MELITA THEOLOGICA

Journal of the Faculty of Theology

Special Number

Mercy Towards Immigrants
Gospel and Society in Dialogue

Proceedings of an Interfaculty Symposium
Organized by
the Faculty of Theology, University of Malta

Villa Francia, Lija, Malta – 6 June 2016

Editors

Martin Micallef and **John Anthony Berry**

University of Malta

ISSN: 1012-9588

Press: Best Print, Qrendi, Malta

Melita Theologica ***is a peer-reviewed journal of the Faculty of Theology at the University of Malta. The journal has been published biannually since 1947, initially by the then Royal University Students Theological Association (RUSTA) and, since 1980, as a joint venture between the Theology Students Assocation and the Faculty of Theology. As from 2012 Melita Theologica is being published jointly by the Faculty of Theology at the University of Malta, the Theology Students Association, and the Foundation for Theological Studies.***

MELITA THEOLOGICA

Volume 67 – Number 1 **2017**

Published jointly by:
The Faculty of Theology, University of Malta;
Theology Students Association;
Foundation for Theological Studies
Editorial Office & Subscriptions:
Melita Theologica
Faculty of Theology
University of Malta
Msida MSD 2080
Malta
melitatheologica@um.edu.mt

Contents

Yearly subcription for two issues:

Malta: €12.00
Europe: €25.00
Other Countries: €30.00

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 1-7

Foreword

This special issue of *Melita Theologica* brings together the proceedings of an interfaculty symposium organized by the Faculty of Theology of the University of Malta on "Mercy towards Immigrants: Gospel and Society in Dialogue" which took place on June 6, 2016 at Villa Francia, an eighteenth century palace in Lija which was kindly made available to the organizers by the Maltese Premier's wife, Mrs Michelle Muscat. This Symposium was one of the research projects launched by the Faculty of Theology during the Extraordinary Jubilee Year of Mercy (2016) inaugurated by Pope Francis to celebrate God's merciful and compassionate love.

The principal question at the heart of this one-day event was focused on: "To what extent does society reflect the value of mercy vis-à-vis immigrants?" The Symposium sought to address areas that are of immediate concern to immigrants: the identity issue, social welfare, health, justice, and education. It provided an excellent opportunity to *reflect* on mercy and immigrants within the Maltese context, to initiate a sincere *dialogue* between members of staff from various University faculties, and to *reach out* to society as an academic body. For this reason, the Archbishop of Malta, politicians and heads of institutions directly involved with immigrants were among the invitees.

To speak of mercy vis-à-vis immigrants means to recognize their dignity as human persons. It reminds those engaged in this dialogue of a collective responsibility to create an all-round system that respects everybody's rights. Two basic notions immediately come to the fore: hospitality and responsibility. These are two necessary attitudes that make up a nation or a community of people, be they social or religious in nature. Uniform discourse on immigrants as "strangers" needs to be directed and enlightened by ethical principles. From time to time during his pontificate, Pope Francis has been urging all people to understand the "hopes" of migrants. He captures this idea very aptly in a discourse on immigration as a key challenge of current times: "From the beginning you have learned *their* languages, promoted *their* cause, made *their* contributions your

own, defended *their* rights, helped *them* prosper, and kept alive the flame of *their* faith."[1]

The reason why the Faculty of Theology embarks on projects like this one related to mercy is precisely its readiness and competence to identify and present a pastoral and humanly-edifying approach. The very process of holding this Symposium and bringing together various experts, points to a learning curve for both Church and State, in their efforts to show respect and care towards "people from different worlds, with hearts often hardened by the trials of a lengthy journey."[2] What is at stake is not simply a *social* response to such a challenge but, equally a pastoral "mission" to serve immigrants. The social and political initiatives do not merely demand a commitment to action, but also a "disposition" to create meaningful discourse among everyone concerned. To speak of mercy and immigrants in Malta means to find a common ground, a common language, that leads to mutual enrichment; a transition from a multicultural to an intercultural society. Pope Francis pioneers this kind of discourse, particularly when he uses innovative and intriguing phrases, such as "peripheries" of the world; "globalization of indifference"; "do not lose hope"; "forgive our indifference," and "the Church is at your side."

In line with its tradition, *Melita Theologica* extends its full support to any research concerning the understanding of human care and values. In this scenario of the so-called "mercy project," the Faculty of Theology sees through this Symposium, the acknowledgement of (the presence of) strangers as an act of humanity. These proceedings are meant to lead the reader to become himself or herself responsible in the manner he or she looks at the immigrant. Different categories have been applied to immigrants in their relationship to society in general. They are referred to as a threat, an asset, members of society, alien to everyone, or even as guests. Theology enables us to ask further questions: How does God want the immigrant to be treated in a socio-political system? What is the responsibility of the Church to the poor in society? How can social welfare programmes reflect Christian or other faiths' values? How can we change social structures in order to alleviate poverty?

In Scripture there are two questions that point towards the need for each other's care and responsibility. In Gen 3:9, God asks: "Adam, where are you?:" and in Gen 4:9, we find: "Cain, where is your brother?" These two different scenarios reveal situations where harmony has been lost and show that error

---

[1] Pope Francis, Address to the American Bishops of the United States of America, Sept 23, 2015, https://w2.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150923_usa-vescovi.html.

[2] Ibid.

occurs over and over again also in relationships with others. What is meant by care is the overcoming of alienation. How strong are Pope Francis' words on the scandalous nature of alienation or indifference: "We are no longer attentive to the world in which we live; we don't care; we don't protect what God created for everyone, and we end up unable even to care for one another! And when humanity as a whole loses its bearings, it results in tragedies like the one we have witnessed."[3]

Human beings need to rediscover a sense of hospitality. In his book *I Was a Stranger: A Christian Theology of Hospitality*, Arthur Sutherland defines hospitality as "the *intentional*, *responsible*, and *caring* act of welcoming or visiting, in either public or private places, those who are strangers, enemies, or distressed, without regard for reciprocation."[4] Attention should therefore be drawn to the stranger, the alienated, the marginalized and the imprisoned, as well as to the social and political conditions which cause ruptures in human rights and relations. In this light, we need to create hospitable spaces and practise hospitality.

A recent publication entitled *Cloistered Spaces: A Journey through Sacred Gardens in the Maltese Islands* implicitly affirms the need for a rediscovery or an appreciation of spaces where pilgrims, foreigners and immigrants could find rest, peace and fraternity.[5] Somehow, the local scene points towards a correlation between hospitality and reconciliation that needs to be affirmed again and again in social welfare, and in the health, the judicial and the educational systems. We need to consolidate the social fabric through co-responsibility.

Being responsible means building the social community as one family. Being responsible implies fostering interaction irrespective of national, racial, ethnic, economic, and ideological differences. In this sense, love our neighbour carries global dimensions. Being responsible also means putting solidarity in practice. In other words, immigrants are to have opportunities for a safe home, education for their children, and a decent life for their families. "Solidarity ... is not a feeling of a vague compassion (or shallow distress at the misfortunes of so many people, both near and far); on the contrary, it is a firm and persevering determination to commit oneself to the common good; that is to say, to the good of all and each

---

[3] Pope Francis, Homily at "Arena" sports camp, Salina Quarter, Lampedusa, July 8, 2013,https://w2.vatican.va/content/francesco/en/homilies/2013/documents/papa-francesco_20130708_omelia-lampedusa.html.

[4] Arthur Sutherland, *I Was a Stranger: A Christian Theology of Hospitality* (Nashville, TN: Abingdon Press, 2006), xiii (emphasis added).

[5] The President's Foundation for the Wellbeing of Society, *Cloistered Spaces: A Journey through Sacred Gardens in the Maltese Islands* (Malta: BDL, 2016).

individual, because we are all really responsible for all."[6] Being responsible means promoting justice. As blessed Pope Paul VI taught: "If you want peace, work for justice."[7]

In the first article of these procedings, René Micallef SJ, a theological ethicist, writes on "Malta and its European Neighbours as Havens for Migrants. What Mercy? Whose Justice? Which Policies?" The four main words in the title - havens, mercy, justice, policies - indicate a reflection in four phases. Micallef starts with discussing the Maltese national identity using the concept of "haven." In the second part, he links this to biblical mercy - as it applies to the phenomenon of migration - and then, in the third part of his article, he presents mercy as a true and excellent way of living out justice. Finally, he projects some rights and principles which are included in Catholic Social Teaching on migration and asylum and which should shape the concrete decisions taken by policymakers.

George Grima, professor of moral theology, in his article on "Immigrants at the Gate of Mercy and Justice" seeks to give an answer to a fundamental question: How can the theological vision of a merciful God, and the role of the individual and collective conscience, help us to respond sensitively and, at the same time, effectively to the plight of immigrants at our borders? This study focuses on one central point, namely, that our response to the immigrants knocking at our doors reflects not only the kind of society we would like to live in, but also the kind of persons we wish to be. Grima develops his thought in three steps: the immigration problem in the context of a just and merciful social environment; overcoming indifference through compassion; and lastly, justice as a disposition and norm.

Mark Sultana, a senior lecturer in philosophy, writes "On Being Both Host and Guest: Questions Posed by Migrants." He explains that while migration has become a hot-button issue, nevertheless it has always existed and there are - even today - many different kinds of migrants. Sultana examines what to be at home, and what showing hospitality, could mean while seeking to articulate the ties between the two. He seeks to offer reflections, inspired mostly by Emmanuel Levinas, in the hope that they may provoke humans, faced with the issue of migration, some thought about these axial facets of self-consciousness. Sultana suggests that perhaps what we need is a purification of the imagination so that we may become aware that we are continuously, always, *both* host and guest.

---

[6] Pope John Paul II, Encyclical on the Social Concern of the Church, *Sollicitudo Rei Socialis* (1987), no. 38.

[7] Pope Paul VI, Message for the Celebration of the Day of Peace, 1972, https://w2.vatican.va/content/paul-vi/en/messages/peace/documents/hf_p-vi_mes_19711208_v-world-day-for-peace.html.

The next article is penned by Sue Vella, a senior lecturer from the Department of Social Policy & Social Work on "Welcoming the Stranger: Social Policy Perspectives on Asylum Seekers in Malta." The author examines the situation of persons who have sought asylum in Malta. Vella explains that the findings emerging from national statistics and international reports suggest that the impact of arrivals of asylum seekers on Malta in recent years cannot be considered as having jeopardised social and economic wellbeing in Malta. Nonetheless, migration has proven to be a more divisive issue, as it is clearly a widespread preoccupation, and one that appears to derive from perceived threats to Maltese cultural identity. In the light of Pope Francis' call for a shared response, Vella argues that more work is needed to transform hearts and minds by fostering inter-cultural contact and promoting mutual tolerance and respect.

Colin Calleja, a lecturer in differentiated pedagogies, writes on "Mercy in the Maltese Educational System: Education Practices to Foster Respect for Diversity Towards the Migrant Population." This article is the fruit of a group-study involving other academics, viz. Michelle Attard Tonna, Simone Galea, Michael Grech and Maria Pisani. The study asserts that difference among people turns out to be a tool for educability. It presents ethical and philosophical traditions that may underpin the virtue of mercy in the context of immigration, with particular emphasis on the education of migrant learners. It gives a description of the local educational scenario in relation to the migrant student population in Maltese schools, and presents proposals for an inclusive education policy. Moreover, it affirms that a "reaching out" gives one the possibility of giving the "Other" the entitlement to live within a community. This research affirms that, notwithstanding the differences, we share a common humanity and therefore we can live together and enrich one another.

In the article which follows, Frances Camilleri-Cassar, professor of social policy and equality laws, addresses some of the difficulties faced by migrant women in Malta. In an article entitled "Trapped at Periphery? Interdisciplinary Perspectives on African Migrant Women," the author brings to discussion different areas of concern: reception legislation, the asylum procedure and judicial process, the integration policy, economic activity, and the prevalence of multiple discrimination. Camilleri-Cassar presents her research through various stages: the reception legislation vis-à-vis the asylum procedure and the judicial process; Malta's integration policy and women's employability and their place in the labour market; multiple discrimination among Malta's forcibly displaced women; and a critical analysis of the study findings and their implications for the legal and social rights of African migrant women.

Kevin Schembri, lecturer in canon law and defender of the bond at the Archdiocesean Ecclesiastical Tribunal, writes on "The Dignity and Rights of Migrants in Catholic Canon Law." His study investigates the role of canonical norms in the mission of the Catholic Church, which is to promote, protect and ensure respect for the dignity and rights of refugees and migrants. Schembri argues that the Church, in recognizing her call to be "a vigilant advocate," always seeks to define and guarantee the rights of individual persons as well as to respond to a powerful echo in her heart caused by migrants who often undergo violation or loss of their proper dignity and rights. Schembri's article starts with a brief introduction to Catholic canon law; it moves on to outline the canonical norms that deal with the dignity and rights of refugees and migrants at large; and lastly it presents the rights of Christian migrants, that is, the individual rights that arise from the sacrament of baptism.

Pauline Dimech, a lecturer in systematic theology and catechetics, offers another interesting topic concerning "A Theology of Migration: Mercy and Education." Her article presents mercy as a hermeneutic for interpreting some of the most foundational dimensions of the education of (im)migrants, as well as a different vantage point for making educational choices in their regard. Dimech discusses three main points: the impact of the ethico-cultural values and the anthropological vision of education; the theological religious and spiritual values which ought to inform decisions and policies, including the concept of mercy which Pope Francis strongly invokes: and lastly, the view that immigration and the (im)migrant, including the (im)migrant child and young person, are a *locus theologicus*, a source of reflection on God and his mercy, or a demand made upon others for mercy.

The Symposium organized by the Faculty of Theology was particularly fruitful for having raised so many pertinent questions and for having attempted to seek valid answers. Systems that make life hard for others, be they related to social welfare, health, justice, and education, need to be addressed once and for all. Political thinking and economic decisions too must be authentic in a way that truly respects everyone's human dignity. The vibrant message which this Symposium managed to convey is the need of universal concern towards the immigrants themselves and the situations that have caused them to leave their homes in the first place. As the Somali poet, Warsan Shire says: "No one puts their children in a boat unless the water is safer than the land... no one spends days and nights in the stomach of a truck feeding on newspaper unless the miles travelled mean something more than the journey."[8]

---

[8] Alan Hilliard, "Welcoming the Stranger," *The Furrow* 66, no. 10 (2015): 501.

Our final comment is that we need to be agents of change. To the question of mercy and the immigrant, what needs to be emphasized is, above all, justice and true love as revealed through the Father's mercy, Christ's compassion, and the dignity bestowed by the Holy Spirit. This, however, calls for *a change in mentality*. The Church and the State are to look at the poor no longer as a burden, or as intruders trying to profit from others, but as people seeking to share the goods of the world, so that together we can create a just and prosperous world for all.[9] Mercy in this sense means openness and communion that transcends boundaries and prejudices. Perhaps Socrates' famous maxim helps us understand this truth: "I am not an Athenian or a Greek, but a citizen of the world."[10]

John A. Berry
Martin Micallef

[9] See John Paul II, Encyclical Letter *Centesimus Annus*, 1991, no. 28.

[10] See Plutarch, *Moralia*, vol. 3, "Of Banishment, or Flying one's Country," ed. Frank Cole Babbitt (Cambridge, MA: Harvard University Press, 2006).

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 9-10

Opening Address

On behalf of the Faculty of Theology at the University of Malta, I welcome you all to this Symposium on *Mercy Towards the Immigrant: Theology and Society in Dialogue* which is one of the research projects launched by our Faculty for the Extraordinary Jubilee Year of Mercy (2016) which was inaugurated by Pope Francis to celebrate God's merciful and compassionate love.

The word "immigrant" in this Symposium has been purposely chosen in order to accentuate the human identity and dignity of each and every immigrant who reaches our shores. We have deliberately avoided the generic term "immigration" because it conceals the pitfall of perceiving this contemporary phenomenon as a major problem and a burden which drives us to become oblivious to the human faces of so many vulnerable people. Behind every immigrant there is the face of a human being, a tragic story, a deep yearning for a better life, far away from poverty, hunger, exploitation and the unjust distribution of the planet's resources which are meant to be equitably shared by all.

As the French-Jewish thinker Emmanuel Levinas says, the face of the other vulnerable person is an ethical imperative to change the culture of indifference and exclusion into a culture of solidarity, of sharing, mercy and justice. The face of the immigrant should trouble our conscience, prevent us from taking the suffering of others for granted, and impel us to embrace and promote a culture of encounter and dignity.

The Faculty of Theology has embarked on this project at the advice of H.G. the Archbishop who had mooted this idea during an academic staff meeting held in July 2015. Mgr Scicluna encouraged us to focus on the local socio-economic, political, cultural and environmental challenges in order to help the local Church to contextualise the core message of the Jubilee Year of Mercy. The presentations in this Symposium will show how theology, defined traditionally as "faith seeking understanding," could be a source of great inspiration to one of the major challenges being faced by the European Union. In a liberal democratic society, open debates on the complex socio-political and economic issues of

migration stand to gain from the contribution of theological insights which seek to pose different questions and offer different perspectives.

For their help in the organization and co-ordination of this research project, I would like to thank Dr Pauline Dimech and Rev Dr Stefan Attard, especially for their endeavour in engaging academics from other faculties to discuss the dignity and rights of the immigrant in the context of Malta's welfare, education, health and legal systems; and propose concrete recommendations. Today's inter-faculty symposium is thus the outcome of fruitful discussion and collaborative efforts among academic staff members from various faculties of our University.

I would also like to take this opportunity to thank Ms Michelle Muscat for accepting our request to host our Symposium at this charming eighteenth century palace of Villa Francia.

Emmanuel Agius
Dean
Faculty of Theology
University of Malta
Msida MSD 2080
Malta

emmanuel.agius@um.edu.mt

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 11-35

René Micallef [1]

Malta and its European Neighbours as Havens for Migrants: What Mercy? Whose Justice? Which Policies?

Introduction

Given the context of the Extraordinary Jubilee of Mercy, Pope Francis has chosen the following theme for the 2016 World Day of Migrants and Refugees: "*Migrants and Refugees Challenge Us: The Response of the Gospel of Mercy.*" In his *Message* published for this occasion, the Pope notes that the experiences of people on the move - especially the poor and marginalized - constitute a challenge for such people and for the societies who find themselves hosting them and integrating them.[2] Yet, the response of mercy can help us overcome this challenge and convert it into a "gospel," a locus of good news for all.

The Pope's message is very skilfully written, since linking asylum-seeking and the "economic" migration of very poor and vulnerable migrants (including those displaced primarily by environmental disasters or degradation) to the concept of "mercy" can lead to many misunderstandings. On the one hand, in the face of widespread xenophobia and political games of passing the buck, the Catholic Church has on many occasions defended these persons' *right to migrate*. Hence,

[1] René Micallef SJ, is a lecturer in moral theology and social ethics at the Faculty of Theology, Pontifical Gregorian University, Rome. His areas of specialization include migration, human rights and the sources of moral reasoning.

