

REFUGEE POLICIES: CHALLENGES AND RESPONSIBILITIES

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1. Ours has been defined the Age of Migrations. Population movements criss-cross the globe in a variety of conditions and as a result of many different causes. People move because of wars and persecution, of ethnic conflicts, of economic inequalities and famine, of climate change and natural disasters. The World Bank estimates that 250 million people live and work or are resettled in a country different than the one where they were born. All these people look for survival and protection and many are victims forcibly uprooted from their homes and countries. In fact, the world has reached now the highest number of forcibly displaced persons since the end of World War II. The annual report, Global Trends, of the U.N. High Commissioner for Refugees informs that in 2015 there were 65.3 million persons forced to escape from their home, 23.3 millions of them refugees, compared to the 59.5 million of the previous year.
2. This Conference jointly organized by the International Holocaust Remembrance Alliance (IHRA) and the Holy See is certainly timely and opportune. Indifference and forgetfulness can kill as tragic events in our recent history have shown. I am grateful for the kind invitation to share some thoughts on the refugee situation today. I will briefly presents a very succinct sketch of where we stand with legal protection, a reference to the current data on refugees, the commitment of the Church and of the international community to their cause. Reflecting on refugees, I could not avoid rethinking of the dozens of camps and refugee groups I have met in the course of the years in Cambodia , Thailand, Hong Kong, Zimbabwe, Ethiopia, Zambia, Sudan, Philippines, and of the refugees taking the first steps

toward integration in Canada and the United States. It is a long list of places and people whose suffering doesn't seem to have taught many lessons.

3. Forced migration and flows of asylum seekers are perhaps the most difficult challenge to the international community. The Special Representative on Migration of the U.N. General Secretary adds with a certain sadness: "We have a duty to : (1) address the root causes of forced migration; (2) relieve the terrible suffering of the people forced to leave their homes; and (3) find solutions to their plight. On all three fronts, individual States and the UN have been failing."

True, the world is a long way off in responding adequately to the plight of refugees. The legal protection of the rights of refugees and migrants in modern times, however, has been steadily refined and made more effective. An organic attempt to coordinate assistance and to facilitate a solution to the predicament of refugees, began at the end of World War II when the countries of Europe were faced with the responsibility to find a solution for several million displaced victims left over by the destruction and the restructuring of borders brought about by the war. The international community produced the Refugee Convention of 1951 and its 1967 Protocol that are still the pillars of the current global architecture for the governance of forcibly displaced people and the legal basis for protection and assistance to those who are recognized as refugees within the meaning of the Convention. However, several states, including those that are home to the largest number of the world's refugees like Jordan and Pakistan, have not ratified one or both of these documents. Moreover some countries that have acceded to the Convention maintain practical indifference to its principles and injunctions.

As the priority of human rights took hold in the activities of the UN through the progressive enactment of major conventions specifying the Universal Declaration of Human Rights, basic rights were recognized for forcibly displaced people. For example, the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment of 1984 states in art.3 ,paragraph 1: “ No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” The Convention on the Rights of the Child of 1989 states in art. 22, paragraph 1 that: " States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties."

International declarations and recommendations have multiplied as crises multiplied. And I have contributed my share in the various years spent as Vatican Representative to the U.N. and International Organizations in Geneva. In fact, notwithstanding the progress made, it seems to me that the legal protection of refugees is still in the phase *de jure condendo*. There are regional instrument that have been developed and that point out the way forward. An example is the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) that entered into force in 2012. Another example is the 1984 Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama. But events and social changes moved at a faster pace than juridical efforts. New categories of people are not included in any juridical provision notwithstanding their vulnerability and rightful claim of the solidarity of the international community because the desert or the ocean have eliminated their area of livelihood. There is an increasing consensus that an urgent task is to define the responsibility of States toward people on the move who are in vulnerable situations and may not be able to return home, but do not qualify for protection under the 1951 Convention. Discernment is required to address the large grey areas in mixed flows that include people escaping extreme poverty and those who flee literally at gun point. Indeed States may

occasionally adopt a more compassionate policy as when they give protection to war refugees without having to prove that they face a threat of persecution as individuals. Humanitarian visas may be given to victims of natural disasters or of generalized violence in failed States.

4. The flexibility of States is more an ad hoc response and lacks a systemic and much less a binding policy. The juridical and the political approaches have not moved in parallel. While progress has been evident in the steady development of human rights implementation and in the agreement on binding measures of protection, the gap with conditions on the ground has remained wide. Certainly, an eventual juridical agreement covering all vulnerable groups is desirable, but it remains insufficient and this awareness prompted Pope Francis to write to the Secretary General of the United Nations on August 9, 2014: "The tragic experiences of the 20th century, as well as the most elementary notion of human dignity, require the international community, especially through the norms and mechanisms of international law, to do all that is possible to stop and prevent further systematic violence against ethnic and religious minorities."

The political will to develop and to apply norms and mechanisms of international law is the key factor, of course. If we look at the current world's scene the resistance to open the door to asylum seekers and other desperate migrants is very evident in the populist parties that have emerged, in the focus on border control, detention, repatriation schemes, in building walls and fences, on policies of border externalization. This attitude of rejection notwithstanding, the effort continues toward finding a humane response to displaced people. At the U.N. level, last September 2016, world leaders came together at the General Assembly and adopted the New York Declaration for Refugees and Migrants which expresses the political will of world leaders to protect the rights of refugees and migrants, to save lives and share responsibility for large movements on a global scale. A recent ecumenical initiative provides an additional model to follow, the use of humanitarian corridors to resettle vulnerable refugees.

