland who are physically

present in the United States. It was not until 1991, however, that a specialized corps of asylum adjudicators was finally set up. This followed years of criticism of the U.S. asylum system for its biased adjudications. For example, while in the mid-1980s 14 percent of Nicaraguans who applied were granted asylum, only 2.6 percent of Salvadoran asylum applications were granted. In 1990, the Immigration and Naturalization Service (INS) actually settled a lawsuit in which it agreed to readjudicate all Guatemalan and Salvadoran asylum applications that it had previously denied.

The newly established asylum corps represents a notable improvement over the past adjudication of asylum claims, which were handled by local INS district directors. The system allows for non-adversarial hearings before specially trained asylum officers, a significant number of whom come from the human rights and refugee fields.

The new asylum system, however, has been quickly overwhelmed by applications. The backlog of cases exceeded 300,000 by 1994. In response, the INS recently restructured and streamlined the asylum adjudication system to accommodate this large caseload.

### ***B. The Immigration Reform and Control Act of 1986***

A debate began in the early 1970s about the growing number of undocumented migrants (commonly referred to as "illegal aliens") in the United States. In 1974, the Attorney General estimated that 4 to 7 million undocumented migrants lived in the United States. By 1981, the estimate had increased to 8 to 10 million. For the first time in the history of U.S. immigration policy, lawmakers began to grapple with the difficult issue of how to control illegal immigration.

After years of considering various proposals, Congress finally passed the Immigration Reform and Control Act (IRCA) in 1986. IRCA encompassed a two-prong approach to the issue. First, it allowed for the legalization of any undocumented person who had resided in the United States prior to January 1, 1982 under a program popularly referred to as the "amnesty" program. Congress made the controversial decision to require each individual to meet the cutoff date for eligibility, thus enabling some family members to legalize while their close relatives remained undocumented.

Nevertheless, some 3.2 million individuals obtained legal status and were able to fully join U.S. society without fearing deportation.

Second, IRCA established a system of employer sanctions, for the first time making it illegal for employers to knowingly hire an undocumented worker. Employers who violate the law's requirements are subject to civil penalties and fines. This program was intended to eliminate the "pull" factor of jobs attracting undocumented migrants to the United States.

The employer sanctions program has been controversial ever since its enactment. While illegal immigration initially dropped after IRCA's enactment, it quickly crept back up

to pre-IRCA levels. It is currently estimated that there are 3.8 million undocumented migrants living in the United States, with an additional 300,000 being added each year. While the evidence indicates that employer sanctions have been ineffective, numerous studies have shown that they have caused employment discrimination against U.S. citizens and lawful permanent residents who look or sound "foreign." Employers will avoid hiring such individuals rather than risk being subjected to sanctions fines.

### ***C. The Immigration Act of 1990***

While debate in the 1980s focused primarily on illegal immigration, the 1990s opened with a fresh look at legal immigration. Since passage of the 1965 legislation, there was general consensus that legal immigration was of benefit to the United States, allowing families to reunite and bringing needed labor and skills to the U.S. economy. As the Select Commission on Immigration and Refugee Policy noted, "We must close the back door to illegal immigration in order to keep the front door open to legal immigrants."

With IRCA behind it, Congress turned its attention to legal immigration. The Immigration Act of 1990 (IMMACT) represented a culmination of two years of renewed debate over the questions of who should be allowed to immigrate and in what numbers. It also revamped existing programs within the legal immigration system and introduced several new ones in an effort to overcome some of the failures of prior policies.

IMMACT was the most comprehensive revision to U.S. immigration law in 66 years and was passed amid much controversy in the final hours of the 101st Congress. It was the subject of intense advocacy work from many different sectors, including the religious community, labor organizations, big business, civil rights groups, ethnic communities, and immigration lawyers. Its complexity and breadth of programs reflects the diverse interests of these groups.