[2] Pope Francis, "Message of His Holiness Pope Francis for the World Day of Migrants and Refugees 2016 - Rome, January 17, 2016," https://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20150912_world-migrants-day-2016.html.

the "mercy" we are asked to show when welcoming them is not a supererogatory act, something we do out of philanthropic charity, but rather an expression of justice, where mercy is what shapes the way we perform our duty. In other words, we are not being asked to do out of *pity* (which is the primary sense many people give to the word "mercy") something we are not duty-bound to do (*viz*., welcome the stranger in need), but rather, we are being challenged to perform *according to the highest standards of gospel excellence* (i.e., according to the "gold standard" of biblical mercy) what the Church believes is everybody's duty. On the other hand, in the face of certain NGOs' excessive insistence on the misery and despair of these persons (for advocacy and fundraising purposes), Church teaching on asylum and migration has often underlined the agency, resilience and responsibilities of asylum seekers and immigrants. Speaking of mercy in the context of migration should not therefore be understood as an invitation to see such persons as helpless minors, to infantilize them and subject them to paternalistic practices and policies.

However, this article is not mainly intended to present Pope Francis' or the Catholic Magisterium's ethical reflections on the subject, easily dismissed as "naïve wishful thinking" or even "dangerous cosmopolitanism" by some, even within the Church, and "totally useless" in the harsh realities of policymaking by others.[2] Thus, before venturing into the territory of biblical mercy, Catholic Social Teaching and hotly-debated claims regarding the rights of asylum seekers and subsistence immigrants, I would like to reflect on the issues of patriotism and national identity, which are often presented as diametrically opposite to such mercy, Teaching and claims. The four main words in the title - havens, mercy, justice, policies - indicate a reflection across four moments. Accordingly, in the first part of my article, I will discuss Maltese national identity using the concept of "haven." In the second part, I will link this to biblical mercy - as it applies to the phenomenon of migration - and then, in the third part, I will present mercy as a true and excellent way of living out justice. Finally, I will present some rights and principles included in Catholic Social Teaching on Migration and Asylum which I believe should shape the concrete decisions taken by policymakers.

Given the issue, I feel that an interdisciplinary approach is in order, but I believe it fair to note where my reflections are rooted and situated: I speak, first

---

[2] Griff Witte, "Hungarian Bishop Says Pope Is Wrong about Refugees," *Washington Post*, September 7, 2015, https://www.washingtonpost.com/world/hungarian-bishop-says-pope-is-wrong-about-refugees/2015/09/07/fcba72e6-558a-11e5-9f54-1ea23f6e02f3_story.html; Ben Shapiro, "Pope Francis Rips Capitalism, American Immigration Policy at Mexican Border," *Breitbart*, February 18, 2016, http://www.breitbart.com/big-government/2016/02/18/pope-prays-for-migrants-at-mexican-border/.

and foremost, as a theological ethicist and a migrant (I don't like being rebranded as an "expat"). What I would like to provide here is not so much a structured argument in favour or against a particular thesis, but a series of reflections to stimulate and challenge readers, to help them see and imagine reality from a different viewpoint. My approach, therefore, will be more synthetic than analytic: my main task will be to sketch links between the above-mentioned concepts that will challenge many of my readers' standard ways of understanding the phenomenon of migration and their conception of justice and mercy, and lead them to further reading on these topics that will fill in the gaps which are unavoidable in any article-length treatment of such complex issues.

A Haven People

In 1994, Martha Nussbaum published a provocative article in the *Boston Review*, entitled "Patriotism and Cosmopolitanism,"[3] together with twenty-nine replies from leading philosophers and political scientists. Anthony Appiah's reply - which brings to mind the very Catholic "both and" approach - is that we can and should be "cosmopolitan patriots."[4] When the debate was re-ignited after the 11 September 2001 attacks, Appiah wrote a book to flesh out his concept of a "rooted cosmopolitanism."

Cosmopolitan Patriotism and Malta's Warrant for Statehood

I consider myself a "cosmopolitan patriot" in Appiah's sense. I believe we should defend a serene and healthy notion of "patriotism," fending off the many attempts being made by xenophobes, fear-mongers and petty parochial minds to hijack such a term. I can get visibly flustered and annoyed by fellow Maltese citizens who lack a good command of Semitic Maltese idiom, syntax, and vocabulary, who are unable to place one of our architectural or artistic gems in its proper historical or archaeological setting, who have no sense of Maltese geography, geology or ecology, or who cannot say anything fair yet critical about the champions of Maltese identity, such as Mikiel Anton Vassalli, Manwel Dimech or Archbishop Michael Gonzi, and who unconsciously embarrass themselves and their country speaking in public, writing newspaper articles or commenting on blogs parading their supposed love of country.

---

[3] Martha C. Nussbaum, "Patriotism and Cosmopolitanism," in *For Love of Country?*, ed. Joshua Cohen and Martha C. Nussbaum, (Boston, MA: Beacon Press, 2002), 1-17.

[4] Kwame Anthony Appiah, "Cosmopolitan Patriots," in *For Love of Country?*, ed. Joshua Cohen and Martha C. Nussbaum (Boston, MA: Beacon Press, 2002), 19-29.

Being a patriot, however, is not merely a question of cultural awareness and a meet sense of pride in one's country, just as sports fans may be proud of their favourite team. An honest Maltese patriot cannot avoid asking herself: "What is Malta's warrant for statehood?" Indeed, what makes us a people, distinct from other peoples? What allows this tiny arid archipelago off the coast of Sicily, a hump on the Pelagian Block, to send its representatives to the U.N. and to the European institutions, and expect them to be treated as equals among the representatives of the great polities of the world?

To properly frame this question, we need to make some distinctions in the concepts of country (*patria*, whence patriotism), and people (*populus*). After the horrors of World War II, authors like Jacques Maritain have reflected on the concept of "country" and taught us to distinguish between a *nation* and a *body politic*.[5] A "nation" is a sociological, ethnological, and/or cultural *fact*, which can be pre- or post-political, but is not in itself a political reality. A "body politic" (or "polity") is a product of human reason and will, and hence is a moral and political reality, not a mere fact. In history persons associate with (or dissociate from) others to build polities by constructing common institutions and defining boundaries. Of course, the decisions which implicitly or explicitly create body politics also give rise to sociological, ethnological and cultural realties, so that a body politic can also engender a nation, but a nation, being a mere fact, does not automatically give rise to a body politic. Though the distinction might sound a bit forced, given the complexity of concrete political realities, political will formation, and situated decision-making, it is nonetheless helpful to unmask xenophobia, disguised as nationalism, and then further disguised as patriotism, after the horrific wars and massacres of the nineteenth and twentieth century.

Jürgen Habermas helps us to understand this further by reflecting on the term "people" and distinguishing between the *ethnos* and the *demos*.[6] The *ethnos* is understood as the biological and cultural reality built on (perceived) kinship ties. The *notion* of common ancestry is an essential element here, even though most of the so-called European "ethnic nations" are imagined communities and mythical inventions;[7] *modern* European nationalisms are mass movements made

---

[5] Jacques Maritain, *Man and the State*, new ed. (Washington D.C.: Catholic University of America Press, 1998), 1-27.

[6] Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory* (Cambridge, MA: MIT Press, 1998), 129-153.

[7] Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, new ed. (London: Verso, 2006); David Brown, *Contemporary Nationalism* (London: Routledge, 2000).

possible by industrialization and modernization,[8] and ultimately constructed by romanticist ideologues as a reaction to the hegemonic cosmopolitanism promoted during the French Revolutionary Wars and the Napoleonic Wars.[9] Today, we still have influential authors like Paul Collier trying to make arguments in favour of immigration restriction based on claims that "seventy percent of the current population of Britain are directly descended ... from the people who inhabited Britain in pre-Neolithic times."[10] Such jingoistic claims - sometimes used by Brexiters and anti-immigration pundits to give a "scientific" lustre to their agendas - obviously misrepresent studies on Y-chromosome haplogroups and mitochondrial DNA markers shared by white Britons, and are based on incipient research, dating and mapping which have changed drastically over the past ten years.[11] Similar claims have been made by a group of researchers in 2008

---

[8] Ernest Gellner, *Nations and Nationalism*, 2nd ed. (Ithaca, NY: Cornell University Press, 2008); Anthony D. Smith, "Dating the Nation," *History Today* 58, no. 3 (March 2008): 32-34.

[9] Gerard Noiriel, *The French Melting Pot: Immigration, Citizenship, and National Identity*, trans. Geoffroy De Laforcade (Minneapolis, MN: University of Minnesota Press, 1996); Patrick J. Geary, *The Myth of Nations: The Medieval Origins of Europe* (Princeton, NJ: Princeton University Press, 2003).

[10] Paul Collier, *Exodus: How Migration Is Changing Our World* (Oxford: Oxford University Press, 2013), 59.

[11] As regards mDNA, even if most Britons were actually descended from indigenous "pre-neolithic Eves," this does not mean that they are not also descended from immigrant "Adams," pre- or post-neolithic, since mitochondrial DNA only traces maternal lineage and hence, male immigration - by far the most common in history - does not leave a mitochondrial DNA trace. As regards Y-chromosome DNA analysis, this does not trace the genes coming from maternal grandfathers, who are obviously the ancestors of modern white British nationals (just as much as their paternal grandfathers), and who could be more "recent" migrants (Neolithic, Bronze Age, Iron Age, Roman Era, Anglo-Saxon migration period, Viking migration period, Norman migration period, European Wars of Religion migration period, etc.). Furthermore, Collier bases his claim on Barry Cunliffe's *Britain Begins* (Oxford: Oxford University Press, 2012), which in turn bases its claims on popular-culture interpretations of studies of R1b haplogroups by Bryan Sykes (*Blood of the Isles*, London: Bantan, 2007) and Stephen Oppenheimer (*The Origins of the British*, London: Robinson, 2006) which had already been outdated when Cunliffe's book was published. Recent and more comprehensive studies have, in fact, shown that the R1b-S21 (U106 or "Germanic") subclade, which is the most common R1b subclade in England, is also common in the North Sea regions such as the Netherlands, Denmark, and southern Norway, and doesn't exceed 40% of the population. The remaining 60% shows a variety of genetic origins (mainly R-L21, which suggests considerable migration from Brittany and north-western France, and R-S28, which suggests migration from eastern France, Germany and northern Italy). For updated European haplogroup maps based on peer-reviewed research, cf. "Distribution Maps of Y-Chromosomal Haplogroups in Europe, the Middle East and North Africa ," *Eupedia*, January 2016, http://www.eupedia.com/europe/maps_Y-DNA_haplogroups.shtml.

regarding the "Phoenician" origin of the Maltese,[12] using a flawed methodology, then debunked by Prof. A. Felice and his team.[13] More importantly, however, these arguments, when used in politics, commit the naturalistic fallacy of moving from an empirical "is" to normative claims regarding how our societies "ought" to be now and in the future.

The *demos* is precisely the political, moral and juridical reality that we should be speaking about when reflecting and debating on issues situated in the world of the "ought," rather than exclusive majority groups defined by genetic markers, skin colour, language or religion. Even (and especially) if we believe that the "ought" in politics should be determined through democratic processes (rather than through some form of paternalistic moral authority that imposes on us the "proper" respect of the rights of migrants and natives), democracy is not ethnic, linguistic or religious majoritarianism.[14] To be sure, citizens enter the political space encumbered by multiple identities and forms of belonging, which cannot be simply bracketed and forgotten.[15] Nonetheless, at some point, they need to go beyond ochlocracy, beyond haggling over group interests using the force of wealth and numbers, to engage in honest, inclusive, and fair discourses (jusgenerative processes) based on the force of reason, that seek the common good of all citizens and lead to the formulation of laws and policies rationally acceptable to all.[16] Of course, many laws, in history, are not inclusive enough, and not sufficiently considerate of the rights of all, but the *hope* underlying our enduring belief in the validity of the democratic system of government is precisely that when democracy is in place (not mere majoritarianism), and when it is reinforced through the building of a united

---

[12] Pierre A. Zalloua et al., "Identifying Genetic Traces of Historical Expansions: Phoenician Footprints in the Mediterranean," *The American Journal of Human Genetics* 83, no. 5 (November 17, 2008): 633-642, doi:10.1016/j.ajhg.2008.10.012.

[13] C. Capelli et al., "Population Structure in the Mediterranean Basin: A Y Chromosome Perspective," *Annals of Human Genetics* 70, no. 2 (March 2006): 207-225, doi:10.1111/j.1529-8817.2005.00224.x; Alex E. Felice, "Genetic Origin of Contemporary Maltese," *The Times (Malta)*, August 5, 2007, http://www.timesofmalta.com/articles/view/20070805/opinion/genetic-origin-of-contemporary-maltese.9032.

[14] Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004).

[15] Michael J. Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1998).

[16] Cf. Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1998); John Rawls, *Political Liberalism*, 2nd ed. (New York: Columbia University Press, 2005); David Hollenbach, *The Common Good and Christian Ethics* (Cambridge: Cambridge University Press, 2002). Rousseau's treatment of the "general will" in the *Social Contract* has been a major locus of this discussion in the history of thought.

and inclusive *demos* (via civic patriotism), positive laws can evolve through a series of "democratic iterations" into less flawed versions, and thus align themselves to a system of rights and duties based on a cross-cultural shared morality.

Fifty years after the end of World War II, *ethnic patriotism*, with its usual xenophobic manifestations, is back on the rise in Europe, but I believe Malta can be spared. We cannot tell our children, with a straight face, that all Maltese are descendants of some legendary figure such as Vercingetorix, William Tell, or Romulus and Remus. Being candid regarding our multi-ethnic roots can help us become *civic patriots*. There is, of course, a horrible temptation to pervert Catholicism - which etymologically evokes cosmopolitanism and inclusiveness - so as to create a xenophobic national myth, allowing us to distance ourselves from Muslims, sub-Saharan Africans and other newcomers who are more difficult to relate with, and whose cultural and religious differences provoke within us much fear and anxiety. This strategy might allow us to create a marginalized metic underclass of residents whose presence we tolerate, given its economic importance, but whose rights we ignore, and whose path to citizenship is permanently blocked. That would certainly be a recipe for future woes.

Civic patriotism, which sees the people as a *demos* a civic assembly,[17] however, can help us avoid a lot of those problems, and learn to integrate others. It should be easier for us Maltese to understand than it is for our larger European neighbours, since we are a young *demos*, a young *body politic*. The choices we made to become an independent republic, to remain non-aligned and devoid of military bases during the Cold War, and to become a full member of the European Union are still fresh in our collective memory. They are not merely facts we were born with, such as skin colour; or born into, such as language. Civic patriotism gives cosmopolitanism local roots ("glocalism"), and makes it less cold and ethereal, by providing a sense of belonging to an imagined entity larger than a "natural" social group of around 150 persons,[18] but shifts the accent from imagined blood links to imagined common ideals and history, enshrined in a limited number of texts and practices (imagined as "traditional") that are not too hard to adopt by newcomers. Of course, in dynamic and pluralistic polities, newcomers are not simply requested to adopt these ideals, practices and imagined history, but they are invited to challenge any elements of unfairness or injustice encapsulated therein, and to gradually renegotiate, to some extent, the texts, the interpretations of historical narratives, and the practices to make them more inclusive over time of the demos as it stands.

---

[17] Unfortunately, the adjective "demotic" in English cannot be used, given its other meanings.

[18] Yuval Noah Harari, *Sapiens: A Brief History of Humankind* (New York: Harper, 2015), 7.

The Patriotism of a Haven People

Let us now return to the question: "What is Malta's warrant for statehood?" In my opinion, the main warrant is a choice we or our ancestors made, a situated choice made in particular historical circumstances, with the ambiguities implied in all such choices, but also a choice which we tacitly or explicitly make ours. The Maltese *demos* is not merely a product of historical, cultural or biological fact. Yet, while I do not believe there is such a thing as a Maltese ethnicity, there are material and historical factors that gave our forebears the courage to believe that creating an independent Maltese polity made sense. The major factor, in my opinion, is topographical (and symbolical). It consists in the fact that the archipelago is blessed with a series of natural harbours or havens, in Maltese, *mrasi* or *mrajjes*. Instead of simply being a thinly-populated island of sheep and goat farmers, like many islands of similar size in the Mediterranean, Malta's topography has forced the archipelago and its people to deal with merchants and conquerors, to feature on trade routes and in geopolitical games, to accept constant demographic expansion and densification, and to blend cosmopolitanism with a fortress mentality.

Thus, we can serenely opt to constitute and consider ourselves as a *Maltese* people - rather than British or Italian or Tunisian - because we have an identity which sets us apart. The image which, in my opinion, best encapsulates that identity is that of a "haven." Whether or not "Malta" is derived from "Maleth" (a Phoenician word for "haven"), our country is quintessentially and by nature a *marsa* (anchorage). *Marsa* is the mimated noun from the Arabic root verb *rasa'a*, "to be anchored,"[19] which from a kinopolitical point of view is a better metaphor for patriotism and nationhood than the static, botanical image of "being rooted."[20] Indeed, a haven can be hospitable to strangers because it can offer stability: it is a safe and secure place where to weather storms. After medieval sieges and pirate raids that brought the Islands to the verge of being uninhabited, in A.D. 1040 the Fatimid Arabs embarked on a project to repopulate the Maltese islands[21] and since then, generation after generation of colonists, merchants, soldiers, slaves, adventurers and missionaries have dropped anchor in the Maltese harbours, and some decided to settle, to forge with other migrants a common destiny, a common identity. To be sure, we cannot forget the hiatus of 170 years of mass

---

[19] Ġużè Aquilina, *Maltese-English Dictionary* (Malta: Midsea, 1987), 788.

[20] Thomas Nail, *The Figure of the Migrant* (Stanford, CA: Stanford University Press, 2015), 21-38.

[21] Joseph M. Brincat, *Malta 870-1054: Al-Himyari's Account and Its Linguistic Implications* (Malta: Said International, 1995), http://melitensiawth.com/incoming/Index/The%20Arabs%20in%20Malta/199501.pdf.

emigration from these islands when, starting with the 1814 Treaty of Paris and the economic woes that followed, many sons of anchored migrants felt obliged to weigh anchor and leave our shores; today, we should indeed feel relieved that the painful exodus is finally over.[22] Yet, should that wrenching experience not stir any empathy in our generation toward today's migrants and refugees, let us remember that they were preceded by 774 years of constant migration *towards* the islands. I dare say that a Maltese patriot who does not recognize that our identity has been forged by generations of anchored migrants is a sham patriot.

At this point, however, I would not like to commit the naturalistic fallacy of moving directly from topographical and historical facts to political "oughts." There is no direct route from arguing that we *are* a haven people to claiming that we *should* continue to be welcoming towards others (and not only tourists!). If, as a *demos*, and through democratic processes, the Maltese believe that they should be an autarkic, xenophobic, isolationist people starting from today - in spite of our history and identity that were shaped by the openness of our shores - I will (grudgingly) submit to that decision, as a citizen. Of course, I believe that such an option would be morally wrong, especially if it means letting thousands of people die in the Mediterranean, fanning the flames of xenophobia, suffocating our economy by limiting the skills available on the labour market, impoverishing our culture and denying the fundamental unity of the human race and severely limiting the right to freedom of movement. And that is why, given my convictions, I dare participate in the processes of public opinion and will-formation invoking the topographical, historical and religious symbol of "haven" evocatively and parenetically.