Such an initiative is particularly timely if we consider that the average stay in refugee camps is 17 years and these refugees fade from the headlines.

A step forward has been taken in the States' pledge to reach a common understanding at the global level on who needs international protection, and to embody this in guiding principles on migrants in vulnerable situations. These measures may in time evolve into soft law and maybe even into binding legal instruments. To sustain this effort, however, a realistic view of the human person is necessary as well as a sensibility that comes from the heart inspired by this view and by faith. Without an anthropology that recognizes the equal dignity of every person, and that appreciates the transcendent dimension in every person, it seems to me it is not possible to promote a public culture of solidarity and respect of every person without any distinction. These convictions become the platform on which acceptance of refugees and, more important, the prevention of their production, is possible, including by addressing the root causes of forced migration. As Pope Francis stated in his 2015 Message for the 101st World Day of Migrants and Refugees: «Solidarity with migrants and refugees must be accompanied by the courage and creativity necessary to develop, on a world-wide level, a more just and equitable financial and economic order, as well as an increasing commitment to peace, the indispensable condition for all authentic progress». In fact, let us not forget that along with the right to leave one's homeland, each person has the right not to leave and to live there in peace and dignity (cf. Pope Francis, *Message for the World Day of Migrants and Refugees 2016*, 17 January 2016). Religious inspired organizations, individuals and businesses have rescued people at sea, have helped with the reception and integration of refugees and migrants in local communities, at times by hosting them in their homes, offered legal aid, translation services, by providing private sponsorship, and much more. The root of this generosity is found in the Bible. Speaking to the Diplomatic Corps accredited to the Holy See, Pope Francis reminded us of the biblical message: "The Bible as a whole recounts the history of a humanity on the move, for mobility is part of our human nature.

Human history is made up of countless migrations, sometimes out of an awareness of the right to choose freely, and often dictated by external circumstances. From the banishment from Eden to Abraham's journey to the promised land, from the Exodus story to the deportation to Babylon, sacred Scripture describes the struggles and sufferings, the desires and hopes, which are shared by the hundreds of thousands of persons on the move today, possessed of the same determination which Moses had to reach a land flowing with "milk and honey" (cf. *Ex* 3:17), a land of freedom and peace.

Now as then, we hear Rachel weeping for her children who are no more (cf. *Jer* 31:15; *Mt* 2:18). Hers is the plea of thousands of people who weep as they flee horrific wars, persecutions and human rights violations, or political or social instability, which often make it impossible for them to live in their native lands. It is the outcry of those forced to flee in order to escape unspeakable acts of cruelty towards vulnerable persons, such as children and the disabled, or martyrdom solely on account of their religion." By placing at the center of all considerations the dignity of the human person created in the image of God, we establish the premise that the other is not a threat and that to welcome him can be an enrichment. Again Pope Francis sums up the process well: "The acceptance of migrants can thus prove a good opportunity for new understanding and broader horizons, both on the part of those accepted, who have the responsibility to respect the values, traditions and laws of the community which takes them in, and on the part of the latter, who are called to acknowledge the beneficial contribution which each immigrant can make to the whole community."

7. Putting together the principles derived from natural law, from faith and religious wisdom and from experience, Christian reflection arrives at formulating an interpretative framework on migration that begins with the affirmation of the rights of the most vulnerable persons and arrives to the duty of welcoming newcomers. In the current preoccupation, with heightened security and with the raising of new walls and fences at borders, the Church moves countercurrent and proposes solidarity with the arriving asylum-seekers since they

share equal dignity and have a rightful claim to protection. While the States should at least respect the juridical commitment they have undertaken, the Church reminds society that the juridical aspect is a minimum and does not exhaust the ethical responsibility, fruit of the conversion of the heart. It proposes a culture of welcome and encounter prompted by the awareness that we constitute one human family and that love is the main road to build a common future. At the same time there are some basic values that newcomers must accept for a peaceful living together. In this context, a first step is giving priority to having correct information: there is neither an invasion nor a radical sudden transformation of society, a transformation that newcomers and native population can jointly manage. For example, the European Union takes in 10% of the world's asylum seekers and Italy 3% of the 10%. The Social Doctrine of the Church provides a guide that inspires action for today's exodus. In fact, the Church responds to the challenge posed by the current migration crisis with a two-pronged approach: with her doctrine and with her action. In particular, the Church tirelessly advocates for the respect and promotion of all human rights of migrants and refugees, including education so crucial for their future.

5. Allow me to conclude with a Talmudic parable. Two brothers living with their families off the same plot of land must separate because a sudden drought causes a shortage of food insufficient to keep all alive. The older brother decides he will emigrate for his and his brother's survival. After many years, the younger brother decides to journey to meet and thank his older brother who had sacrificed himself for him. As he moves along, he spots some movement far away and thinks that wild beasts are coming against him. He hold fast to his walking stick, ready to defend himself. As he advances closer, he realizes that coming in his direction were human persons and he thinks in his fear that they are bandits ready to assault him. But relying on his strong stick, he continues ahead – and finally, face to face with the approaching person, he discovers that it is his brother who has come to meet him. All newcomers need to be discovered as our brothers. Then the international community will succeed in

finding the needed juridical and political solutions to the plight of today's refugees.