A primary focus of the new law was the numerical limits and preference system regulating permanent legal immigration. In doing so, it: 1) affirmed family reunification as the basis for the majority of permanent immigration; 2) redefined employment-based immigration-, 3) created a new system to diversify the nationalities able to immigrate to the United States, ostensibly to compensate for the domination of Asian and Latin American immigration that had occurred since 1965; and 4) created new mechanisms to provide refuge to those fleeing civil strife, environmental disasters, or other upheaval in their homelands.

Visas were categorized into three permanent tracks. First, 465,000 annual visas were allotted to family-sponsored immigrants, with 55,000 visas reserved for certain spouses and children of individuals legalized under IRCA to enable at least some amnesty families to regularize the status of their close family members. Second, 140,000 annual visas were

allotted to employment-based immigrants. Third, 55,000 annual visas beginning in fiscal year 1995 were reserved for a special program to diversify immigration.

Overall immigration was capped at 700,000 per year for fiscal years 1992 to 1994. In 1995, the overall immigration cap dropped to 675,000. With the exception of the diversity visas, a close family relative or employer must sponsor an immigrant visa applicant.

Family-based immigration continues to favor close relatives, with spouses, children, and parents of U.S. citizens exempted from the overall cap on immigration. These individuals thus can immigrate without regard to numerical limitations. As the number of visas used by "immediate relatives" increases, it cuts into the number of visas available to other relatives of U.S. citizens and those available to relatives of lawful permanent residents. IMMACT, however, established a floor for family visas as well as a cap, thus ensuring that the number of visas available to family relatives never falls below 226,000 per year regardless of how high the immediate relative numbers climb.

Family visas for those not classified as immediate relatives, as well as employment-based visas, are distributed through a complex system known as the "preference system." To be eligible for a visa within this system, an applicant must be: 1) an unmarried adult son or daughter of a U.S. citizen (the first preference); 2) the spouse or minor child of a permanent resident, or the unmarried adult son or daughter of a permanent resident (the second preference); 3) the married son or daughter of a U.S. citizen (third preference); or 4) the brother or sister of an adult U.S. citizen. These visas are subject to a complicated system of distribution that factors in per-country ceilings on the number of visas issued to each nationality (approximately 25,000 per year), the number of visas allotted to each preference, the number of visas allotted to family members brought in with a visa beneficiary (so-called derivative visas), and the overall cap on immigration annually.

In addition, IMMACT more than doubled the number of employment-based visas available each year, allotting a total of 140,000 visas to applicants that can show eligibility for certain defined categories. These categories include 1) aliens of "extraordinary ability" in the sciences, arts, education, business, or athletics; 2) outstanding professors and researchers; 3) certain multinational executives and managers; and 4) members of the professions who hold advanced degrees or who have "exceptional ability" in the sciences, arts, or business. Other workers eligible for visas include professionals who hold baccalaureate degrees, workers with skills not readily found in the United States, and certain unskilled workers. Unskilled workers, however, are limited to only 10,000 visas per year. Certain "special immigrants," including religious workers, are also eligible for employment-based visas. Finally, visas are available for individuals willing to invest at least \$1 million in an enterprise that will employ at least ten U.S. workers.

Starting in 1995, IMMACT grants 55,000 visas each year to nationalities that have contributed relatively few immigrants to the United States in recent years. While the intent of the "diversity program" was widely understood to increase immigration from European

countries whose family ties in the United States had grown too distant to qualify under the preference system, nationals of many countries are actually eligible for diversity visas. Under a complicated numerical formula, the most diversity visas are reserved for nationals of European and African countries.

IMMACT contained various other programs that favored particular groups of immigrants. These included such programs as a visa lottery program with a specific set-aside for Irish immigrants and 1,000 visas for certain displaced Tibetans.

IMMACT also allows for the protection of nationals of countries designated by the Attorney General who are physically present in the United States and are fleeing armed conflict, environmental disasters, or other upheavals in their homelands. This provision, known as "Temporary Protected Status" (TPS), provides a much needed mechanism for the United States to offer blanket protection to those who fear for their lives or safety due to generalized country conditions without requiring them to show the individualized persecution necessary for refugee status.