For me, the fundamental question is not whether Malta can or should take in more migrants and refugees, rich or poor, Christian or not, Asian or Black or Caucasian. We can and we should. The question is whether we can help those willing to stay to actually drop anchor here, along with us. This expression is important for me: every year many people "drop anchor" in Malta, but most do not stay and ask to become permanent residents or citizens. There are different types and lengths of stay and the respective policymaking typologies should be wise and fair - hence complex. I do not believe in a one-size-fits-all solution or extreme and simplistic policies, like rapidly and automatically offering citizenship

---

[22] Charles A. Price, *Malta and the Maltese: A Study in Nineteenth Century Migration* (Melbourne: Georgian House, 1954); Lawrence E. Attard, *Early Maltese Emigration: 1900-1914* (Malta: Gulf, 1983), http://www.maltamigration.com/history/earlymigration1.shtml; Lawrence E. Attard, *The Great Exodus 1918-1939* (Malta: PEG, 1989), http://www.maltamigration.com/history/exodus/; Lawrence E. Attard, *The Safety Valve: A History of Maltese Emigration from 1946* (Malta: PEG, 1997).

to every refugee who lands or our shores, or refusing to give permanent residency too all but the talented and wealthy. Many of us take pride in the fact that the people of Melítē (or Melitē̓nē, in the Codex Vaticanus) showed "not the ordinary kindness" to St. Paul, a convict in chains, but, literally, a love of humankind (philanthrōpía) not usually experienced (tychṓn), according to Acts 28:12. Paul's ship had no anchors - they had been cut loose and left in the sea (Acts 27:40) - yet the island's shores and its people still offered him the possibility to be safe and grounded. Melítē can provide people on the move, like Paul, with a place to sojourn or to stay, or with a safe ship equipped with good anchors, to travel onwards. Its culture can mark sojourners and migrants in the flesh for life, like a viper's fangs, while being itself radically transformed and enriched by theirs. Indeed, the complex and painful process we call "integration" can be a blessing,[23] as long as the autochthonous people stop seeing newcomers as helpless vagrants or as dangerous criminals; as long as they dare to see the great opportunities that economic and political storms bring crashing to their shores; as long as they promote among themselves an extraordinary and contagious love of humankind, rather than spread myths and rumours about the migrants' murderous nature, as some of the inhabitants of Melítē did regarding Paul (Acts 28:4). And before hastily associating dark-skinned or Semitic-tongued migrants with crime - a phenomenon called crimmigration[24] - we should remember the liminality of the Maltese community in colonial Algeria,[25] and the Maltese stigma in 1960s London.[26]

---

[23] Regarding policy-making and integration, cf. John W. Berry, "Immigration, Acculturation, and Adaptation," *Applied Psychology* 46, no. 1 (1997): 5-68; Maurizio Ambrosini, *Non passa lo straniero? Le politiche migratorie tra sovranità nazionale e diritti umani* (Assisi: Cittadella, 2014); Alejandro Portes and Rubén G. Rumbaut, *Immigrant America: A Portrait*, 3rd rev.ed. (Berkeley, CA: University of California Press, 2006); Roberto G. Gonzales, *Lives in Limbo: Undocumented and Coming of Age in America* (Oakland, CA: University of California Press, 2016).

[24] Juliet Stumpf, "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power," *American University Law Review* 56, no. 2 (December 2006): 367-419; Sandra M. Bucerius, "Immigrants and Crime," in *The Oxford Handbook of Ethnicity, Crime, and Immigration*, ed. Sandra M. Bucerius and Michael Tonry (Oxford; New York: Oxford University Press, 2013), 385–419.

[25] Andrea L. Smith, *Colonial Memory and Postcolonial Europe: Maltese Settlers in Algeria and France* (Bloomington, IN: Indiana University Press, 2006).

[26] Geoff Dench, *Maltese in London: A Case-Study in the Erosion of Ethnic Consciousness* (London: Routledge & Keegan Paul, 1975).

The Syrian Refugee Crisis

Citizens of other countries in Europe may find it harder to recognize themselves as daughters and sons of migrants,[27] and to see in the very identity of their nations the vocation of being safe havens for strangers. First, because the very image of a "haven" does not form part of the identity of the nations which make up the large majority of their body politics. And, secondly, because they have a difficulty distancing themselves from ethnonationalism, and nourishing a true civic patriotism that is inclusive of different others. Some of our European neighbours, especially in the north of the continent, do have a longer experience with welcoming strangers and integrating them into their body politics, but their collective self-image and historiography continue to make hospitality and integration difficult. This is exacerbated by the widening gap between the rich and the poor, and a sense of political disenfranchisement among the working class which, in the context of economic globalisation, does not have an easy solution and becomes a reservoir of pent-up resentment and rage ready to be exploited by demagogues. Malta's geography and history as a haven, however, if transformed from a mere fact to a political decision regarding what kind of society we want to be, can help us fare better than our neighbours.

To be sure, this debate is of great import for the future of the European Union, and the solidarity needed to keep it together. Freedom of movement in the Union deals a serious blow to ethnonationalistic claims. The liberal-egalitarian and democratic principles on which the Union is based entail the integration of foreign-born European citizens - with the provision of a wide range of rights - in their countries of residence. Furthermore, it entails a deep respect for the rights of third-country nationals, and a common asylum system that respects human dignity and international law, in letter and spirit.[28] The recent arrivals of Syrian refugees have been a litmus test for European solidarity. The way nationalism has been used, in that context, to justify building fences, to keep out destitute people who by international law have a right to apply for asylum and not be pushed back, to shirk responsibility and pass it on to others, is very sad. The current discussion on the reform of the Dublin Regulation[29] - with Cameron's opt-outs (which were not good enough for the Brexiters), Renzi's "corrective fairness

---

[27] Klaus Bade, *Migration in European History*, trans. Allison Brown (Malden, MA: Wiley-Blackwell, 2003); Dirk Hoerder, *Cultures in Contact: World Migrations in the Second Millennium* (Durham, NC: Duke University Press Books, 2002).

[28] Benhabib, *The Rights of Others.*

[29] Jennifer Rankin and Patrick Kingsley, "EU to Set out Proposals for Overhaul of European Asylum Rules," 'World News,' *The Guardian*, April 6, 2016, https://www.theguardian.com/world/2016/apr/06/eu-proposals-overhaul-european-asylum-rules-dublin.

mechanism," the crass realism of the Visigrad countries' political class (which used to send us asylum seekers up till a few decades ago), and the ease with which authoritarian regimes are rebranded as "safe third countries" - is emblematic of Europe's struggles with mercy and solidarity. Pope Francis' address on the conferral of the Charlemagne Prize addresses this problem lucidly.[30]

Things have not always been this way, and we can dream of a more solidary and courageous Europe with the Pope. During, and especially after World War II, Europe dared to bracket some of its xenophobic nationalism and so rediscovered its vocation of being a haven for strangers. In spite of the poverty and misery of those years, Europe managed to deal with a massive refugee crisis: some twelve million destitute people. Lest we think that hospitality was easier then, because the refugees and hosts came from "similar" cultures, let us remember what being enemies during a war feels like or what sharing rationed bread and food aid looks like. Even in a tiny country such as Malta, it was not easy for the people of Ħaż-Żebbuġ (like my paternal grandparents) to welcome the "refugees" from Cospicua (like my maternal grandparents) during the blitz, and make space for these strangers in the cramped, damp and sweltering underground shelters. Today, wealthy Europe, with its 500 million inhabitants, deems itself incapable of receiving 1.5 million Syrian refugees,[31] when Lebanon and Jordan (countries with a population of 4.5 and 6.4 million, respectively) are welcoming much more than 1.5 million refugees. In the coming months and years, the central Mediterranean route will become, again and again, the centre of attention over coming weeks (at the time of writing in late May 2016, 700 were feared lost at sea in just one week).[32] Demagogues decry the considerable sums of money that

---

[30] Pope Francis, "Address of His Holiness Pope Francis on the Conferral of the Charlemagne Prize, May 6, 2016," http://w2.vatican.va/content/francesco/en/speeches/2016/may/documents/papa-francesco_20160506_premio-carlo-magno.html.

[31] The figure of 1.5 million seems to be the most realistic at this point. Frontex claimed that it had documented around 1.8m irregular border crossings in 2015 but migration experts consider this figure inflated if used to estimate the actual number of asylum seekers and immigrants involved in the crossings, since each person typically crosses more than one border in the process. Cf. Megan Wadin, "Frontex and the Politics of Counting Migrants," *Foreign Affairs Review (St Andrews)*, November 19, 2015, http://foreignaffairsreview.co.uk/2015/11/frontex-and-the-politics-of-counting-migrants/.

[32] Patrick Kingsley, "More than 700 Migrants Feared Dead in Three Mediterranean Sinkings," 'World News,' *The Guardian*, May 29, 2016, https://www.theguardian.com/world/2016/may/29/700-migrants-feared-dead-mediterranean-says-un-refugees; Patrick Kingsley, "Dozens Feared Dead as Migrant Boat Capsizes in Mediterranean," *The Guardian*, May 28, 2016, https://www.theguardian.com/world/2016/may/26/migrant-boat-capsizes-in-mediterranean-italian-coastguard.

Sweden and Germany are spending to welcome and integrate the refugees, while serious economists recognize that all this money ends up in autochthonous Germans' pockets, constitutes a fiscal stimulus, and is furthermore an investment in the productivity of the newcomers which will bear fruit in the medium to long term.[33]

From a social-scientific point of view, most of the negative things which are said about migrants and refuges are distorted truths, if not outright lies.[34] "They take our jobs." "They are a burden on the welfare system." "They do not integrate." "They are dangerous criminals." "They carry harmful tropical diseases." "They are all illiterate and have no skills." "They hate us." I could spend hours explaining why these are mostly myths, but I will simply suggest reading some serious peer-reviewed scientific literature on these claims,[35] which sound so intuitively true, but can be so outrageously deceptive.

What Mercy?

I believe that what makes us imbibe the claims that depict immigrants and refugees simply as helpless, useless, or even dangerous others is precisely our struggle with mercy. But what is mercy? Is it the antithesis of justice? The comedy-drama *Le Havre* is a 2011 film written and directed by Aki Kaurismäki, set in the quintessential French haven and former slave-trade hub, completely devastated during World War II and then rebuilt as a model melting-pot city by migrants and displaced people. It helps us picture what happens when a blanket of mercy is spread over a migrant-receiving town as people start to open their hearts to a black boy, who reaches the town in a container, and is hunted down by the police who are simply "doing their duty" and "meting out justice."

---

[33] Isabelle de Pommereau, "Germany's Refugee Crisis: A Job-Creation Package in Disguise?," *Christian Science Monitor*, April 1, 2016, http://www.csmonitor.com/World/Europe/2016/0401/Germany-s-refugee-crisis-A-job-creation-package-in-disguise.

[34] Francesca Sironi, "Immigrati: Sei Miti Da Sfatare; L'OCSE striglia l'Italia sull'integrazione," *L'Espresso*, July 7, 2014, http://espresso.repubblica.it/attualita/2014/07/07/news/immigrati-dieci-miti-da-sfatare-l-ocse-striglia-l-italia-sull-integrazione-1.172521; Bethan McKernan, "10 Myths about the UK's 'Migrant Crisis' Debunked," *Indy100 - The Independent*, August 2015, http://indy100.independent.co.uk/article/10-myths-about-the-uks-migrant-crisis-debunked-bJiNkKwaml.

[35] A good place to start would be: Stephen Castles, Hein de Haas, and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 5th ed. (New York: The Guilford Press, 2013); Caroline B. Brettell and James F. Hollifield, *Migration Theory: Talking across Disciplines*, 3rd ed. (New York: Routledge, 2014).

As hinted in the introduction, I will challenge here a widespread notion of mercy (and justice) that has crept into modern parlance in many European languages, and even into philosophical discourse. We tend to conflate the biblical and medieval concept of mercy with mere pity, natural empathy, spontaneous compassion, and the like. We reduce it to a fickle feeling that we may or may not feel, depending on the level of our narcissistic tendencies, our exposure to images that stimulate certain areas in our brains, and cultural conditioning.[36] Empathy is common among primates and some complex mammals.[37] Yet, such natural empathy is in many ways morally problematic.[38] Mercy is a rational form of compassion that, in premodern thought, is conceived as a wider form of justice, defying any simple distinction between "perfect" and "imperfect" duties, "obligatory" and "supererogatory" acts. Between the realm of avoiding evil and giving to each their own according to some minimalist or legalistic understanding of what is due to each person or resident or citizen (legal justice/ commutative justice), and the realm of totally gratuitous kindness whereby we allow ourselves to be crucified for the redemption of the unjust, there is a whole sphere of human action that is neither completely obligatory for all in every circumstance, nor completely "optional". In certain ethical contexts, we speak of "beneficence": we are duty bound to be as "beneficent" as we reasonably can afford to be in life, but there is no universal standard of "beneficence," since this points to the various full-fledged, comprehensive or maximalist ethical doctrines we adhere to as a source of discernment, and not merely a common minimum or a Rawlsian or Habermasian "module." What and how much a moral agent can afford to pay back to the human race, in the person of a concrete other, for all the sacrifices that have been made in history to make that agent's life, education and wellbeing possible, depends very much on the agent's spiritual, physical and psychological capital and wellbeing, and on her or his worldview. Yet formal and informal systems of welfare and communal support have codified this somewhat; and in other contexts, we may speak of the interplay between contributive and distributive justice, that constitutes "social justice."[39]

---

[36] Sociopaths and psychopaths cannot experience such feelings; recent studies posit a link between a lack of microstructural integrity in their uncinate fasciculus (the white matter connecting the amygdala and orbitofrontal cortex); cf. R. James Blair, "Neurobiological Basis of Psychopathy," *The British Journal of Psychiatry* 182, no. 1 (January 1, 2003): 5-7.

[37] Frans De Waal, *The Age of Empathy: Nature's Lessons for a Kinder Society* (New York: Broadway, 2010).

[38] Paul Bloom, *Against Empathy: The Case for Rational Compassion* (New York: Ecco, 2016).

[39] Hollenbach, *The Common Good and Christian Ethics,* 195-201.

Nevertheless, the classical way of speaking of this in the Christian tradition is through the concept of "mercy." Mercy can be defined as "having one's heart in the right place." It allows us not only to empathize with people in need, but to challenge the stereotypes, overcome the fear that distorts and sours our interaction with strangers, and to see their richness, their beauty, their goodness. Mercy is a form of courage: it is the courage to see the other in his/her complexity, to bracket the fear or anger or prejudice I may have regarding the other, to dare see him/her with new eyes, as the loving God sees every human person. It is not a fickle sentiment of compassion, which makes us sob when we see the pictures of young Aylan Kurdi lying lifeless on the beach near Bodrum, Turkey, but which vanishes as soon as we hear a crime story involving refugees in the news.

Mercy is inseparable from justice: true justice is merciful, and true mercy is just. In the Old Testament, mercy is understood as an expression of God's "absolute" freedom: "I will be gracious [*hen*] to whom I will be gracious, and will show mercy [*racham*] on whom I will show mercy" (Exodus 33:19).[40] Yet, it is not a stoic notion of freedom, that of being unperturbed and unconditioned by emotion. It is a freedom to let oneself be moved through a maternal and intimate contact with reality. One word for mercy, "rachamim," is derived from the term for womb and for bowels (rechem), while others, namely "hesed" and "hen," imply freely-imparted favour and kindness. The "absolute" freedom, however, is mainly one from external obligation (the coercion associated with positive law), not from internal moral obligation. In the biblical concept of *hesed*, Katherine Sakenfeld writes, "there is certainly 'obligation' present - or preferably, 'responsibility' - but it is not in the nature of a requirement which is punished or punishable by society. Hence, *ḥesed* is not a legal right but a moral right and as such can also be a gift."[41]

The Biblical notion of mercy could easily upend our conception of justice, freedom, compassion and desert. Some of us admirably seek to rationally understand what migrants and refugees deserve, in terms of commutative

---

[40] Walter Kasper, *Mercy: The Essence of the Gospel and the Key to Christian Life*, trans. William Madges (New York: Paulist Press, 2014), 48-49.

[41] Katharine D. Sakenfeld, *The Meaning of Hesed in the Hebrew Bible: A New Inquiry* (Eugene, OR: Wipf & Stock, 2002), 3. Sakenfeld accepts, in part, the results of Nelson Glueck's classical 1927 study of the obligatory nature of *hesed*, which refutes the dichotomy between "mercy" and "justice" spread in Christian popular culture during modernity as a result of certain theologies and spiritualities. Biblical mercy is intimately linked with justice, and hence is morally obligatory. Sakenfeld, however, does not accept Glueck's claim that the obligation is one imposed by law or social pressure, and hence recovers the popular notion that mercy is, in a sense, "freely-imparted." Cf. Nelson Glueck, *Das Wort Ḥesed Im Alttestamentlichen Sprachgebrauche Als Mensliche Und Göttliche Gemeinschaftgemässe Verhaltungsweise* (Giessen: Alfred Töpelmann, 1927).

justice, and the rights they possess by reason of their human dignity, and thus try to figure out our duties in their regard, understanding these as limitations to our freedom. Others succumb to fear and prejudice, and insist that strangers deserve nothing and possess no rights in a foreign country, especially if they have entered it through irregular means, and that we are therefore free to treat them as we please. Biblical mercy, however, is the freedom to respect their rights and, simultaneously, to treat them as we feel we should, because in our "guts" we can intuit their rights and *want* that their rights be respected. God's absolute freedom is not a freedom of choice allowing God to be cruel and unjust. In fact, God's freedom consists in God following God's heart, and God's heart is by nature good and merciful and just (remember that in the Bible, the "heart" - a notion that denotes interiority and sometimes includes the "womb" and "entrails" - is the seat of wise and compassionate rationality, not only the seat of "irrational" and fickle feelings; the biblical God does not think and decide with God's "head" or "brain", but with God's "heart"). Similarly, our freedom as a *demos* does not consist in being free to treat strangers badly or to deprive them of their rights. Rather, our inner moral compass, our "guts of mercy" or "womb of mercy" (which, I insist, is not mere natural pity or spontaneous empathy, but something we train ourselves to experience and perceive rationally), when truly free, will push us beyond the actionable rights recognized by law, beyond commutative justice, and challenge us to ask "how can we provide a safe haven for these people?" "How can we help them drop anchor here?" "How can we help them become patriots, cosmopolitan patriots, like us?" "How do we lucidly and strategically deal with the problems and tensions that arise when different cultures come in contact?" Biblical mercy also entails righteous anger when people are mistreated, wrongly accused, marginalized, left to drown at sea or to collapse in the desert.