IMMACT statutorily designated nationals of El Salvador for TPS to compensate for the consistent refusal by the U.S. government to provide Salvadorans with any refuge from the political violence rampant in their home country in the 1980s. Approximately 187,000 Salvadorans eventually registered for TPS status. Since IMMACT, TPS has been granted to several other nationalities, including Liberians, Somalis, and Bosnians. However, the Attorney General has failed to designate other nationalities that seemed to be deserving of TPS, such as Haitians and Guatemalans. As in the past, U.S. safe haven and refugee policies appear driven as much by politics and concerns about numbers as by humanitarian need.

In total, IMMACT has increased legal immigration to the United States to a level in excess of one million, when refugees are included. This level is the highest in U.S. history, and in proportion to the U.S. population as a whole, is second only to that experienced at the turn of the twentieth century. The variety of programs contained in the legislation gives testament to the intense lobbying by the many interest groups that helped shape the legislation.

### **III. CURRENT IMMIGRATION LAW**

The refugee framework laid out in the Refugee Act of 1980 and the immigration framework revised and improved under IMMACT represent the basis for current U.S. refugee and immigration law. IRCA, while having little effect on the control of illegal immigration, has guided INS enforcement efforts and brought relief to millions of individuals who were able to emerge from a life underground.

While the last major immigration legislation was enacted in 1990, the United States has since experienced several critical events that have affected implementation of immigration and refugee policies. Perhaps most notable has been the national controversy surrounding U.S. asylum policy when the United States has been confronted with the prospect of being a country of first asylum. While the United States has offered significant assistance to other countries facing large influxes of asylum seekers and has opened its doors to over a million persons who have been granted refugee status while overseas, it has yet to resolve its own process for handling asylum seekers from such countries as Haiti, Cuba, and the People's Republic of China, who apply for refuge once they are on U.S. soil.

This lack of certitude regarding how to handle large influxes has resulted in contradictory policies that typically do little to offer meaningful protection to those in need while sending mixed messages to sending countries. Thus, such policies arguably add to the incentives for people to migrate to the United States in search of a better life.

In response to refugee crises in Haiti and Cuba, the United States has experimented with large scale interdiction and repatriation programs; temporary holding centers for asylum seekers, both offshore and in INS-administered detention centers; and the processing of asylum seekers in their home country. Few of these policies, however, have struck the necessary balance between U.S. international and domestic legal commitments to the protection of refugees and the desire to control in an orderly and humane manner the flow of asylum seekers to U.S. shores.

In an attempt to regulate the processing of asylum applicants who affirmatively ask the United States for protection, the INS released new regulations in December 1994 to streamline the process to deter frivolous applications and to speed up the approval of legitimate asylum claims. It is still too soon, however, to evaluate the success of these reforms.

Another area that has been subject to experimentation is the control of illegal immigration. The INS, as the enforcement agency mandated to control such migration, has tried employer sanctions, border control, and agreements with sending countries in its effort to curb illegal immigration. Few of these programs have resulted in more than a temporary slow-down in the flow of undocumented migrants and in some cases have resulted in questionable human rights practices. Moreover, most enforcement efforts have targeted the flow of undocumented migrants across the southern border of the United States. Little progress has been made in controlling the phenomenon of visa over-stayers, who represent one-half of the undocumented population in the country.

Finally, a discussion of immigration law would not be complete without mentioning naturalization. The United States remains one of the most open societies in terms of offering newcomers the opportunity to become citizens. The law generally requires that an applicant for naturalization be a permanent resident for five years and successfully complete an English and U.S. history and civics examination. After offering an oath of allegiance and being sworn in by a federal judge or INS official, the new citizen then enjoys all the rights and

responsibilities enjoyed by native born Americans. Despite increasing backlogs in INS processing of naturalization applications and the sometimes confusing and arbitrary examination process, approximately one million immigrants become U.S. citizens each year.

#### **IV. WHERE DO WE GO FROM HERE?**

With a few notable exceptions, policies favoring increased immigration and refugee protection have characterized the past thirty years. This trend, however, is rapidly reversing, as public sentiment against immigrants and refugees has increased. It appears that the United States is again following its historical pattern of closing its doors to immigrants and refugees in response to political events and public pressure, much of it uninformed.