Certainly, biblical mercy also pushes us to understand and relate with the problems and fears experienced by the communities that welcome foreigners. Susanna Snyder reflects on the dangers of simply insisting that other people "do their duty" (and therefore welcome refugees and recognize their rights).[42] Preaching about duties can be especially problematic when the others expected to perform such duties are mainly the marginalized or poor citizens who inhabit the burdened, crime-ridden, dysfunctional or mismanaged neighbourhoods where low-income newcomers tend to settle - what Pope Francis calls the "peripheries." Before proposing neat deontological systems to such persons, we need to help

[42] Susanna Snyder, "The Dangers of 'Doing Our Duty': Reflections on Churches Engaging with People Seeking Asylum in the UK," *Theology* 110, no. 857 (2007): 351-360.

them transition from what Snyder calls an "ecology of fear" to an "ecology of faith." "Faith" - which can be understood at the anthropological level as a primordial trust in the other, and in the promise that a life lived in acting justly makes sense[43] - allows recipient communities and migrants to build enough trust in the other, such that people can find the will to habitually seek the Common Good and do their duty.

In 1952, in a major Catholic text regarding the rights of immigrants, *Exsul Familia* (*EF*), Pope Pius XII was very clear about the dangers that exist in conceiving social issues mainly in terms of supererogatory "charity": "Charity can bring some remedy to a lot of injustices that are experienced in social relationships, but it is not enough. First, it behoves us to have justice enacted, observed and truly put in practice" (*EF* no.75). Francis will say the same, more subtly, in *Evangelii Gaudium* (*EG* nos.180, 188), and more vigorously in the speech of 10 September 2013 at the Centro Astalli in Rome. Yet, in that speech, Pope Francis recognizes the need to meet the stranger face-to-face and to build a relationship with him, rather than let professionals and institutions do all the hospitality work for us. Unless natives and migrants make a conscious effort to inch closer, and to rub elbows with each other, rights claims will be scoffed at or reduced to wishful thinking. Thus, in his Angelus address of 6 September 2015, Pope Francis made the following plea: "May every parish, every religious community, every monastery, every shrine of Europe welcome one [refugee] family."[44] He then led by example, creating a haven for refugees in the Vatican and in the diocese of Rome, a tangible Jubilee-door of mercy.

Whose Justice?

As noted above, mercy, properly understood, not only leads us to legal or commutative justice, but to a deeper sense of justice: that which binds the many into one, the naturalized with the non-yet-naturalized resident, within a social and political setting. It is the justice which constitutes and re-constitutes the wholeness and wholesomeness of the polity - in Biblical Hebrew, "shalom" - helping individuals to see beyond their cultural, ethnic or religious differences as they seek, together, to define and push towards a Common Good. This is not some utopian ideal or pre-modern societal construct; it is, ultimately, a common political project, one engendered by a truly united and wholesome polity.

---

[43] Christoph Theobald, *Transmettre un Evangile de liberté* (Paris: Bayard, 2007), 21-38; Juan Luis Segundo, *La historia perdida y recuperada de Jesús de Nazaret: de los sinópticos a Pablo*, Colección presencia teológica, 65 (Santander: Sal Terrae, 1991), 19-37.

[44] Pope Francis, "Angelus, 6 September 2015," http://w2.vatican.va/content/francesco/en/angelus/2015/documents/papa-francesco_angelus_20150906.html.

When communitarian authors like Alasdair MacIntryre ask "whose justice? which rationality?" they often exaggerate differences between worldviews, cast doubt on the possibility of striving towards a common good in modern, pluralistic democracies, and discard the idea that human rights could constitute a basis for fair political interactions in our societies.[45] They often work their way, somehow, from Aristotle and Thomas Aquinas - with their faith in a common human nature and rationality - to Huntington's "Clash of Civilizations," expressing a certain nostalgia for the supposedly close-knit and culturally homogenous communities of the Middle Ages. My contention is that God's justice is not so different from human justice, Muslim justice not so different from Christian justice, because I believe that at the end of the day, humans are humans, made in God's image and likeness. What makes differences seem so unsurmountable, concepts so incommensurable, common projects so unachievable, is that we often embark on social discourses with no mercy in our minds and hearts, seeking by all means to trump the other, fearful that they might be right, or that they might end up better off at the end of the debate. Fear, envy and group interests are often disguised, today, in religious language, which is used as a conversation stopper when we fear we might lose some advantage. Even wanton spectacular acts of political violence are shrouded in religious and "civilizational" language today, especially in those cultural *milieux* where nationalism, Marxism or anarchism are no longer fashionable, and when young people are led to believe that there are no other viable channels to release pent-up frustration at real or perceived injustice.

In such a context, mercy is not mere tolerance, but, as we said, the courage to face the other, to listen, to let her story and claims sink in, deep into my abdomen. Though I might come to disagree, mercy allows me to express that disagreement appropriately, challenging the other to engage in a healthy, respectful social debate, rather than in denial and avoidance tactics. On the basis of our common humanity, of the urgency to find solutions to common problems, of the deep-seated human desire to build a solidarity that goes beyond a mere societal *modus vivendi*, mercy can lead us from "my justice" or "your justice," from "nativist justice" or "cosmopolitan justice," to "our justice."

Which Policies?

If there is such a thing as common justice, we can find a basis for policies that are just and acceptable to all. Admittedly, concrete policy-making is a messy

---

[45] Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 3rd ed. (Notre Dame, IN: University of Notre Dame Press, 2007); Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 1989).

business, and historical incarnations of justice are the product of people who are limited, biased, and blind to some of the experiences of their neighbours; we have already mentioned Seyla Benhabib's concept of "democratic iterations" as a way of understanding the moral evolution of laws and policies in democracies.[46] Modern democracies have policy-making procedures that, in theory, are based on this medieval principle: "What concerns all should be approved (of) by all."[47] Fairness is not limited to citizens, otherwise citizens will become the new noble class, surrounded by politically-excluded migrant underclasses, and we would be back living under the *Ancien Régime*. Policies concerning immigration should hence be considered fair by migrants. That does not mean that migration management is immoral, but that it must be based on rational arguments that are acceptable to those who end up being excluded or deported.

Rights in CST on Migration

Catholic Social Thought (CST) includes a body of teaching on migration and asylum seeking,[48] and offers us a series of rights and principles to guide debates in civil society and in policy-making circles. In CST, rights entailing duties and distinct rights claims, formulated in simple, isolated, normative enunciations, are not considered absolute. Rather, they should be understood together as a web or agenda of rights that, together with the major ethical principles, orient us towards the Common Good.

---

[46] Benhabib, *The Rights of Others*, 17-20, 171-212.

[47] "Quod omnes tangit ab omnibus approbari debet." Cf. Gaines Post, "A Romano-Canonical Maxim, 'Quod Omnes Tangit,' in Bracton," *Traditio* 4 (1946): 197-251; Arash Abizadeh, "Closed Borders, Human Rights and Democratic Legitimation," in *Driven from Home: Protecting the Rights of Forced Migrants*, ed. David Hollenbach (Washington D.C.: Georgetown University Press, 2010), 147-166; Arash Abizadeh, "Democratic Theory and Border Coercion," *Political Theory* 36, no. 1 (Feb. 2008): 37-65.

[48] Since World War II, the Catholic Church has developed a considerable body of thinking on migration, inspired by the Bible and by cross-cultural ethical standards. The major documents are not encyclicals, but form part of CST; they were written by popes, the Congregation of Bishops and Pontifical Councils such as *Cor Unum* and the Council devoted to the Pastoral Care of Migrants and Itinerant People. *Exsul Familia Nazarethana* (1952, henceforth *EF)*, *De Pastorali Migratorum Cura* (*Nemo Est*, 1969, henceforth *DPMC*), *Church and Human Mobility* (1978, henceforth *CHM*) and *Erga Migrantes Caritas Christi* (2004, henceforth *EM*) concern migrants in general. *Refugees: A Challenge to Solidarity* (1992, henceforth *RCS)* and *Welcoming Christ in Refugees and Forcibly Displaced Persons* (2013, henceforth *WCR*) concern asylum seekers and internally displaced persons (IDPs). Updates to this body of teaching are often presented in the yearly *Messages for World Migrants' [and Refugees'] Day* (henceforth *MWMD*).

We can distinguish four classes of rights in CST on migration. The first group includes basic freedoms and political rights of persons. CST insists that people should not be left stateless or in danger of persecution; that is why it declares that people have a *right to some nationality,*[49] and that *refugees and forced migrants have a right to asylum.*[50] CST also claims that people have a *right to migrate*; both to emigrate from their home country and to immigrate into another country, together with their families.[51] The documents do not make a clear distinction between the right to emigrate and the right to immigrate, as some political philosophers and international law experts tend to do;[52] the right to emigrate (exit one's home country) would be vacuous if there were no corresponding right to enter some other country.[53] To be sure, this is not an "absolute" right, and should not be understood as a right to enter and stay in *any* country

---

[49] Cf. *DPMC,* no.6; *CHM,* no.17; *RCS,* no.9; *MWMD* 1992, no.2; *MWMD* 2001, no.3.

[50] In *CST*, this is not simply a right to file an asylum claim when already in a foreign country. Cf. *RCS*, no.14; *MWMD* 1996, no.4.

[51] *CST* uses various strategies to argue for this moral right, invoking human flourishing (cf. *Gaudium et Spes,* no. 26 - henceforth *GS*; *Laborem Exercens,* no.23; *DPMC*, no.7; *CHM*, no.17; *MWMD* 2001, no.3), duties towards one´s family (*Mater et Magistra,* no.45), freedom of movement and the unity of the human family (*Pacem in Terris,* no.25, henceforth *PT*) and the universal destination of created things (*EF,* no.102; *GS*, no.69; *Popolorum Progressio,* no.22).

[52] Roman Boed, "The State of the Right of Asylum in International Law," *Duke Journal of Comparative & International Law* 5, no.1 (October 1, 1994): 1-34; Drew Christiansen, "Sacrament of Unity: Ethical Issues in Pastoral Care of Migrants and Refugees," in US Catholic Bishops' Committee on Migration, *Today's Immigrants and Refugees: A Christian Understanding* (Washington D.C.: United States Catholic Conference, 1988), 87.

[53] Some Catholics have been led to believe that *CST* makes this distinction by misleading translations from the Latin, where *iure personali migrationis* (in *GS,* no.65) and *migrandi [...] ius* (in *Octogesima Adveniens,* no.17) is rendered as "the (personal) right to *e*migrate." The translations are particularly problematic in the case of *OA,* no.17. The Latin text is the following and clearly addresses the issue from the point of view of the policy-making practices in the receiving country, hence of right to "immigrate" and not merely to "emigrate": "Omnino necessarium est illam exsuperari agendi rationem, in nimio propriae nationis studio positam, ut lex de illorum statu condatur, qua ipsis migrandi agnoscatur ius, facilius iidem populi corpori inserantur, expeditius iis reddatur suae artis profectus, et copia praebeatur convenienti domo utendi, ubi familiae, data opportunitate, cum iis coniungi possint". Paul VI, *Epistula Apostolica Octogesima Adveniens*, 1971*,* http://www.vatican.va/holy_father/paul_vi/apost_letters/documents/hf_p-vi_apl_19710514_octogesima-adveniens_lt.html. This text may be rendered more literally as follows: "It is altogether necessary that we overcome a way of proceeding which places excessive emphasis on one's own nation, so that their law [of receiving countries] is established in such a way that the right of these [immigrants] to migrate is recognized, *etc.*" The official translation, unfortunately, makes us think that the Pope is speaking of "sending" countries and international "charters."

whenever one wishes. Nevertheless, in the current political situation where there are no longer any developed countries with permissive border policies, we cannot simply tell people who leave their country and knock at our door that they have a right to *emigrate* but that they should "*immigrate* elsewhere." There must be *grave* reasons to refuse entry to immigrants and to deny such a right. Furthermore, CST recognizes the right to migrate for *economic* reasons even though not all "economic migrants" are entitled to immigrate *into* a foreign country. The documents identify one class of "economic migrants" which possess this right: these are the people who, due to poverty and rapid population growth in their home countries cannot find adequately-paid employment there to feed their families or to attain a decent standard of living that allows them to flourish as human persons. The popes recognize that the situation of these people may, at times, be more precarious that that of conventional refugees. Both groups of people migrate due to some sort of "necessity"[54] and the current political arguments that easily recognize the rights of "true" refugees but not those of "economic" migrants may be unjustified.[55] The documents also underline the *right to basic freedoms in one´s homeland,*[56] which, when not respected, pushes people to migrate and go through the many difficulties (and often harrowing experiences) linked to the migration. Environmental degradation and natural disasters (often exacerbated by climate change and poverty) also push people to migrate (reducing the availability of rights and freedoms in one's homeland): this is why Pope Francis speaks of environmentally-displaced persons in *Laudato Si*̀ (nos. 25, 134, 175), pushing the international community to undertake mitigation measures and not simply resign itself to policies of post-factum adaptation to environmental crises.

The second group of rights concerns the socio-economic rights of persons. As far as possible, people should not feel forced to migrate, so CST also insists on the *right to (adequate) employment in one´s homeland*.[57] This brings us to other

---

[54] *MWMD 1992*, no.3.

[55] US Immigration laws and policies enacted in the 1980s, for instance, easily recognized the rights of political refugees fleeing communist regimes, but placed many restrictions on immigration from impoverished countries in Central America. It was far from obvious, at the time, that the latter did not "need" to leave their country as much as the former. Christiansen, "Sacrament of Unity," 91.

[56] Cf. *PT,* nos.14-24; *CHM*, no.17; *MWMD*, 2001, no.3.

[57] Cf. *DPMC*, no.9; *Gaudium et Spes,* nos.63, 66; *PT*, nos.101-102; *MWMD* 1992, no.4. To be sure, some poor countries can do much more to create good jobs for their citizens and attract investment, but they often have serious structural problems that weigh on their economies, and cannot be expected to provide a decent standard of living for their citizens unless helped effectively by wealthier nations. Cf. Antonio Sergi, "Come 'aiutarli a casa loro'?," in *La sfida*

socio-economic rights claimed by CST for migrants: the *right to be helped to integrate in a new country*,[58] and the *right (of migrants) to receive equal pay for equal work*,[59] when one compares their salaries with those of native workers.

The third group of rights concerns families and groups affected by migration. Among the rights of families and groups affected by migration, CST makes a special emphasis on the *right to family reunification*,[60] linking it to the dignity of the family and the need of having united, functioning and healthy families to ensure the future of societies in both the sending and receiving countries. The documents also refer to the *right of host communities (and migrants) to live in a cohesive and well-ordered society,*[61] which implies ensuring the rule of law (by creating realistic and enforceable laws concerning migration, and then seeing that they are respected by all) and the effective integration of immigrants; the *right of migrants (and also native minorities) to keep their native identity;*[62] and the *right to public profession of religion.*[63]

The last group of rights defended by CST concern the rights of polities. Sovereign states have a *right to limit "brain drain" and capital flight,*[64] and a *right*

---

delle migrazioni: rischi e opportunità: Convegno internazionale, Pontificia Università Gregoriana, Roma, 27-28 ottobre 2014, ed. Giulio Cipollone, Quaderni del Seminario Giuseppe Vedovato sull'etica nelle relazioni internazionali 5 (Roma: Gangemi, 2015), 151-178. This right also applies to the citizens of receiving countries who may be having difficulty finding jobs because of wage competition with migrants; one has to see the real dimensions of this problem (often exaggerated by politicians, labour unions and media) and seek appropriate solutions which are fair towards migrants and persons affected by migration. Cf. David Card, "Is the New Immigration Really so Bad?," *The Economic Journal* 115, no. 507 (Nov. 1, 2005): 300-323, doi:10.1111/j.1468-0297.2005.01037.x; Mark Kleinman, "The Economic Impact of Labour Migration," *The Political Quarterly* 74 (August 1, 2003): 59-74, doi:10.1111/j.1467-923X.2003.00581.x.

[58] Cf. *GS,* no.84; *Apostolicam Actuositatem,* no.14; *CHM*, no.17; *WCR*, no.61; *MWMD* 1986, no.3, *MWMD* 1992, 2.

[59] Cf. *Laborem Exercens,* no.23; *MWMD* 1992, no.2; *MWMD* 2005.

[60] Cf. *Apostolicam Actuositatem,* no.11; *CHM*, no.17; *MWMD* 1986, no.3; *MWMD* 1993, no.1; *MWMD* 2001, no.3.

[61] Cf. *DPMC*, no.10; *Ad Gentes,* no.26; *Catechism of the Catholic Church,* no.2241; *PT*, no.97; *MWMD* 2005.

[62] Cf. *DPMC*, no.11; *GS*, nos.29, 59; *PT*, nos. 95-96; *CHM*, no.17.

[63] Cf. *PT*, no.14; *DPMC*, no.11; *MWMD* 2001, no.3.

[64] Cf. *DPMC*, no.8; *GS*, no.65. The question of brain drain, or brain gain, is not as simple as it looks, and should not be used as a facile escamotage to justify blanket immigration restriction policies. For many countries, exporting a certain proportion of talented workers which they cannot afford to employ suitably, satisfactorily and profitably can actually promote development and motivate academic achievement, if done wisely. Cf. Tito Boeri et al., eds., *Brain Drain and Brain Gain: The Global Competition to Attract High-Skilled Migrants* (Oxford: Oxford University Press, 2012); Michele R. Pistone and John J. Hoeffner, *Stepping out of the Brain Drain: Applying*

to sovereignty.[65] This implies the right to protect one's own territory, and to take proper measures to safeguard legitimate national interests, to protect one's citizens from harmful persons, and harmful objects which criminals and enemies might try to smuggle across the borders. This right therefore implies a right to control borders. While noting the existence of such rights, the Catholic Church often insists that the prerogatives of states are limited by ethical imperatives, should not unduly restrict freedom, should respect human dignity and advance the common good. CST does not like to emphasize the prerogatives of modern states, but rather seeks to highlight the *rights* of individuals and small groups, and the *duties* of states. Sovereign states are well aware of their prerogatives, and often seek to exaggerate them to advance their interests at the expense of vulnerable individuals and groups. Similarly, ethical systems built on human rights after the experiences of totalitarianism in the twentieth century are often sceptical of the "rights" of states. If, as we have mentioned above, the language of rights could be problematic when appropriated in a piecemeal and absolutist fashion by individuals, it is much more problematic when states appropriate it in such a manner: they end up constituting themselves into both judges and plaintiffs against those who are seen to violate their prerogatives and this seems to be an excellent recipe for injustice.

Principles

For the sake of completion, I will now list some of the principles in the light of which CST invites to interpret and apply such rights in policy-making. For a reader not well acquainted with CST, simply stating the principles will sound too succinct and not very convincing, but there is much literature available on these topics and I will limit myself here to opening a door for further reading and reflection. A major principle that should inspire policymaking that affects migrants and refugees is the *Principle of the Universal Destination of Created Goods*, which places private property and political sovereignty in their proper ethical context.[66] The *Principle of Solidarity*[67] and the *Principle of Subsidiarity*[68] help us reflect on how to welcome and integrate the other, while respecting their agency and the value of faith-based and civil society organizations as an integral

Catholic Social Teaching in a New Era of Migration (Lanham, MD: Lexington Books, 2007).