While it is difficult to point to any single event as the cause for the upsurge in anti-immigrant sentiment, several factors have played a role. These include the perception that U.S. borders are out of control and that undocumented migrants are flooding the United States to take scarce jobs and to access public benefits. This perception has little basis in reality; the undocumented typically fill jobs unwanted by U.S. workers and are ineligible for most benefits, even though they pay \$7 billion annually in taxes and social security contributions. Moreover, 85 percent of immigrants come to the United States through legal means.

Adding to this public perception is the fact that most immigrants, whether legal or undocumented, settle in certain key areas, such as California. In addition, most immigrant tax dollars accrue to the federal government rather than being distributed to state and local governments to help offset the costs of education and emergency health care. California's faltering economy has created the environment in which public frustration has targeted immigrants as a source of economic problems. This exacerbated existing tensions in the state, and resulted in passage in the 1994 elections of Proposition 187, a devastating referendum that denies children of undocumented migrants a public education and cuts off even emergency health care to those "reasonably suspected" of being in the United States illegally.

The influx of Haitian, Cuban, and Chinese asylum seekers has also added to public fears of large influxes of newcomers. The government's equivocation on how to protect legitimate asylum seekers from these countries has added to public unease regarding the effectiveness of the federal government's immigration policies.

The media has also fueled public concerns about immigration. Occasionally, sensationalist media coverage has further eroded public confidence in the INS' ability to regulate the flow of immigrants to the United States. These reports have been partly -fueled by coordinated advocacy campaigns by certain powerful immigration restrictionist organizations.

Not surprisingly, the public's lack of support for a generous refugee and immigration

policy has resulted in a flurry of legislative proposals to decrease the number of people admitted each year or even to shut down the refugee and immigration systems entirely.

While it is still too soon to know exactly what will result from this legislation, early indications point to several imminent changes. These include:

- Limiting immigrant eligibility for public assistance programs;
- Decreasing family-based immigration, either by eliminating certain family preferences, instituting a firm cap on visas, or cutting the number of visas overall;
- Cutting the number of refugee admissions to half of current levels;
- Funding new border enforcement activities;
- Implementing new mechanisms to determine U.S. employment eligibility under the employer sanctions program, including development of a national identification system for all U.S. workers;
- Establishing expedited procedures to process asylum seekers who either arrive in large numbers or who seek to enter with faulty documentation, even at the risk of failing to identify true asylum claims; and
- Eliminating certain visa categories viewed as favoring certain groups, such as the diversity visa program.

In addition to these restrictionist proposals, however, some beneficial changes are currently being considered or implemented. These include improvements in the naturalization process and new guidelines to provide sensitive and enhanced consideration to political asylum claims brought on the basis of gender persecution.

While it is unclear what U.S. refugee and immigration policy will look like in the coming years, it seems certain that Congress will enact major reforms to restrict immigration and diminish refugee protections unless serious and sustained advocacy on behalf of immigrants and refugees occurs. Such advocacy must be grounded in an education campaign that enhances public understanding of the many benefits that result from generous U.S. immigration and refugee policies.

## **IMMIGRANT FAMILIES in CULTURAL TRANSITION**

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### **I. THE FAMILY IS AN OPEN SOCIOCULTURAL SYSTEM IN TRANSFORMATION AND A SOCIAL UNIT THAT CONFRONTS A SERIES OF DEVELOPMENTAL TASKS**

During the last two decades there has been a steady influx of Hispanic, Haitian, South-Asian, and other ethnoculturally diverse families to the United States. It is very probable that the social institutions most affected by these changing demographics are the private and public schools which have received and continue to receive the children of those immigrant families. For these families, the school has had to perform an extraordinarily difficult role, that of serving as "an intersection between the home culture and the mainstream American culture" (Provenzo, in Silva, 1985).

The "home (native) culture" is the family's ethnic identification, its traditional internal organization, value system, customs, child rearing practices, in sum "the psychological frame of mind imposed by the language, educational system, and the historical, cultural and political trends of (the immigrants') native country" (Rodriguez & Vila, 1982)

Every family belongs to a defined cultural community by identifying itself with a common group as set off by race, religion, nationality, or by some mixture of these categories which serve as social psychological referents and create-through historical circumstances-a sense of peoplehood (Gordon, 1964). These relationships between the family and its cultural community involve mutuality and reciprocity, social articulation, and recognition; they create a sense of belonging and of historical continuity not only for the family but also for its members.

Four universal tasks have been attributed to the family: 1) the function of replacement or biological reproduction, 2) the function of position conferring which introduces the new member into the ethnic and cultural societal group to which the family belongs; 3) the parenting function which fulfills basic physiological and psychological needs through nurturance, emotional gratification, and support; and 4) the socialization/education/inculturation of the offspring so they can qualify as full-fledged members of society (Winch, 1977, p. 108).

Every family is interwoven in a continuous interchange with its own economic and

sociocultural environment to accomplish these tasks (Bronfenbrenner, 1986). Consequently, the cultural values and the ethnicity of the family mediate its interactions with the external world, which in turn strongly affects the family's mechanisms for coping with and for adapting to its ethnocultural environment (Ho, 1987).

Through the process of socialization parents conform their children with culturally specific ways or preferred modes of perceiving and relating to others, of understanding the verbal and nonverbal symbols essential for communicating, remembering, and thinking, as well as for problem solving and for the use of meaning and logic. Similarly, this inculturative or socializing process shapes children's self-concept and self-esteem while they "absorb" the culture of their parents and "locate" themselves within their first and minute sample of society-their homes and its sociocultural expectations. Therefore, families in their function as primary socializing agents, convey not only the norms and mores of their culture, but also the specific styles, modes, values, and myths that constitute an 'ad hoc' family's specific view of world and of their own history (Sluzki, 1979).

In conclusion, families "inculturate"-socialize-their children by teaching them the different transactional patterns needed to live together cooperatively in their immediate environment through language, rituals, customs, habits, rules, ethnocultural modes of behavior, and minor matters, such as routines at home, as well as implicit assumptions regarding discipline, sexual identity, and religious beliefs.

## **II. RESETTLEMENT IS A PROCESS THAT IS CULTURALLY, SOCIALLY, AND PSYCHOLOGICALLY COMPLEX. IT IS AN ACTIVE PROCESS THAT CONTINUES OVER THE LIFETIME OF THE MIGRANT/REFUGEE**

Since immigrant family members have been conformed, shaped, socialized by one specific culture which had provided the context and the content of their personality development, migration-induced changes rupture the continuity of experience in the immigrants' previous sociocultural context and the adaptations that ensue.

Rogler, Gurak, and Cooney (1987) proposed a framework for understanding the migration experience. It places the migration experience between two impinging sociocultural and economic contexts, the society of origin and the host society, and describes the migration process as composed of three fundamental transitions: 1) alterations in the bonding and reconstruction of interpersonal social networks; 2) extraction from one socioeconomic system and insertion into another; and 3) movement from one cultural system to a different one.

The process by which immigrant families establish a sense of continuity in their lives-

that is, a relation between the past, the present, and the future-is the process of acculturation. By using the term acculturation we are attempting to understand the broad process of change and accommodation that the immigrant person undergoes as he/she develops strategies to cope with the new (host) society and learns the nuances of the new culture. Through contacts, conflicts, clashes, dissonance, stress, and crises, each individual family member learns 1) to make decisions and choices for his/her healthy accommodation to both different sociocultural contexts (home/mainstream society) and 2) to validate his/her culturally shaped modes of thinking, feeling, and behaving.

According to Marin (1992) such learning can be registered as occurring at three levels, the first of which can be conceptualized as part of the general adaptation to the new environment and involves changes in consumption of foods and in the use of the media. The second, intermediate level of acculturation involves behaviors perceived to be at the core of a person's social life. Changes in linguistic preferences, names given to children, as well as ethnicity of friends, neighbors, co-workers, and spouse are all possible indicators of this level of acculturation. Finally, at the third level, changes take place in individuals in terms of their values and norms; it is those constructs that prescribe people's world views and interaction patterns. These changes are expected to be more permanent and to reflect most fully cultural learning, and, therefore, represent the acculturative status of the individual.