[65] Cf. *EF*, no.102; *Catechism of the Catholic Church,* no. 2241; *MWMD* 1995, no.2; *EM*, nos.4, 21, 29.

[66] Cf. *GS*, no.69; *EM*, no.8; *MWMD* 2011.

[67] Cf. *Sollicitudo Rei Socialis*, no.38; *GS*, no.84; *Popolorum Progressio*, no.44.

[68] Cf. *Quadragesimo Anno*, no.79; *Mater et Magistra*, 65; *Centesimus Annus*, no. 48.

part of the process. The *Principle of Priority of Labour over Capital*[69] invites us, at an international level, to be mindful of the need to invest in emerging countries to create jobs there, rather than force people to move; and at a domestic level, that migrant labour should not be exploited by crony and unregulated capitalism. Finally, the *Preferential Option for the Poor* and the *Recognition of Structural Evil in the World* are two principles - rooted in a faith-seeking-justice framework[70] - that offer good examples of how biblical and theological concepts can help ethics in general to better understand what justice is about. The first principle mirrors God's tendency, manifest in the Judeo-Christian Bible, to side with the marginalized, given that they cannot press their claims on their own. In a way, John Rawls' famous "difference principle" can be seen as a secular adaptation of this notion of justice, which goes beyond a purely commutative calculus. The second helps us to see that some of the causes of migration are structural evils and should be resisted.[71] Yet, the same could be said of some of the procedures, laws and institutions which we have put into place to keep migrants and asylum seekers, and their needs, from interrupting our lives and challenging our lifestyles. This principle teaches us to recognise that we cannot deal with these problems on our own, or solve them through quick fixes, and invites us to go beyond individualism and naïve belief in science and progress as sources of automatic and magical solutions to the world's problems.

Conclusion

In this article, I have sought to weave together several strands of thought, from different disciplines, so as to bring together what I believe Malta's identity is and should be - that of a haven people - and an ethics that should inspire jusgenerative democractic processes (and concrete policy-making) concerning the welcoming and integration of migrants and asylum seekers. The list of rights and principles - the ethical framework, that is - which I have succinctly presented at the end of this itinerary should not be seen as religious ideas being imposed by

---

[69] Cf. *Laborem Exercens,* no.23; *PT,* nos.101-102.

[70] Cf. *Redemptoris Mater*, no.37; *Octogesima Adveniens*, no.51; *Justitia in Mundo* [1971], no.6.

[71] *Sollicitudo Rei Socialis*, no.36, cited in *MWMD 1988,* no.5. Papal texts sometimes use the less precise term "structures of sin"; sinfulness however concerns the relationship of individual persons with God and cannot be properly observed, described and determined by an external observer (Pinckaers, 2010). Evil structures are built and maintained directly through individual and common decisions, but they weaken human agency, such that the degree of responsibility and material gravity of individual acts of cooperation with such structures are sometimes hard to evaluate (even in the context of the spiritual direction and the sacrament of Reconciliation, where the vocabulary of "sin" properly belongs).

the Church or the Pope on voters and policymakers. They are a challenge being made to our hearts, to imagine a more inclusive and merciful society - a utopian provocation, if you will. Such rights and principles can be properly understood (and critically appraised) by hearts and minds versed in biblical mercy, which leads us to a deeper and truer sense of justice, a justice not invented or imposed by individuals or ethnic majorities, but a justice that is discovered in the search for the common good by rational and reasonable citizens and civic patriots.

When placed in the wider context of mercy and the common good, I believe that the ethical framework which CST offers us with regard to migration and integration policies is sound and realistic, not simply wishful thinking. If we are ready to challenge migration myths and confront them with social-scientific facts, we will see that these rights and principles can give rise to a very realistic utopia. It is the utopia that befits and becomes a haven people, whose heart is in the right place, anchored and ready to anchor others, with just mercy.

Renè Micallef
Department of Moral Theology
Faculty of Theology
Pontifical Gregorian University
Piazza della Pilotta, 4
00187 Rome
Italy

renemicallef@gmail.com

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 37-48

George Grima[1]

Immigrants at the Gate of Mercy and Justice

Introduction

On Monday, April 18, 2016, Malta's House of Representatives observed a minute's silence as a sign of respect for some 400 migrants that had been reported to have drowned in the Mediterranean earlier that day.[2] Many others, I presume, some living around the Mediterranean and others living elsewhere, have paused in silence not knowing what to say but wanting somehow to express their grief at a tragedy of such magnitude. Unfortunately, such incidents are following each another in very quick succession and we are losing count on how often these incidents are happening.[3] When we turn from numbers to faces, the tragedy touches us more deeply. The heading of a report by Reuters of a recent incident shows the extent and expresses the depth of the ongoing tragedy. "Drowned baby picture," it reads, "captures a week of tragedy in the Mediterranean" (referring to the week of May, 22-29, 2016). The picture shows a baby in the hands of its rescuer who described his experience very poignantly: "I took hold of the forearm of the baby and pulled the light body protectively into my arms at once,

[1] Rev. Prof. George Grima is professor of moral theology and former dean of the Faculty of Theology at the University of Malta. His areas of specialization include fundamental moral theology, economics and theology, and human rights and social ministry.

[2] http://www.timesofmalta.com/articles/view/20160418/local/house-in-minutes-silence-after-latest-migrants-tragedy.609305.

[3] UNCHR reports that 5,083 have drowned or gone missing in the Mediterranean in 2016, 90% of these deaths occurring along the central Mediterranean route. International Organization for Migration, Missing Migrants Project at https://missingmigrants.iom.int/mediterranean.

as if it were still alive ... It held out its arms with tiny fingers into the air, the sun shone into its bright, friendly but motionless eyes."[4]

The title of this article evokes two images of the immigrant. One is implied the other is explicit, although conveyed in a symbolic manner. Those immigrants who are lucky enough to survive a very perilous journey from home to what they hope to be a promising land have to make the painful and yet crucial step of crossing the border. Countries have borders and the gates are often tightly closed and heavily guarded. The expression "immigrants at the gate" conjures up a picture of the immigrant standing on firm and solid ground, unlike the shaky and at times turbulent sea, but with no or very little chance of moving further on. The fate of immigrants at the gate is surely a matter of concern to the individual and collective conscience. It may not always be the case that those inside are being altogether indifferent to those waiting ouside. But the religious and moral challenge remains, because the immigrants at the gate rightly expect that the gate at which they stand would be that of mercy and justice.

At the liturgical inauguration of the Jubilee Year, the Pope intones a verse from one of the psalms, "Open to me the gates of justice, that I may enter through them and give thanks to the Lord,"[5] before pushing open the bronze doors in St Peter's Basilica. This is symbolically a very significant ritual. It symbolizes the unity in difference between justice and mercy. There is a threshold which one needs to cross before entering into an experience of a merciful God. This is justice. Listening to the voice of justice heightens our awareness of the dignity of the other, and strengthens our resolve to act in his or her regard in a dignified manner. In turn, our experience of a merciful God enlightens and enables us to respond to the needs of one another in surprisingly new ways.

How can this theological vision help us to respond sensitively and, at the same time, effectively to the plight of immigrants at our borders? Evidently, the problem of immigration, having become so vast and complex in recent years, is very difficult to solve, especially because it calls for substantial changes in attitude and behaviour. This article will be focusing on one central point, namely, that our response to the immigrants knocking on our doors reflects not only the kind of society we would like to live in but also the kind of persons we wish to be. We shall not be discussing issues relating to immigration policy, even if these issues have quite an important ethical component, and surely need to be addressed, if anything, because concretely much depends on what policies are in force at the time.[6] The argument of this article will be developed in three

---

[4] http://www.reuters.com/article/us-europe-migrants-baby-idUSKCN0YL18P.

[5] Ps118:18.

[6] For ethical issues relating to control over immigration and citizenship for immigrants, see

steps: (i) the immigration problem in the context of a just and merciful social environment, (ii) overcoming indifference through compassion, and (iii) justice as a disposition and norm.

A Just and Merciful Social Environment

The kind of social environment that develops within and across countries depends very much on the measures that are taken by the State on a national level, and by the States collectively at an international level. States not only control borders but dictate whether and under what conditions immigrants can settle in a particular country. Indeed, these are very important and crucial matters regarding immigration. What society, as distinct from the State, can do in this regard is to approve immigration policies or protest against them as being either too tight or too loose. Yet social approval or protest can promote a more human society in the long run, if these elements are rooted in a sense of justice, ensuring that policies are actually responding to what people, whoever they are, rightly expect as human beings. It is precisely this broader perspective that a society needs to cultivate in order to create a social environment which would enable everyone, including the immigrant, to live a dignified life.

The initiatives that are being taken by the churches and a fairly wide range of non-governmental organizations show that although States do actually play a decisive role with regard to immigration, other social actors are playing a key role too. St John Paul II [7] and, especially, Pope Benedict XVI[8] have shown how important it is for society not to be unduly constrained by the logic that we associate with the State and the market. The State proceeds on the logic of legal obligation. The market operates on the logic of exhange. People, however, know or are capable to know another kind of logic. They are or, at least, can be familiar with a way of reasoning that reflects better their profound needs as human beings. This is the logic of the gift which Benedict XVI elaborates in his encyclical *Caritas in Veritate*. This logic of welcoming and giving is usually nurtured within civil society as distinct from the State and the market. Civil society stands for that social space where people are not simply exercising their rights and hopefully fulfilling their responsibilities but where they are showing

---

Michael Walzer, *Spheres of Justice*: *A Defense of Pluralism and Equality* (Oxford: Blackwell, 1983), 31-63. For ethical considerations of current immigration policies and a well argued position in support of open borders, see Joseph H.Carens, *The Ethics of Immigration* (Oxford: Oxford University Press, 2015).

[7] John Paul II, Encyclical Letter *Centesimus Annus* (1991), no. 35.

[8] Benedict XVI, Encyclical Letter *Caritas in Veritate* (2009), nos. 34-42.

concern for one another, even when the other is a foreigner or, more precisely in our context, an immigrant. This social space, unfortunately, can be contaminated by negative and, much worse, hostile feelings. For this reason, it needs to be purified to serve effectively as a nurturing and nourishing ground for a way of thinking and living that is conducive to a really human environment, where everyone can enjoy not only respect for his or her dignity but feel accepted and loved.

There has been a number of thinkers in recent years[9] who have made a strong plea for an inclusive society in the widest possible sense. This would be a society that is inclusive, first of all, in terms of justice. Buiding a "just society" implies an appropriate set of dispositions and structures that protect and promote each and everyone's rights (the other being envisaged as a bearer of rights and as someone other than oneself). The underlying idea in this concept of society is that of "respectful distance" between oneself and the other. But there is another, equally fundamental, aspect of social life. In fact, human societies are kept alive through a continuing sense of fellowship. A "just as well as a loving society" involves dispositions and structures that are conducive to living not merely with, but for each other.

Theologians, who have written recently on immigration, have been generally focusing on the theme of hospitality.[10] Indeed, this is a spiritually and morally very resourceful theme which has lost much of its theological meaning in being applied, almost exclusively, to the tourism industry. Even if one may argue that it is ethically much more appropriate to look at the tourist not as a purely service consumer but as a guest to be welcomed and made to feel at home in the host country, "hospitality"

---

[9] Michael J. Sandel claims that John Rawls' sentimental conception of community, while more adequate than an instrumental conception, is still inadequate, and argues for a constitutive conception of community "where the members find themselves commonly situated 'to begin with,' their communality consisting less in relationships they have entered than in attachments they have found." See Michael J. Sandel, *Liberalism and the Limits of Justice,* 2nd ed. (Cambridge: Cambridge University Press, 1998), 152. Paul Ricoeur defines the aim of our life together as living the "the 'good life' with and for others, in just institutions." See Paul Ricoeur, *Oneself as Another,* trans. Kathleen Blamey (Chicago, IL: University of Chicago Press, 1992), 172.

[10] See Christine D. Pohl, *Making Room: Recovering Hospitality as a Christian Tradition* (Grand Rapids, MI: Eerdmans, 1999); Luke Bretherton, *Hospitality as Holiness: Christian Witness amid Moral Diversity* (Aldershot, Ashgate, 2006); *A Promised Land, A Perilous Journey: Theological Perspectives on Migration,* ed. Daniel D. Groody and Gioacchino Campese (Notre Dame, ID: University of Notre Dame Press, 2008); Susanna Snyder, *Asylum Seeking, Migration and Church* (Farnham: Ashgate, 2012); Luis Rivera Pagan, *Essays from the Margins* (Cambridge: Lutterworth, 2015); Fleur S. Houston, *You Shall Love the Stranger As Yourself, The Bible, Refugees and Asylum* (London: Routledge, 2015).

cannot convey fully its deeper significance, if it is mainly seen and practised in a commercial context. It has certainly been a good move on the part of theologians to go back to the roots which this theme has in both the Old and the New Testament, and try to recover its richer meaning from within a religious tradition.

In the Biblical tradition the "alien" is one who is in a vulnerable situation and whom God wants his people to welcome.[11] "The alien who resides with you shall be as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt: I am the Lord your God" (Lev 19: 33-34). The memory of the suffering of the Jewish people in Egypt situates the ethic of the golden rule - give unto others what you wish others give to you - in a narrative where God is liberating his people from slavery and giving them a land where they can settle and live in freedom. Hospitality acquires a much deeper meaning when it is seen and practised with such a narrative in mind, remembering that the fate of the other has been at some time one's own fate as well. In his address to the US Congress, Pope Francis has surely opened a new, even if it should have been so obvious, dimension to the public debate on immigration in the United States, when he invited the audience to remember that: "We, the people of this continent, are not afraid of foreigners, because most of us were foreigners."[12]

Remembering where we have been in the past or considering where we may be in the future may help us recognize that we do share something in common with each other, as we are all vulnerable to so many risks in life. This may also help us overcome, as Pope Francis said in his address to the US Congress, our fear of the other. In this case, however, the liberation from fear is difficult to achieve, because social phenomena like immigration, especially on a relatively large scale, as is taking place today, are likely to generate a cultural and social environment where a fear-based way of thinking and behaving vis-a-vis the other may become increasingly more dominant. As Susanna Snyder argues, "fear among established populations is arguably the most significant underlying cause of the challenges and struggles faced by asylum seekers."[13] These fears assume different forms, "from the politico-cultural (seeing migrants as a threat to the nation-state and national identity), to those surrounding economic and welfare resources (seeing migrants as competition for healthcare, jobs, housing, etc.), and those relating to security (seeing migrants as terrorists)."[14] Such fears are expressed in "stereotyping and

---

[11] For a study of the way in which the Old Testament understands the "stranger" or the "alien" see Houston, *You Shall Love the Stranger,* 69-92.

[12] Address to the US Congress (p.3) available at, https://w2.vatican.va/content/.../papa-francesco_20150924_usa-us-congress.html.

[13] Snyder, *Asylum-Seeking,* 13.

[14] Ibid.

scapegoating, media hostility, violence towards asylum seekers and increasingly harsh policies and practices of control and deterrence."[15]

Snyder speaks of an "ecology of fear"[16] to capture the nature of the cultural and social dynamics of the fear of immigrants at our gates. Religion does not always help to warn against the destructive forces of such an ecology for social relationships. Sometimes it endorses these forces, making it more difficult to acknowledge the deceptive and the potentially destructive character of social relationships motivated by fear. Using the biblical sources in a critical manner, she explores in particular the books of Ezra and Nehemiah as examples of a way of thinking and behaving that are shaped by an ecology of fear, generating negative, sometimes even hostile, responses towards the stranger. One can use these texts to learn how religion can be infected by the anxieties and apprehension that we feel at certain junctures of our life or history. In fact, the authors of these books and the contemporary Israelite community were living in post-exilic socio-historical circumstances, that were prone to foster an ecology of fear.[17]

Proper immigration policies and adequate legislation are certainly required for a society to be truly open and hospitable to immigrants at its gates. But there is still a more fundamental question to ask: What image of the other do we have in our mind and in our heart? This question acquires a new significance and poses a new moral and spiritual challenge, if we are not talking of the other who belongs to our community but of the other who does not belong and has come possibly to stay with us. The problem would not be exclusively or, even mainly, that of defending our borders and protecting our rights as citizens of a particular country. It would be rather that of creating sustainable human relationships. The most effective system of self-defence is one that is built on mutual trust and nourishes mutual trust. The real challenge is for people to learn to go beyond a self-defensive attitude especially towards those who appear to their untutored imagination as a threat to security and well-being, by trying to build what Snyder calls an "ecology of faith."[18] Turning to the stories of Ruth in the Old Testament and the Syro-Phoenician woman in the Gospel of Mark (Mk 7:24-30), Snyder shows that the Scriptures contain stories that can actually inspire new ways of seeing and welcoming the immigrants at our gates as people who can bring hope rather than fear and life rather than death.

Stories, like those of Ruth and the Syro-Phoenician woman, show the role that virtues play in the making of a person with a positive attitude towards the

---

[15] Ibid.
[16] Ibid., 139-162.
[17] Ibid., 147.
[18] Ibid., 163-196.

stranger. Hospitality is a virtue which can be acquired through the cultivation of mercy and justice as two virtues that are not opposed but related to each other. Quoting Augustine,[19] Aquinas says that mercy is regulated by reason (and hence a virtue), when it is practised in such a way that justice is safeguarded. [20] Justice and mercy (which is a form of love) are complementary ethical principles and they are both basic for a society that would like to welcome the immigrants at its gates.

How can mercy move us to reach out to people, such as immigrants, who are passing through a difficult and painful phase in their life ? In what sense is the cultivation of a sense of justice essential for healthy relationships with people, like immigrants, whom we may perceive more as a liability than an asset and rather as a threat than a promise? Within the limits of this article it is possible only to make some observations in answer to these questions.

Compassion: Not indifferent but Merciful

One way of understanding mercy is to see it in relation to its opposite. Its opposite seems to be cruelty. What does cruelty mean? The Concise Oxford Dictionary of Current English defines cruelty as "indifferent to, delighting in, another's pain."[21] If indifference falls within the definition of cruelty at least in its broad sense, it should not be taken lightly by divesting it of its grave moral import. In his homily at Lampedusa three years ago, Pope Francis laments that in this globalized world "we have fallen into globalized indifference ... and have become used to the suffering of others." He prays for God's grace to enable us "to weep over our indifference, to weep over the cruelty of our world, of our own hearts, and of all those who in anonimity make social and economic decisions which open the door to tragic situations like this." [22] Mercy is the key to the transformation of our world and our own hearts.

What is mercy? Augustine defines mercy as "heartfelt sympathy or compassion (both meaning "suffering with") for another's distress, impelling us to help him or her."[23] The bonding that we feel with a person in distress disposes us to do something for him or her. Mercy is an emotion that can be transformed into a

---

[19] *De Civ. Dei,* IX, 5.

[20] *STh* II-II 30.3.

[21] *The Concise Oxford Dictionary of Current English,* ed. H.W.Fowler and F.G.Fowler, 4th ed. rev. E.McIntosh (Oxford: Oxford Universtiy Press, 1958), 288.

[22] Homily at Lampedusa, July 8, 2013 at http://w2.vatican.va/content/francesco/en/homilies/2013/documents/papa-francesco_20130708_omelia-lampedusa.html.

[23] *De Civ. Dei,* IX, 5.

virtue. The process involves, in the first place, learning to make the right kind of judgements. Like any other emotion, mercy has a cognitive dimension in that it involves our capability to judge between one situation and another and respond in a fitting way. Speaking of compassion, Nussbaum observes that we are able to feel for a person's suffering, if we are capable to judge that the suffering is serious, that the person does not necessarily deserve to suffer, and that we may also be in similar circumstances [24]. But our ability to make the right kind of judgement in relation to the suffering of other people - and hence our capability to be merciful - depends on our ability to liberate ourselves from certain (negative) feelings.

Nussbaum mentions three impediments to the formation of correct judgments regarding people who are in distress:[25]

Shame in acknowledging that one is weak and vulnerable like everyone else. Being a citizen of a country, which is apparently self-sufficient, one may get the sense of being immune to misfortunes such as those suffered by immigrants;

Envy for those perceived as benefitting from resources to which they have not contributed or from opportunities to which citizens rather than outsiders should have a claim.

Disgust at the outsiders as being unclean and unhealthy, taking up jobs that the locals would look down upon e.g. refuse/waste-collecting, or avoid as being too risky or too hard. Motivated by disgust, the way is wide open to what Pope Francis calls a culture of waste.[26]

Given that we may become indifferent to the misfortunes of others, we have to speak about compassion in a language that challenges people's consciences. In fact, the language of compassion is essentially the language of "appeal" or call to a higher tribunal (in this case from a tribunal of justice, as articulated in specific codes of law, to that of a deeper sense of justice and mercy). Such an appeal becomes more urgent when circumstances show that the current social arrangements, including legal ones, are not actually being responsive to the plight of certain categories of people. The language of mercy is also a symbolic language that can activate the imagination and provoke sensitivity to the suffering of people. The image of Aylan Kurdi, the three-year old boy whose corpse was found washed up on a beach in Turkey, caught the imagination of millions of people around the world as it was not simply a picture of a little child dying in unfortunate circumstances but an emotionally highly charged symbol

---

[24] See Martha C. Nussbaum, *Upheavals of Thought: The Intelligence of Emotions* (Cambridge: Cambridge University Press, 2003), 304-327.

[25] Ibid., 342-251. How the impediments to mercy may apply to relations with immigrants is suggested by the author of this article.

[26] Pope Francis, *Evangelii Gaudium* (2013), no.53.

of an ongoing tragedy.[27] Similarly, as has already been noted, the picture of the one-year old child in the hands of that person who went to its rescue and found it dead can touch the heart of many people more than numbers can do.

Pope Francis has been regularly making symbolic gestures to challenge the conscience of people and of States to take effective measures regarding the problem of immigration. Of particular symbolic significance have been his visits to the borders where immigrants either fail to arrive, because they die on the way, or are finding the doors closed and their hopes to a better future are frustrated. His visits to Lampedusa (July 8, 2013), Ciudad Juarez Fair Grounds (February 17, 2016) and his visit, together with Ecumenical Patriarch Bartholomew, to the island of Lesbos (April 5, 2016) symbolically highlight one of the crucial, if not *the* crucial issue, in the world's response to the massive waves of immigrants today, namely, the opening up of borders and the heeding of the cry of those knocking at the door.

Pope Francis understands his appeals for compassion and mercy as a process involving three phases: a challenge to people's consciences that leads to reflection and a concrete change of heart.[28]

Community: The Way of Justice

The way of justice proceeds along two paths in as much as justice is both a disposition and a norm. On the one hand, it *disposes* the person to give the other his or her due. As such, it enables people to respect each other's dignity and rights, ensuring a respectful distance between one person and another. On the other hand, justice requires society to put in place appropriate structures for everyone to be in a position to exercise one's rights and participate in all aspects of social life. As a *norm*, justice specifies what kind of actions are incompatible with respect for each other's dignity and rights.

Moving along the first path, justice has a crucial role to play in relation to both mercy and to the emotions that impede compassion. As already indicated, mercy would be a virtue and not merely an emotion, if it is practised in a reasonable or a just manner. Whatever else it may mean, it has to reflect full respect for the dignity and rights of the individual. Mercy for an ailing person requires care that is appropriate in the circumstances. The search for and giving of appropriate care is a matter of justice.

---

[27] For story and images of the child Aylan Kurdi see: https://en.wikipedia.org/wiki/Death_of_Aylan_Kurdi.

[28] See homily at Lampedusa.

The cultivation of a sense of justice is essential for overcoming the impediments to compassion. Motivation by a sense of justice can purify the mind and the heart from a false sense of shame as well as from the distructive forces of envy and disgust. In this way, justice opens the way to mercy by disposing people to relate to each other, irrespective of individual circumstances, with respect for everyone's dignity and rights.

The second path concerns the kind of actions that need to be taken on the individual and collective levels to allow everyone to live with dignity. Perhaps nobody has articulated the plight of refugees so deeply as Hannah Arendt. Writing on the tragic experiences of massive waves of refugees particularly following World War II, she brought out what she called "the perplexities of the rights of man." Modern declarations of the rights of man presuppose that "being man," implies forming part of the human community and as a human being one is entitled to a universal set of human rights: rights that are fundamental for a truly dignified life. She notes, however, that "the paradox involved in the declaration of inalienable human rights was that it reckoned with an 'abstract' human being who seemed to exist nowhere, for even savages lived in some kind of social order."[29] The individual could actually exercise his or her rights only as a member of an organized political community.

In moving out of their country in search of refuge elsewhere - as Arendt points out - the refugees suffered two major losses. First of all, they lost their homes. This meant "the loss of the entire social texture into which they were born and in which they established a distinct place in the world."[30] In contrast to earlier migration movements, forced migrations of individuals or whole groups of people in modern times for political or economic reasons have had to face not only the loss of a home but "the impossibility of finding a new one." The second loss which they suffered was the loss of government protection which in practice implied not just the loss of legal status in their own country but in all countries. Arendt sums up the plight of refugees as follows: "The calamity of the rightless is not that they are deprived of life, liberty or the pursuit of happiness, or of equality before the law and freedom of opinion - formulas which are designed to solve problems *within* given communities - but that they no longer belong to any community whatsoever."[31]

---

[29] Hannha Arendt*, Imperialism: Part Two of The Origins of Totalitarianism* (San Diego, CA: Harcourt Brace Jovanovich, 1968), 171.

[30] Ibid.,173.

[31] Ibid.,175. In 1943 Arendt wrote an insightful article on refugees in which she did not only reflect on the sense of loss, refugees, including herself, were experiencing in trying to integrate themselves in a foreign country, but also on the political consequences of the way in which

The plight of refugees has not lost anything of its poignancy since Arendt brought it up in such a forceful and touching way seventy years ago. On the contrary, it has become even more tragic and painful. What we should do in response to the plight of so many people today seeking asylum is so hard, if not impossible, to see, because our way of understanding justice is based on the general assumption that we should only talk about what is "mine" and what is "yours" and if we talk about what belongs to "us," we would still assume that there are "insiders" and "outsiders" or those who have a right to share and those who do not have such a right. Things, however, would appear in a different light, if our way of reasoning is informed by a basic moral principle in the biblical tradition which in Catholic social teaching is known as "the universal destination of created goods."[32] God has given the earth to the entire human race, to sustain all people, without excluding or favouring anyone. In the biblical and Christian tradition, this principle is consistently invoked as a basis of the moral imperative to welcome and help the poor. The stranger is consistently included along with the widow and the poor precisely to underline the extent of the moral imperative to help those in need. The stranger is an outsider. To those who think exclusively or mainly in terms of obligations towards those inside, the outsider can have, at best, only very restricted and questionable claims. The divine imperative to welcome and help the stranger can only be understood and followed by those who are willing to accept that the earth, including that part which they are inhabiting, is "theirs" in a qualified sense, as it is always subject to the principle of the universal destination of created goods.

Concluding Remark

The visit of Pope Francis in Lesbos illustrates in a very suggestive manner the confluence of mercy and justice over each other. The visit was a gesture of mercy which, as has been already noted, has a potentially powerful symbolic meaning, taking place precisely at a critical point where a dangerous journey ends, hopefully to start again and move on to a better future. A better future, however, can only be secured when the immigrant is accepted to form part of a

---

nations were dealing with the weaker members of society. "The comity of European peoples," she wrote in conclusion, "went to pieces when, and because, it allowed its weakest member to be excluded and persecuted." See Hannha Arendt, "We Refugees," *Menorah Journal*, no.1 (1943): 77. For the importance of this article for a radical rethinking of political philosophy "starting from the one and only figure of the refugee," see Giorgio Agamben, *Means without End: Notes on Politics* (Minneapolis, MN: University of Minnesota Press, 2000).

[32] Pontifical Council for Justice and Peace, *Compendium of the Social Teaching of the Church*, English ed. (London: Burns & Oates, 2005), 86-93.

State that can guarantee protection of the immigrant's rights as a human being and as a citizen of a political community. This is the crucial step that would be required not out of mercy but out of justice. In taking with him twelve refugees, chosen by lot, to Rome and presumably offering them citizenship of the Vatican State, the Pope was actually showing that acts of mercy, however important they may be, are effective, if they are accompanied by appropriate acts of justice on behalf of the victims of misfortune.

George Grima
Faculty of Theology
University of Malta
Msida MSD 2080
Malta

george.grima@um.edu.mt

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 49-60

Mark Sultana[1]

On Being Host and Guest: Questions Posed by Migrants

Migration has become a hot-button issue. Mention immigration and one gets particularly strong reactions; the term "immigrant" has become synonymous with a situation deemed especially problematic. Nevertheless, migration has always existed and there are - even today - many different kinds of migrants. For instance, it is clear that asylum has been granted to persons fleeing persecution since time immemorial; we can already find references in texts written 3,500 years ago by the Hittites, the Babylonians, the Assyrians and the ancient Egyptians. This notwithstanding, it appears that, nowadays, "migration" has become synonymous with political, legal, and moral complexity. Indeed, there are moves to replace "migrant" with "refugee." The move is commendable in terms of its being an attempt to clarify our language, but is deeply problematic in that dropping the term covers up for the fact that the human rights of so many are indeed forgotten or hidden behind a façade of legal constructs.

In our contemporary scenario, we do need to ask why "migrant" is such a difficult word. And here one could readily respond that the questions raised are knotty because migration evokes vast practical challenges in terms of numbers and quotas. In addition, however, migration crucially raises important emotional questions which have to do with national, regional and even personal identity. These are crucial precisely because such questions concern our sense of dwelling, our social imaginary with regards to our homeland, and our background awareness of the (perhaps threatening) presence of strangers at our doorsteps.

---

[1] Mark Sultana studied philosophy and theology at the University of Malta and obtained a Doctorate in Philosophy from the Pontifical Gregorian University in Rome. He presently lectures in philosophy at the University of Malta. The author would like to thank Dr Maria Pisani, Rev. Prof. George Grima, Rev Prof. Louis Caruana SJ, Dr Jean-Paul De Lucca for their insightful comments during the compilation of this article.

In the light of such observations, in this paper, I would like to examine what to be at home, and what to show hospitality, could mean, and to articulate the ties between the two. The aim will be to offer some reflections, inspired mostly by Emmanuel Levinas, in the hope that they may provoke some thought about these axial facets of our self-consiousness as we are faced in our days with the issue of migration.

Perhaps we could begin by noting that the very term 'migrant' is contested and continuously evolving. At the international level, no universally accepted definition for "migrant" exists. The International Organisation for Migration (IOM) defines a migrant as "any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. IOM concerns itself with migrants and migration-related issues and, in agreement with relevant States, with migrants who are in need of international migration services."[2] But then we can speak of economic migrants, documented migrants, irregular migrants, skilled migrants, worker migrants, and so forth. Indeed, definitions of "migrant" vary greatly among different statistical sources, and even between such sources and different bodies of law. For instance, "migrants" may be defined as foreign-born, or foreign nationals, or people who have moved to a country for a substantial period of time whether that is envisaged to be temporary or whether the individual intends to settle there for the rest of his or her life.[3] Then one can define migrant in terms of someone who is subject to immigration control at a nation-state's borders, or as one who does not have the "right of abode." Even here, these are not equivalent; indeed, there are many who are not "subject to immigration control" but do not have the "right of abode," most notably third-country nationals entering a Schengen-zone country from another such country. Indeed, none of these definitions are equivalent.[4] To add to the complexity, people who are internally displaced or who choose to move internally within national boundaries are often called migrants.

---

[2] https://www.iom.int/key-migration-terms, accessed November 15, 2016.

[3] Ibid.

[4] Moreover, "immigrant" and "migrant" (as well as "foreigner") are commonly used interchangeably even among specialists, even though dictionary definitions do tend to distinguish between "immigrants" - people who are or intend to be settled in their new country - and "migrants" who are only temporarily resident. Incidentally, however, the word "immigrant" was not used in most media reports following the 19th April 2015 tragedy. That is a sad date and points to a tragic reason. To immigrate is to "come into a new country, region or environment ... esp. in order to settle there" (Webster). Tragically, the hundreds who drowned in the Mediterranean on that date did not reach their destinations.

Definitions aside, what we certainly do have is an enormous number of "people on the move." As we can all still vividly remember, in 2015, more than one million persons attempted the dangerous journey to Europe.[5] The majority of them attempted to cross the straits between Turkey and Greece. The immense flow of people carrying their belongings in plastic bags and bearing children on weary shoulders was poignantly visible.

Some of these persons on the move are asylum seekers in that they seek safety from persecution or serious harm in a country other than their own, and await a decision on the application for refugee status under relevant international and national instruments.[6] A small minority of these achieve refugee status where a refugee is one who, "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."[7] Although they are not necessarily persecuted, a vast majority of persons on the move do appear to be suffering some degree of coercion - some form of threat to life and livelihood - which led them to migrate. One can speak of different degrees of coercion in terms of *push factors* such as violence, injustice and war, weak states,

---

[5] See the International Migration Report 2015, http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf. See also http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics; http://www.migrationpolicy.org/programs/data-hub/international-migration-statistics, accessed November 15, 2016. Up to the end of May 2016 there have been 204,311 Mediterranean Migrant Arrivals. Unfortunately there have also been 2,443 deaths (see https://www.iom.int/news/mediterranean-migrant-arrivals-2016-204311-deaths-2443, accessed November 15, 2016).
In Malta we have a diverse migrant population; those granted "refugee" status are a very small minority; other "migrants" include EU citizens (the largest group), and Third Country Nationals (TCN) (for example US, Canadian, Filipino and Serbian citizens). Among the TCN population, you may have those who are residing in Malta in an irregular manner (the actual numbers will be unknown for obvious reasons).

[6] The definition of correlative terms is by the International Organisation of Migration. See http://www.iom.int/key-migration-terms.

[7] Convention relating to the Status of Refugees, 1951, Art. 1A(2), as modified by the 1967 Protocol. In addition to the refugee definition in the 1951 Refugee Convention, Art. 1(2), of the Organization of African Unity (OAU) Convention 1969 defines a refugee as any person compelled to leave his or her country "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality." Similarly, the 1984 Cartagena Declaration states that refugees also include persons who flee their country "because their lives, security or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order."

big tensions particularly within the Islamic world, demographic imbalances, external political interference which creates social discomfort, poverty and corruption, landgrabs, lack of employment opportunities, and even ecological factors such as drought. Then there are others who more freely decide to emigrate for reasons of "personal convenience." Here, one could perhaps speak more of *pull factors* such as better living and working conditions with respect to social and economic opportunities, and greater freedoms. There could also be subjective motives such as the desire for novelty or a sense of adventure. Of course, there could also be national policies that overtly or covertly encourage emigration. And one must note that migration is facilitated by technology such as the internet, mobile phones and the sense that language and cultural barriers are seen as very surmountable.

As can be seen, reasons for migration are manifold and not easy to discern. Indeed, the forced-voluntary, or refugee-economic, dichotomies used so often in the literature as well as in common parlance are not so clear-cut in real life. Such distinctions fail to articulate the diverse aspects and nuances of contemporary forced migration. For example, individuals may be coerced to move repeatedly, even crossing international borders back and forth, in their unending quest for some degree of security within an ever-increasingly unfriendly space. In the light of such ambiguities, we can perhaps better speak of "people on the move" where, it must be added, this incoming movement is somehow perceived, by the population of the polity hosting them, to constitute a threat.

The tragedy is that the migrant person is often akin to Giorgio Agamben's *Muselmann* in that he or she lives at the zone of indistinction between the human and the inhuman.[8] Here, we can see the effects of a so-called realpolitik of administrative migrant management that thinks in terms of camps, borders, and governance. Such an approach tends to see politics more as a planning process and to conceive of migrants more as anonymous figures. Conversely, we could consider Hannah Arendt's calling for a politic of subjects who, through their actions, could make possible an opening in the political space. It is often such subjects, rather than those who live and work embedded in the political system, who bring about new and much-needed initiatives. However, as Hannah Arendt herself notes, "charity could only come after justice is done. This is as old as the hills. To throw them into the lap of charity organizations meant practically [that] they are completely rightless, [with] no right to live in the sense [of] no business to be on the earth."[9]

---

[8] See Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 88.

[9] Hannah Arendt, *Statelessness* (entry on the 22nd April 1955), available at http://www.

The mass phenomenon of those who are often called "irregular migrants" is so terribly taxing because, "in the nation-state system, the so-called sacred and inalienable rights of man prove to be completely unprotected at the very moment it is no longer possible to characterize them as rights of the citizens of a state."[10] This means that many of these so-called irregular migrants become "de facto stateless."[11] They are deprived of the public or political visibility of recognition and participation and become publically invisible even if they are naturally visible. Ironically, this happens at the same time when they are very visible in the sense that they would have had their fingerprints printed, their photos taken and stored, their irises scanned, and so forth. The tragedy is that, as non-citizens, they are "only human"! Perhaps Heidegger is right to suggest that the contemporary practice of politics is infected by attitudes of social standardization and technological calculation.

Here, it is useful to remember, with Emmanuel Levinas, that "there are cruelties which are terrible because they proceed from the necessity of the reasonable Order. There are, if you like, the tears that a civil servant cannot see, the tears of the Other [*Autrui*]."[12] The even greater tragedy is that, perhaps, Agamben's *Muselmann* is really the migrant who ended up having drowned during his or her journey ... he or she who cannot speak is the true witness of the tragedy.[13] And of these, we have sadly had so many and, regrettably, this has been going on, practically unabated, for far too long.

Migrants' stories speak of both despair and hope. Their experience is effectively liminal. When faced with the phenomenon of mass migration, our very reactions are ambiguous. They too are liminal in some ways for they appear to speak both of helplessness - which begets fear and even xenophobia - and hospitality. However, at present, our feelings appear to lean more towards fear and anger; at this very moment, almost as in war, many migrants are forced to retreat before the trenches of a European stronghold. Perhaps, this is due to a homelessness we all feel. And perhaps this is why migration is such a difficult word to use. In *Adieu to Emmanuel Levinas*, an oration delivered by Jacques

---

hannaharendt.net/index.php/han/article/view/155/276, accessed November 15, 2016).