Additionally, immigrant families must be involved in a process of internal modification to answer the demands of the host society, and in a process of internal balancing (homeostasis) to insure a sense of continuity with their own (home) culture and traditions, so they regain their social articulation and sense of pertinence and recognition in the mainstream culture of society without losing the historical connection with their own ethnic roots. Moreover, if immigrant families do not recover this sense of "functional" belonging after migration, it is almost impossible for them not only to fulfill their inculturative and position-conferring functions but also to help their children to achieve a sense of proper dignity and of unconditional acceptance, as well as affirming their worthiness as individuals.

In conclusion, immigrant families are within two different cultural environments, while they are working out a transitional path from one culture to the other. The transition or progressive change from one cultural set to the other is possible only through the cumulative interaction between both cultures, and it follows various stages before the immigrant person feels again a sense of belonging to the new environment. Additionally, during the transition from one culture to the other, the immigrant person needs to do selective adaptations over and over again, and to undergo processes of differentiation **not** only for accommodating to the new socioeconomic and cultural context of each stage but for renegotiating his/her identity definition.

Eisenstadt (1955) explained stressful resettlement experiences in terms of desocialization and resocialization-giving up old roles and functions-and adopting

those demanded by the new society.

Although immigrant families experience difficulties that are common to other American families, they face unique psychological, environmental, and economic stressors. Similarly, although immigrant families share many problems with other minority families (such as black and Native American families) their struggles for survival, expression, participation, and fulfillment are conditioned by immigration laws and more recently by media and public opinion which portray immigration as a problem requiring drastic solutions.

As Baptiste, Jr. (1987) has stated, immigrant families were unaware that migration and acculturation would be stressful experiences which could result in family conflicts. "Furthermore, since the conflicts often occurred after a lapse of time (for some families as much as five years) following their arrival in the United States, most families tended not to ascribe any importance to the move itself as having contributed to their problems" (p. 237). It is only when individuals start to experience the lack of skills necessary to cope adequately with adaptation to the new culture that symptoms of maladaptive behaviors and family disorganization appear.

There are some obvious socioeconomic and cultural consequences, as well as psychological implications, for immigrant families when they move to this dynamic, modern, totally different, and rapidly changing society. Such migration entails not only the loss of family support systems and alteration of the level of urbanization, but also entails a new value system and language. Sluzki (1979) stated that countless numbers of people manage to break away from their basic support networks, sever ties with places and people, and transplant their base, their nest, their life projects, their dreams, their ghosts.

The normal changes and stresses (as well as the reactions and family patterns that arise as a consequence of migration) bring about a systematic need for these families to restructure, reintegrate, and realign so as to meet the needs of its members before, during, and after migrating from one culture to the other. Moreover, where the stresses are extreme and the support systems of the family are insufficient, severe crisis frequently results. Similarly, the lack of resolution of these transitional issues and unresolved conflicts may lead to dysfunction in the family system.

Literature review reveals that there is no holistic and/or unified approach to understand how immigrant families are affected by the process of migration and acculturation, and how the expected (normal) processes of internal restructuring affects these families in the fulfillment of their functions, especially with respect to the task of being the primary agent of the socialization of their children.

Padilla (1980) stated that acculturation is a neutral concept itself and that the social, political, economic, and psychological context in which it occurs are the sources of stress rather than the change per se. The degree of stress experienced is presumed to be a function

of the number, frequency, intensity, duration, and priority of the demands placed on the individual in relation to various coping resources such as psycho-social, physical, and genetic make up, family, friends, church, community and social services. Therefore, many immigrant families negotiate their acculturative process with minimal difficulty.