[10] Giorgio Agamben, *We Refugees*, http://www.egs.edu/faculty/agamben/agamben-we-refugees.html. Agamben is commenting on Hannah Arendt's famous essay.

[11] See also Hannah Arendt, *Origins of Totalitarianism* (New York: Harcourt, Brace and Co., 1951), 279.

[12] Emmanuel Levinas, "Transcendence and Height," in *Emmanuel Levinas: Basic Philosophical Writings*, ed. Adriaan T. Peperzak, Simon Critchley, and Robert Bernasconi (Bloomington, IN: Indiana University Press, 1996), 23.

[13] See Agamben, *Homo Sacer,* 88.

Derrida on the occasion of the death of Emmanuel Levinas, Derrida avers that Levinas, especially in *Totality and Infinity*, has bequeathed to us an "immense treatise of hospitality."[14] And I intend to appeal to this "treatise" in the hope that it could shed some light about us who are asking questions in the face of mass migration.

In his phenomenology of home, Emmanuel Levinas reflects that "man abides in the world as having come to it from a private domain, from being at home with himself, to which at each moment he can retire ... . Concretely speaking, ... the objective world is situated by relation to the dwelling."[15] This means that being-at-home [*chez-soi*] is prior to a Heideggerian being-in-the-world. Levinas goes on to say that "the home, as a building, belongs to a world of objects. But this belongingness does not nullify the bearing of the fact that every consideration of objects, and of buildings too, is produced out of a dwelling."[16] Hence, being human *is* dwelling.[17] Being-at-home is a core aspect of our human life. Here "home" is a *topos* from which the subject's activities issue and towards which they return. In this sense, the home is not a possession, nor is it ever a mere place. It is a refuge of withdrawal or recollection [*recueillance*].[18] Contemporaneously, the human person is continually on a journey. He or she is always both taking refuge and being an itinerant. In this light, being-at-home is always both a place and a peripatetic mode of being. One can never really settle down. To be human is to be concomitantly at home and restless. While on life's journey, one's recollecting oneself is a "coming to oneself, a retreat home with oneself as in a land of refuge, which answers to a hospitality, an expectancy, a human welcome."[19] Being at home is the point of departure and, also, the goal of our being in the world. A human subject continually "goes forth outside from an inwardness [*intimité*]."[20] This means that self-possession is made possible by the subject's *being welcomed to himself. This attitude* exudes "a gentleness that spreads over the face of things,"[21] and, concomitantly and perhaps paradoxically, makes hospitality towards the stranger-*Other* possible.

---

[14] Jacques Derrida, *Adieu to Emmanuel Levinas*, trans. Pascale-Anne Brault and Michael Naas (Stanford: Stanford University Press, 1999), 21.

[15] Emmanuel Levinas, *Totality and Infinity* (Dortrecht: Kluwer Academic,1991), 153.

[16] Ibid., 152-153.

[17] This is not a Heideggerian sense of Dwelling. In Levinas' eyes, unfortunately, Heidegger's homecoming project unfortunately seeks to bring about a return to a world of agonistic struggle, heroic creators, and rootedness in the soil (*Bodenständigkeit*) and a people (*Volk*); it is ultimately impersonal and inhospitable.

[18] See Levinas, *Totality and Infinity*, 154.

[19] Ibid.,155-156.

[20] Ibid., 152.

[21] Ibid., 155.

At first glance, this home appears to be hospitable only for its proprietor,[22] in as somewhat Cartesian sense, but Levinas stresses that possession itself must be related to other possible possessors: here of course, Levinas is speaking of the *Other* who cannot be possessed and who, indeed, sanctions possession itself.[23] One can never be at home by oneself, but one is always at home in the face of the *Other*. This immediately shows that "home" constitutes a primordial event that involves "hospitality." Indeed, "to dwell is not the simple fact of the anonymous reality of a being cast into existence as a stone one casts behind oneself; it is a recollection ..."[24] For, in the face of an*Other* being, any monadic possessiveness is immediately called into question. For the home to be hospitable to me, it must refer to other possible possessors, where such possible proprietors do not lie in the future but are present to one. This occurs particularly in the face of the homeless *Other*. My home, therefore can never be "thoroughly intimate or calm, never a total secrecy or refuge - indeed, not even ... wholly mine."[25]

As Levinas put it very beautifully, "no face can be approached with empty hands and closed home. Recollection in a home open to the Other - hospitality is the concrete and initial fact of human recollection and separation; it coincides with the Desire for the Other absolutely transcendent. ... The possibility of the home to open to the Other is as essential to the essence of the home as closed doors and windows."[26] Hence, when the home becomes a mere temple to the monadic self, rather than a *topos* of hospitality, it becomes a morally distorted space.

To come to our query about our need for light in the face of the phenomenon of mass migration, Emmanuel Levinas held that our outlook in our Western culture means that we, perhaps unconsciously, make ourselves to be monadic individuals who are indeed isolated from genuine relations of solidarity with *Other*s. We are - perhaps unbeknown to us - swallowed up in a mode of possession and protection that imbues us with competitiveness and, indeed, in a homelessness that we perhaps feel rather nebulously but that we are often unable to articulate. I may add that we appear to be characterised by a kind of nostalgia for a home that never was - a nostalgia which expresses itself in a kind of melancholy. In addition to this, Levinas saw our Western societies as ones where the political and the ethical spheres are, not just separated, but stand in

---

[22] See ibid., 157.

[23] See Bob Plant, *Wittgenstein and Levinas*, Routledge Studies in Twentieth-Century Philosophy (New York: Routledge, 2005), 182.

[24] Levinas, *Totality and Infinity*, 155.

[25] Plant, *Wittgenstein and Levinas*, 182.

[26] Levinas, *Totality and Infinity*, 172-173.

opposition. He saw the contemporary individual as one who relates largely in a technological manner to the world of things in such a manner as to make them fit his or her self-interests. He laments that this egological relationship with things has come to inform and distort relationships with the *Other*. In this light, materialism has indeed come to mean homelessness because the relationship in human encounters is marked by possession rather than by hospitality. We have made ourselves possessive, competitive beings always hungry for more.[27] Perhaps such reflections could shed some light on the myriad phenomena of tensions and violence present in our societies.

Perhaps, we need to go back to the origin. As Derrida pointed out, for Levinas, "it is as if the welcome, just as much as the face, just as much as the vocabulary that is co-extensive and thus profoundly synonymous with it, were a first language, a set made up of quasi-primitive ... words."[28] He held that human life is lived on a backdrop of hospitality that is prior to the political:[29] "Everything [for Levinas] seems to begin in ... the welcoming of the face of the Other in hospitality, which is also to say, by its immediate and quasi-immanent interruption in the illeity of the Third ... [Levinas] suggests that [even] war, hostility ... still presuppose and thus always manifest this originary welcoming that is openness to the face ..."[30]

But, as we all know hospitality is often difficult. Not only is it true that the *Other*, being other, can always surprise as Derrida too was wont to remind us,[31] but "the Other calls me into question ... paralyses possession which he contests by his face."[32] Hence, one does not remain comfortable; one is never simply, unproblematically *at home*. This is perhaps uncomfortable but, perhaps, one ought to remember that to be human is to be called continuously to go out of oneself - to be is to be-in-relation. And, perhaps, one should further remember that the very presence of the *Other* calls me forth to be there for him or her.

However, one wants to say that the difficulty is far greater! For, hospitality could well be dangerous:"To approach the Other is to put into question my freedom, my spontaneity as a living being, my *emprise* over the things, this freedom of a 'moving force,' this impetuosity of the current to which everything

---

[27] See Yoram Lubling, *Seeing Beginnings: Buber, Levinas, and the Original Encounter*, http://www.metanexus.net/essay/seeing-beginnings-buber-levinas-and-original-encounter, accessed November 15, 2016.

[28] Derrida, *Adieu to Emmanuel Levinas*, 25.

[29] See ibid., 49.

[30] Ibid., 90.

[31] See Jacques Derrida, "Hostipitality," in *Angelaki: Journal of the Theoretical Humanities* 5, no.3 (2000): 3-18.

[32] Levinas, *Totality and Infinity*,171.

is permitted, even murder."[33] There are real perils in hospitality. Not only can the *Other* arrive in a way that is unexpected, but the *Other* also interrupts me or causes discomfort by his or her visitation - particularly, if this is an irregular one.[34] And the guest can well be dangerous. He or she might catch me unawares at a moment when I feel incapable of protecting myself, and disturb me and even somehow threaten my being-at-home.[35]

Hence, a subject's relation to an *Other* is always tenuous and perhaps dangerous. However, what is also significant is the presence of a *Third* (*la tiers*) to whom each *Other* is also responsible. The *Third* - whether he or she is close by or far off - introduces the conception of justice. As Levinas put it, "the third introduces a contradiction in the saying .... A question of conscience, consciousness. Justice is necessary, that is, comparison, coexistence, contemporaneousness, assembling"[36] This means that anything I do or say is seen, even if only potentially, by the *Third*. This means that there must simultaneously be "a weighing, a thinking, a calculation, the comparison of incomparables, and consequently, the neutrality - presence or representation - of being."[37] The *Third* introduces a dimension which comprises equality and universal norms. It is this presence of this *Third*, of society, that makes politics both possible and necessary.[38]

The advent of the *Third* means that any sign of hospitality is also clearly a political act. In his conclusion to *Totality and Infinity*, Levinas acknowledges that, in "the measure that the face of the Other relates us with a third party, the metaphysical relation of the I with the Other moves into the form of a We, aspires to a State, institutions, laws, which are the source of universality."[39]

All this would mean that politics are necessary. They are necessary because a polity must act to protect against insecurity, a disruption of public order, or any severe weakening of its political and cultural milieu. Conversely, a nation-state that is reasonably prosperous and well-developed and which is not too densely

---

[33] Ibid., 303.

[34] One can make reference to Jacques Derrida's distinction between "invitation" and "visitation." See Jacques Derrida, "Violence and Metaphysics," in *Writing and Difference* (London: Routledge, 1999), 79-153. This distinction is not a Levinasian one, but is helpful in bringing out the discomfort involved in pure hospitality.

[35] See Levinas, *Totality and Infinity*, 39.

[36] Emmanuel Levinas, *Otherwise than Being: Or Beyond Essence*, trans. A. Lingis (Dortrecht: Kluwer Academic, 1994), 157.

[37] Emmanuel Levinas, "Peace and Proximity," in *Alterity and Transcendence*, trans. M.B. Smith (London: Athlone, 1999),168.

[38] See Michael F. Bernard-Donals, *"'Difficult Freedom,' Levinas, Language, and Politics*," *Diacritics* 35, no.3 (2005): 67.

[39] Levinas, *Totality and Infinity*, 300.

populated should recognize a greater responsibility towards opening its borders to immigrants, particularly when these are politically, socially and culturally connected in their interconnected histories, and especially when there are dire coercive forces which are forcing these people to move.[40]

However, the State is not sufficient. Although the State establishes a framework - through its organs and institutions and powers, such as its bestowal of citizenship, its judicial and legal systems - and thus could have the role of providing a rational political order that recognizes personal dignity and freedom and thereby ends ostracization and exile, the welcoming of the stranger-*Other* by the Subject will always remain central and will always be radically personal since the State, "with its *realpolitik*, comes from another universe, sealed off from sensibility, or protest by 'beautiful souls,' or tears shed by an 'unhappy unconsciousness'."[41] As Levinas writes: "To shelter the other in one's own land or home, to tolerate the presence of the landless and homeless on the 'ancestral soil,' so jealously, so meanly loved - is that the criterion of humanity? Unquestionably so."[42]

Hence, the *Third* is important but it remains, as it were, secondary. Levinas continues: "But politics left to itself bears a tyranny within itself; it deforms the I and the other who have given rise to it, for it judges them according to universal rules, and thus as in absentia."[43] Hence a community[44] must embrace moral universalism. However, what remains central is that, within the community, one is called to manifest one's fidelity to the (divine) pre-original, an-*archic* infinity who is addressing one in each and every *Autrui*, commanding one's responsibility which one cannot decline, even when one willingly does wrong. And one shows one's fidelity to *Le Très-Haut* by showing hospitality to the non-communal stranger who presents himself: This is accomplished when "I welcome the Other who presents himself in my home by opening my home to him."[45] It is in this sense that Levinas appeals to monotheism to avoid that the ethics of the *Autrui* be lost in the metaphysical arithmetic of totalization and the universality of the case.

---

[40] See Renè Micallef, "Gates Fair on All Sides" (S.T.D. diss., Boston College School of Theology and Ministry, 2013), 580-581.

[41] Levinas, "The State of Caesar and the State of David," trans. Roland Lack, in *The Levinas Reader*, ed. Seán Hand (Oxford: Blackwell, 1989) 274.

[42] Emmanuel Levinas, *In the Time of the Nations*, trans. Michael B. Smith (Bloomington, IN: Indiana University Press, 1994), 98.

[43] Levinas, *Totality and Infinity*, 300.

[44] Which, again, can only be monotheistic in Levinas' view.

[45] Levinas, *Totality and Infinity*, Kluwer, 171.

This means that the subject can maintain an ethical relationship to place when he or she welcomes the Other into the home (*la maison*). Perhaps here, we can use Giorgio Agamben's concept of remnant - a messianic notion that speaks of the salvation of a people in relation to an event such as the arrival of immigrants. The presence of the immigrant, in her anguished tears, indicates the vicarious ties between the part and the whole. For she makes hospitality possible. As remnant, she appears as a salvific messianic event, a "redemptive part" that makes possible the integrity of the whole within which the event emerges. Even if the event is perceived as division and loss, it is redemptive.[46] However, the host is also obliged to show hospitality towards the *Third* by working towards political institutions that show integrity in being ethically responsible, and in both welcoming and being respectful towards the dignity of every human person who presents himself or herself.[47]

Going back to our use of "migration," perhaps, what we need is a purification of the imagination so that we become aware that we are continuously, always, *both* host and guest. Levinas held that, when an individual encounters another, he acts at once as both host and guest. In *Adieu to Emmanuel Levinas*, Derrida expanded upon the double meaning of the French term *hôte* as signifying both, and averred that there is a divine law "that would make of the inhabitant a guest [*hôte*] received in his own home, that would make of the owner a tenant, of the welcoming host [*hôte*] a welcomed guest [*hôte*]."[48] This could well remind us of the splendid page in scripture that narrates the event when Abraham welcomed the three strangers under the great oak tree at Mamre.[49] He hosted them beautifully; but the text clearly shows that he was, indeed, their guest, and received from them the gift of fatherhood through the subsequent birth of Isaac. At the time, Abraham was on a journey outwards ... his journey meant that he was not rooted in the land ... indeed, he was called to be such so as to be able to meet the needs of the Other: "To the myth of Ulysses returning to Ithaca, we wish to oppose the story of Abraham who leaves his fatherland forever for a yet unknown land, and forbids his servant to even bring back his son to the point of departure."[50] And here, the journey is marked not by a nostalgic melancholy, but

---

[46] See Giorgio Agamben, *Remnants of Auschwitz*, trans. Daniel Heller-Roazen (New York: Zone Books, 1999).

[47] One must add - for Levinas - *and monotheistic in orientation*.

[48] Derrida, *Adieu to Emmanuel Levinas*, 42.

[49] See Gen 18:1-15.

[50] Emmanuel Levinas, "The Trace of the Other," trans. Alphonso Lingis, in *Deconstruction in Context*: *Literature and Philosophy,* ed. Mark C. Taylor (Chicago, IL: University of Chicago Press, 1986), 348.

by hope. Abraham shows beautifully that when a subject engages with an*Other*, she is both at home and in exile, neither distant from, nor completely within the home from which she speaks.

This brings us back to the consideration that the home is both a *topos* of "recollection, a coming to oneself, a retreat home with oneself as in a land of refuge," and a site of hospitality where "I welcome the Other who presents in my home by opening my home to him."[51] This also means that whenever the subject welcomes the Other into the home, the subject becomes able to divest himself or herself of possessiveness;[52] "But in order that I be able to free myself from the very possession that the welcome of the Home establishes, in order that I be able to see things in themselves, that is, represent them to myself, I must know how *to give* what I possess."[53]

Perhaps we could best end with Hannah Arendt's clear conclusion to her touching contribution *We Refugees*: "The comity of peoples will go to pieces if and when they allow their weakest members to be excluded."[54]

Mark Sultana
Department of Philosophy
Faculty of Arts
University of Malta
Msida MSD 2080
Malta

mark.sultana@um.edu.mt

[51] Levinas, *Totality and Infinity*, 171.

[52] See Cecil A. Eubanks and David J. Gauthier, "The Politics of the Homeless Spirit," *History of Political Thought* 32, no.1 (2011): 145.

[53] Levinas, *Totality and Infinity*, 156, 170-171.

[54] Hannah Arendt, "We Refugees," in *Altogether Elsewhere*, ed. Marc Robinson (London: Faber & Faber, 1994), 119.

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 61-76

Sue Vella[1]

Welcoming the Stranger: Social Policy Perspectives on Asylum Seekers in Malta

Introduction

Year 2015 marked the Extraordinary Jubilee of Mercy. In his Bull of Indiction, Pope Francis called upon Catholics to return to the corporal works of mercy, including the welcoming of strangers.[2] Solidarity with refugees has been a recurring theme of his papacy. In his address to the EU Parliament in 2014, for instance, Pope Francis called for a "united response to the question of migration"; he cautioned against allowing "the Mediterranean to become a vast cemetery" of people who come to Europe needing "acceptance and assistance."[3] Likewise, in addressing the US Congress in 2015, Pope Francis exhorted that "We must not be taken aback by their [refugee] numbers, but rather view them as persons, seeing their faces and listening to their stories, trying to respond as best we can to their situation."[4]

---

[1] Sue Vella is a senior lecturer at the Department of Social Policy & Social Work, Faculty for Social Well Being, University of Malta.

[2] Pope Francis, *Misericordiae Vultus* (11 Apr 2015), https://w2.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco_bolla_20150411_misericordiae-vultus.pdf.

[3] Pope Francis "Address to the European Parliament," accessed March 12, 2017, http://en.radiovaticana.va/news/2014/11/25/pope_francis_address_to_european_parliament/1112318.

[4] "Visit to the Joint Session of the US Congress: Address of the Holy Father" (21 Feb 2017), https://w2.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150924_usa-us-congress.pdf.