However, for many immigrant families the adaptation process is a painful one. They must go "from extended to nuclear families, from group existence to individual existence, as they lose their roots through migration, as church, religion and community become unfamiliar and unresponsive" (Paredes, 1985). Insecurity, disorientation, and alienation arise from the experience of discontinuity and loss: the old established family routines break down before the acquisition of enough knowledge regarding practices, values, and demands of American society takes place. This has implications not only for coping behavior but for changes in perceived self-efficacy (Bandura, 1984). The differences of language, education, and life-style accentuate the difficulties of adjustment, and where a large extended family has been left behind, the stress of isolation may **lead** to severe problems of acculturation.

Immigrant families are often caught in a state of helplessness, without the appropriate support systems Resources that they would have relied on in their homeland are often not found in the United States, while the existing resources may appear alien to them. Family coping mechanisms are particularly threatened by poverty and discrimination. As Minuchin (1974) has pointed out, families living in poverty are more vulnerable to disease, have lower prestige and daily stresses that are quite pervasive and negatively influence their children, and when families cannot get necessary help, their internal structures may be seriously disrupted.

For many immigrant families, the father is expected to be the dominant figure, although a certain level of detachment regarding daily matters is also expected. Sex role reversal becomes a humiliating experience for unemployed male household heads when their wives (never expecting to become income providers) find it easier to secure employment, when they have to depend upon their children to translate for them, and when they have to let welfare feed their children. This role reversal leads to conflict: relationships which are expected to be lineal, and generational boundaries that are clearly delineated are suddenly upset when the wife and child must perform tasks that culturally belong to the husband/parent.

The fact that each person in the family has to deal with two or three different tasks at the same time (sometimes without readiness for any of them), and under cultural, economic, and social pressures usually produces ambiguity toward self, the new society and the group left behind. Additionally, conflict arises when values from basically incompatible cultures are mixed and unless resolved, the resulting anxiety and stress interfere with the performance of day-to-day tasks (Anderson and Ellis, 1980).

In conclusion, immigrant families moving through the acculturative path carry emotional distress, symptoms of tension, anxiety, alienation and sometimes mild paranoia (Brislin, Cushner, Cherrie, and Young, 1986), which not only affects their children's

performance in a mainstream school setting but can be a source of family disruption (Gurak and Kritz, 1984).

The possible responses to immigrant families in cultural transitions may range from a combination of information, education, opportunities for emotional ventilation and support, and contact with other families who have similar difficulties, to professional availability during times of crisis. However, since the family is each person's most important, reliable, and external resource for psychosocial development as well as the key social group that intervenes between the macro-system and the family member, the family has to be also the matrix of the process of healing (Minuchin, 1974). Therefore, any response to these families must include these two goals: 1) to help families and its members in their development of a new sense of self by allowing them the possibility of reconciling a variety of internal issues in a coherent and acceptable identity; and 2) to support immigrant families in their processes of changing their internal organization and structure by negotiation and by facilitating the use of alternative modalities of transaction among family members.

### **III. IMMIGRANT FAMILIES PRACTICE PASSIVE ACCEPTANCE, PERSEVERANCE, MUTUAL HELP AND A SENSE OF HOSPITALITY, THEY TEACH US THE VALUE OF BEING AS OPPOSED TO PRODUCING OR POSSESSING.**

Being multiculturally competent requires the ability to integrate awareness, knowledge, and skills while maintaining a positive relationship with the culturally different family/person (Sodowsky and Taffe, 1991).

By awareness, D. W Sue (1978) understands that the minister, counselor, teacher be able to recognize his/her own cultural conditioning and assumptions which can interfere with his/her perceptions and social relationships in a multicultural society Being aware and sensitive to one's own cultural issues involves being "in touch" with one's own values and biases, and also understanding the sociopolitical system in the United States with respect to its treatment of minorities.

Secondly, awareness comes from knowledge about the uniqueness and richness of each ethnic and cultural group. For example, there are very unique cultural values in the United States that frequently differ from those of newcomers. Anglo Americans emphasize the importance of independence and self-sufficiency while Hispanic American culture tends to value interdependence and collectively; Latinos are more comfortable conforming to society than "being individuals." Similarly, Asian-Pacific children's behavior is more often shaped by a sense of guilt or shame for not living up to the expectations of parents or others than by direct punishment or persuasion based on explanation. Japanese American people tend to let parents make important decisions and agree with most the them regardless of their

point of view-elders are viewed as family decision makers and the keepers of family and cultural wisdom, Likewise, Haitians traditionally respect and follow the guidance of older people, or those in authority, and are not used to answering questions directly regarding private matters, even to someone they know and trust.

A careful analysis of the systems of values and beliefs of recent immigrant groups reveals that first, they are *God oriented*. There is a spontaneous sense of the sacred-an awareness of the involvement of God in daily life, which is expressed in the Hispanics' use of language as: "*si Dios quiere,*" "*con Dios delante,*" "*Dios mediante,*" "*gracias a Dios.*" Most of them bring to the United States their emphasis on spiritual values encapsulated in popular practices. Secondly, the family is the foremost institution for almost all the recent immigrant groups' systems of values and beliefs. Confucian ideals and beliefs around filial piety and respect for the aged have strongly influenced the Chinese, Japanese, and Koreans. The Filipino culture places great value on the practice of *utang na loob* (sense of obligation) among the younger family members toward their older ones (Browne and Broderick, 1994). In times of stress, Hispanics turn to their family for help. Most immigrant families enmesh their members in a system of help-giving exchanges which has the force of a sacred obligatory norm; it is sustained by the double edge of guilt and gratitude.

Professionals need to be trained in the vocabulary and communication patterns of different ethnic groups in order to work effectively with them. This means that they should gain an understanding of and appreciation for differences in verbal communication patterns among people with different life circumstances. Likewise, nonverbal communications and their interpretations often differ dramatically across societal subgroups.

Finally, the recognition of transitional cultural conflicts is a key element in helping immigrant families to overcome misperceptions, miscommunications, and misunderstandings. Usually these families by themselves are unable to appreciate and to understand their cultural dilemma. As a consequence, they are unable to develop the coping skills and strategies necessary to bridge the gap among immigrant family members and between these families and the mainstream society. Therefore, providing factual information helps the family as a whole as well as the different generations gain an understanding of what is "normal/expected" within each other's world, and the rules and norms by which each group behaves. By encouraging a learning environment in the family, the ambiguity of its members is clarified so that both parents and children maintain a sense of self-meaning and worth. Everyone can also learn to cope-step-by-step with the challenges of the new and different environment.

## **SUMMARY**

According to Portes and Rumbaut (1990) in 1987 the foreign-born population in the United States came from more than one-hundred foreign countries and possessions. The 1990

Census indicated that immigrants from Asia, Latin America, and the Caribbean account for as much as 40 percent of the total population increase over the past decade in the United States. Asian and Pacific Island populations come from a wide range of cultural backgrounds. There are 29 or more different groups; some of the largest are Japanese, Koreans, Filipinos, Vietnamese, Pakistanis—each of which has a unique heritage (language, values, lifestyles, history). In addition, each Asian-Pacific group has a different immigration pattern and history in the United States.

Similarly, Hispanics and Caribbeans come from more than 26 nations. There are significant differences among these nationalities: the language, economic resources, educational systems vary dramatically from country to country. Also, individual countries are often ethnically diverse. The historical experiences of each country with the United States and the European colonialists are very different and can affect the ethnic self-identification of immigrants.

In this background paper we have examined some psychological implications for immigrant families that are associated with their transitional process from one culture to another. We have followed a theoretical framework where the family is seen as interwoven in a social, cultural, and historical relationship with its ethnic environment for the fulfillment of its functions. As a consequence, the effects of migration have an impact not only on the immigrant but also on the family system.

Finally, although government and charitable organizations have paid little attention to these effects in the past, numerous concerns and questions remain. Literature and research indicate that a traumatic life event such as migration and its resulting implications affect the functioning of the family, which often necessitates a reorganization of its system dynamics. Therefore, it is extremely important that the different organizations and components of U.S. society and the Catholic Church become aware and sensitive to the cultural conflicts and demands that immigrant families face as part of their adjustment to the mainstream society and be willing to offer the assistance needed.