More recently, speaking at the International Forum on Migration and Peace in February 2017, Pope Francis characterized such a response in terms of the welcome, protection, promotion and integration of migrants, the latter based not on assimilation but on mutual respect for cultural identities. This response, he added, implies three duties - the duty of distributive justice in the face of economic inequality; the duty of civility, where the "essential dignity" of migrants should never be obscured, even by administrative requirements; and the duty of solidarity, in a culture of encounter rather than a "throwaway attitude." [5]

While the most recent migrant crisis has brought the issue to the fore, welcoming the stranger has always been a biblical imperative and central to Catholic faith. The Catholic Catechism, for instance, states that "the more prosperous nations are obliged, to the extent they are able, to welcome the foreigner in search of the security and the means of livelihood which he cannot find in his country of origin" (no. 2241).[6] The Catechism recognizes that in their responsibility for the common good, public authorities may regulate the conditions of immigration. The extent to which countries are able "to welcome the foreigner" is, of course, a subject of considerable debate. The United States Conference of Catholic Bishops (USCCB) notes that ever since the encyclical *Rerum Novarum* in 1891 first touched upon economic migration, three basic principles of Catholic social thought have evolved on immigration, viz. that "People have the right to migrate to sustain their lives and the lives of their families ... [and while] a country has the right to regulate its borders and to control immigration ... [it] must regulate its borders with justice and mercy."[7] The USCCB contends that Catholic social teaching is "realistic" in that while recognizing that no country is obliged to accept as many immigrants as would "jeopardise" its social and economic life, no nation can decide to focus solely on its citizens, and must pursue the common good for all.

This article aims to examine the situation of persons who have sought asylum in Malta. National statistics and international reports are drawn upon in an attempt to answer two questions: whether or not persons seeking asylum can be thought to have jeopardised social and economic life in Malta, and in what

---

[5] Pope Francis "The Protection of Migrants is a Moral Duty," http://en.radiovaticana.va/news/2017/02/21/pope_francis__the_protection_of_migrants_is_a_moral_duty/1293921.

[6] "The Duties of Citizens," in *The Catechism of the Catholic Church*, 2nd ed. (Vatican: Libreria Editrice Vaticana, 1997), nos. 2238-2240.

[7] United States Conference of Catholic Bishops. "Catholic Social Teaching on Immigration and the Movement of People," accessed March 13, 2017, http://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/catholic-teaching-on-immigration-and-the-movement-of-peoples.cfm.

ways our response to asylum seekers - in terms of employment and housing - could be improved. Employment and housing have been selected to allow for greater focus, and because they are central factors in how well asylum seekers are welcomed, protected and integrated.

Literature Review

The following brief review surveys the literature concerning two issues. First, it looks at research on whether migrants "jeopardise" social and economic life. Secondly, it looks at how the issue of migrant rights to welfare has been treated in the social policy literature.

The Effects of Migration

The social effects of migration are hard to identify and measure. Concerns are often raised about social cohesion, an elusive concept that generally encompasses norms and behaviours that help bind individuals and whole societies together.[8] An often-cited article by Robert Putnam, based on US cities, found that ethnic diversity had negative effects on trust, altruism and cooperation, at least in the short term.[9] This has been rebutted in various ways, with many illustrating that it is poverty and deprivation rather than diversity that "serve to estrange people";[10] that new immigration does not affect local cohesion;[11] and that levels of cohesion differ across localities depending upon the stories we tell ourselves about "who belongs in our neighbourhood."[12]

From an economic perspective, it is difficult to draw universal conclusions about the impacts of immigration as these differ across time and country. Negative public sentiment is often based more on fear of ethnic difference rather than on hard evidence about flows or consequences. An analysis of data on immigration and economic growth in twenty-two OECD countries between

---

[8] Andy Green and Jan Germen Janmaat, *Regimes of Social Cohesion: Societies and the Crisis of Globalisation* (Basingstoke: Palgrave Macmillan, 2011).

[9] Robert Putnam "*E Pluribus Unum*: Diversity and Community in the Twenty-first Century," *Scandinavian Political Studies* 30, no. 2 (2007): 137-174.

[10] Neli Demireva, *Immigration, Diversity and Social Cohesion* (Oxford: Migration Observatory, 2015).

[11] Shamit Saggar, Will Somerville, Rob Ford and Maria Sobolewska, *The Impacts of Migration on Social Cohesion and Integration,* Report for the Migration Advisory Committee, UK, 2012, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258355/social-cohesion-integration.pdf.

[12] Mary Hickman, Helen Crowley and Nick Mai, *Immigration and Social Cohesion in the UK* (York: Joseph Rowntree Foundation, 2008).

1986 and 2006[13] has found that migrants had a positive effect on both GDP per capita and on productivity growth, although these effects were small. In respect of fiscal balance more specifically, the OECD notes that when the payment of taxes is balanced with the receipt of benefits, migrants generally contribute more than they receive although the net effect on GDP is negligible. The OECD claims that "contrary to widespread public belief, low-educated immigrants have a better fiscal position - the difference between their contributions and the benefits they receive - than their native-born peers" and where this is not so, it is due to their lower earnings rather than to any greater dependence on social benefits.[14]

To focus specifically upon employment and housing, one concern that is often raised is that migration increases unemployment among nationals. The claim of "job theft," though, is based on the assumption that migrants are perfect substitutes for nationals and therefore displace the latter from the labour market, whereas the two groups often differ in terms of labour market characteristics. The evidence is nuanced. Migration was found not to have caused unemployment in any of the twenty-two OECD countries between 1980 and 2005.[15] However, while higher-skilled nationals were found to benefit from migration (which expanded the economy and brought about an increase in job opportunities and wages in higher-skilled positions), the same may not always be the case for lower-skilled ones.[16] This latter group may, in a weak labour market, lose out to migrants willing to accept poorer working conditions, although this is less true of countries with a minimum wage and well-enforced labour legislation.

Housing is a scarce and costly good which vulnerable groups including migrants find hard to access. Housing quality significantly affects outcomes

---

[13] Ekrame Boubtane, Jean-Christophe Dumont and Christophe Rault, *Immigration and Economic Growth in the OECD Countries 1986-2006*, CESifo Working Paper No. 5392, 2015, http://www.cesifo-group.de/portal/page/portal/DocBase_Content/WP/WP-CESifo_Working_Papers/wp-cesifo-2015/wp-cesifo-2015-06/cesifo1_wp5392.pdf.

[14] The Organization for Economic Cooperation and Development (OECD), "Is Migration Good for the Economy?" *Migration Policy Debates,* May 2014, https://www.oecd.org/migration/mig/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf.

[15] Ekrame Boubtane, Dramane Coulibaly and Christophe Rault, "Immigration, Unemployment and GDP in the Host Country: Bootstrap Panel Granger Causality Analysis on OECD Countries," *Economic Modelling* 33 (2013): 261–269.

[16] See, for instance, Andri Chassamboulli and Theodore Palivos, "The Impact of Immigration on the Employment and Wages of Native Workers," *Journal of Macroeconomics*, 38 (2013): 19 – 34; and George J. Borjas, Jeffrey Grogger, and Gordon H. Hanson, *Imperfect Substitution between Immigrants and Natives: A Reappraisal,* National Bureau of Economic Research Working Paper No. 13887, 2008, http://www.nber.org/papers/w13887.pdf.

in education, employment, health, social mobility and social cohesion.[17] The goal of housing integration, that is, the ability to obtain adequate, safe and affordable accommodation, with access to basic amenities and in areas that are not segregated along ethnic lines, is elusive in many countries. As in the case of employment, it is often argued that migrants compete with the poorest nationals to secure cheap accommodation, with migration reducing housing availability and pushing up rents. There is little evidence on this issue, as it is difficult to disentangle the various factors that affect rental values. A study on migration and housing in the UK has found that migrants from outside the EU often compete with their counterparts rather than with nationals for the lowest-cost rental housing, and that only over the medium- to long-term do they accumulate sufficient assets to compete with nationals for more desirable rental properties or home ownership.[18]

In many countries that do not have active dispersal policies, migrants tend to group together in cheap rental properties in low quality neighbourhoods, often sharing accommodation at least during their early days in the host country. While negative outcomes have repeatedly been identified for migrants living in segregated areas, such as the inability to form social networks, to gain language competence and to access transport, goods and services,[19] the reality is more complex. Concentration may, in some instances, have positive outcomes which should not be overlooked as they can have a strong bearing on migrants' wellbeing, such as social and cultural capital, a sense of safety and mutual support, and a common language.[20]

Migrants and Welfare

The capacity of a country to welcome, protect and integrate asylum seekers depends to a large extent upon the way the welfare system of that country is

---

[17] Deborah Phillips, "Integration of New Migrants: Housing," *Refugees and Other New Migrants: A Review of the Evidence on Successful Approaches to Integration*, ed. Sarah Spencer (Oxford: COMPAS, 2006).

[18] Christine Whitehead, et al., *The Impact of Migration on Access to Housing and the Housing Market*: *A Project for the Migration Advisory Committee, UK (2011),* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257238/lse-housing.pdf.

[19] See for instance David M. Cutler and Edward L. Glaeser, "Are Ghettos Good or Bad?," *The Quarterly Journal of Economics* 112, no. 3 (1997): 827-872 for the US; and Tito Boeri et al., "Immigration, Housing Discrimination and Employment," *The Economic Journal* 125 (2015): F82–F114 for Italy.

[20] Gideon Bolt, A. Sule Özüekren and Deborah Phillips, "Linking Integration and Residential Segregation," *Journal of Ethnic and Migration Studies* 36, no. 2 (2010): 169.

organized, especially in terms of the range and adequacy of its social provisions and their eligibility rules. Accelerated waves of migration in recent years have brought to the fore the question of whether migrants should enjoy the same social rights as citizens. Two broad arguments have been made in this regard.

On the one hand, there are those who argue that national welfare provisions cannot be extended to migrants. The argument goes that the sustainability of welfare depends upon citizens' willingness to contribute to the public purse in order to pool their lifecycle risks in a social security system, which willingness decreases as diversity grows. Gary Freeman, for instance, contends that welfare states "are compelled by their logic to be closed systems...because a community with shared social goods requires for its moral base some aspect of kinship or fellow feeling. The individuals who agree to share according to need have to experience a sense of solidarity that comes from common membership in some human community."[21]

On the other hand, we are reminded that a major rationale for the birth and growth of the welfare state was that it enables us to move beyond a particular to a universal solidarity. In discussing this principle, Hartley Dean recalls the classic work of Richard Titmuss on *The Gift Relationship* (1970), which defended the "welfare state as the mechanism by which, in a complex and competitive world, it remains possible for human beings to care for and to give, not just to intimates and neighbours, but, through the redistributive mechanisms of the state, to distant strangers."[22]

Still, while human rights are meant to cover all human beings, social rights remain very much tied up with citizenship, and countries differ in the extent to which migrants are extended similar rights to nationals. Building on the tradition of welfare regime typologies, Dean suggests that four different types, or systems, of "moral justification" for the treatment of migrants may be identified.

First, systems based on a moral-authoritarian justification see migrants as "intruders" and provide them only the most basic welfare to comply with international legal obligations. The main perceived threat is that these "intruders" would take scarce resources from nationals. Second, systems based on a social-conservative justification see migrants as "guests." extending compassion but not belonging, and sufficient welfare to protect them but not integrate them. In this case, the main perceived threat is that too many migrants would strain social solidarity and the "social order." Third, systems based on a social-liberal model see migrants as "settlers" and recognize their rights. However, these rights are

---

[21] Gary P. Freeman, "Migration and the Political Economy of the Welfare State," *The Annals of the American Academy of Political and Social Science* 485 (May 1986): 52.

[22] Hartley Dean, "The Ethics of Migrant Welfare," *Ethics and Social Welfare* 5, no. 1 (2011):19.

made conditional upon the settlers' contribution to society, in view of a perceived threat that they would otherwise undermine economic competitiveness. Fourth, systems based on a social-democratic justification regard migrants as citizens, integrating them in cultural life and treating them equally to nationals with respect to available welfare provisions. The perceived threat here is that migrants' needs are so diverse as to make it difficult to sustain a universal welfare system.

Dean points out that given the complexities of migration, the main value of such a typology is heuristic rather than predictive, and particularly useful in helping to identify and address the ways in which migration is perceived to be of threat in any given society.

Findings

This section will draw on available data and documentation to present a picture of asylum seekers in Malta.

Arrivals Since 2002: Trends and Reception

Since 2002, more than 19,000 persons have come to Malta to seek asylum, over 90% arriving by boat. The UNHCR estimates that less than 30% (6,000 persons, or around 1.5% of the population) remain in Malta today. Between 2005 and 2015, the highest number of arrivals by boat came from Somalia (40%), Eritrea (16%), Nigeria and Egypt (6%), and the Sudan (5%). Since 2013, numbers arriving from Libya and Syria have increased. Of the 1,745 applicants who applied for protection in 2016, 37% were from Libya and 17% from Syria, followed closely by persons from Eritrea (15%) and Somalia (13%).[23] Like most migratory flows, the majority of asylum seekers are younger men, with three quarters being male and over one half aged between eighteen and thirty-four. Of those arriving between 2005 and 2015, 53% have been granted subsidiary protection, 4% refugee status and 3% temporary humanitarian status, while 34% were rejected and 6% of cases were closed.[24]

As with other EU member states, the *Reception Conditions Directive* has been transposed into Maltese legislation to provide for minimum reception standards for asylum seekers.[25] Since 2015, detention is no longer mandatory in all cases,

---

[23] UNHCR "*Malta Asylum Trends 2005 – 2015,*" accessed Mar 13, 2017, http://www.unhcr.org.mt/charts/.

[24] Ibid.

[25] Malta. Subsidiary Legislation 420.06. *Reception of Asylum Seekers Regulations*, accessed Aug 8, 2016, http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10662&l=1.

and depends upon the immigration police's assessment based on one or more of six specific grounds as set out in the legislation. Asylum seekers who arrive regularly are not detained, and apply for protection directly at the Office of the Refugee Commissioner. Asylum seekers who arrive irregularly[26] are taken, on arrival, to an Initial Reception Facility for up to seven days, to be screened by the police and health authorities. At this point, the asylum seekers are assigned a case worker from the Agency for the Welfare of Asylum Seekers and are informed of their rights by the Office of the Refugee Commissioner, including the right to apply for international protection. If deemed necessary, the asylum seekers are taken to a detention centre for a maximum period of nine months. During detention, asylum seekers are given meals and medical care, and clothing when necessary, and are entitled to "open air at least once every day and for not less than one hour."[27] Following this period, they move to an open centre and may access the labour market. Only twenty persons are said to have been placed in a detention centre in 2016, in most instances for lacking identification documents.[28]

If detention is not deemed necessary, or if the persons concerned are deemed vulnerable (such as minors), the asylum seekers are taken to an open centre. The maximum stay at an open centre is twelve months, following which they are to find accommodation on the open market. In open centres, asylum seekers are provided a daily allowance of €4.66 to cover food and transport for one year (though this may be extended in cases of vulnerability)[29] but are not otherwise entitled to social security benefits. Persons living in open centres enjoy free movement in Malta, yet are required to confirm that they have not abandoned the centre by signing there three times a week. Around 673 persons were estimated to be in open centres in 2016.[30] The conditions in some of these open centres have been described as "extremely challenging," with poor hygiene, low security and over-crowding.[31]

---

[26] While there is no universal definition of irregular migration, the International Organisation of Migration holds that "from the perspective of destination countries [migration] is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations," accessed Mar 13, 2017, https://www.iom.int/key-migration-terms#Irregular-migration.

[27] Malta. Ministry for Home Affairs and National Security, *Strategy for the Reception of Asylum Seekers and Irregular Migrants*, http://homeaffairs.gov.mt/en/MHAS-Departments/awas/Pages/Migration-Policy.aspx.

[28] Asylum Information Database: Malta Country Report, accessed Mar 13, 2017, http://www.asylumineurope.org/reports/country/malta.

[29] Ibid.

[30] UNHCR, *Malta Asylum Trends 2005 - 2015*.

[31] Asylum Information Database: Malta Country Report.

The Cost of Asylum Seekers

No comprehensive data are publicly available about Government costings regarding asylum seekers, although partial information may be gleaned from various sources. A report on *Social Protection in Malta* states that the cost of the stay of "irregular immigrants" amounted to €6.61 million in 2015 (covering food, medical services, temporary shelter and surveillance),[32] having declined from €8.15 million in 2010 due to the decreasing numbers in detention. In addition, one may estimate (assuming the rate of €4.66 per diem for 673 residents) that the daily allowance payable to open centre residents amounted to around €1.14 million in 2016. Beyond open centres, those granted subsidiary protection are entitled to a core social assistance benefit, called Subsidiary Unemployment Allowance (SUA); a total of 2,432 protected persons were entitled to SUA in 2015.[33] The amount of this benefit depends on family size and household income, but taking the basic weekly rate of €102.04, the SAU cost for 2,432 beneficiaries would have amounted to around €12.9 million in 2015. Persons who have been granted refugee status have the same rights and duties as Maltese nationals in respect to social benefits (whether based on prior contributions or upon need) and as benefits payable to recognized refugees are subsumed under payments to nationals, they could not be estimated.

These three expenditures together amount to around €20 million, or 1.32% of total social protection in Malta in 2015 which, while sizeable, cannot be considered alarming. Furthermore, this crude estimate should also be considered against the migrants' contribution (for instance, in terms of taxes and national insurance) which could not be estimated.

Housing and Employment

Turning to housing and employment, there still remains much to be done. In the case of housing, access to decent and affordable accommodation has become problematic for those on low- and even median-incomes who lack other assets. Recent data on rental prices for unfurnished apartments show a sharp rise between 2012 and 2016, where the rents for one-, two- and three-bedroomed apartments have risen by 38%, 29% and 23% respectively over this four year

---

[32] Malta. National Statistics Office, *Social Protection: Malta and the EU 2015,* accessed Mar 13, 2017, *https://nso.gov.mt/en/publicatons/Publications_by_Unit/Documents/A2_Public_Finance/Social-Protection-Malta-and-the-EU-2015.pdf.*

[33] Malta. Ministry for the Family and Social Solidarity, *Department of Social Security: Annual Report 2015*, accessed Mar 13, 2017, http://socialsecurity.gov.mt/en/Publications/Pages/Annual-Reports-for-Social-Security-.aspx.

period.[34] The average monthly rent for a two-bedroomed apartment in 2015 was €796. This is equivalent to 109% of the monthly minimum wage of €728[35] and 39% of the national average household disposable income of €2,060 per month;[36] making access to rental properties very difficult for those on low pay. This has led one anti-poverty campaigner to state that "increasing rental prices is [sic] one of the foremost issues in the social sphere and it requires immediate attention."[37]

The spiral in rental prices has been attributed to the uptake of apartments by foreign nationals, though these are more likely to be persons who take up work in the buoyant financial and gaming sectors, as well as EU nationals working in Malta. It is highly improbable that asylum seeker demand for these rental properties, even among those in work, has been of a sufficient magnitude to influence rental prices in this way. Local research by Charles Pace and Leonid McKay (2013) has found that over three quarters of migrants are concentrated in six main localities characterized by higher rates of deprivation, where they reside in the private rental sector in groups of two to four persons.[38]

With respect to housing assistance, only recognized refugees are entitled, like nationals, to apply for social housing provided by the State, but in view of long waiting lists, gaining such access is unlikely. Refugees are also entitled to apply for rent subsidy, on similar conditions as nationals, if they have have an annual income below €23,000. The amount of the subsidy depends upon income and household size and ranges from €92 to €167 per month[39] which, in view of current rental prices, may be helpful though not decisive in gaining access to housing. This benefit is not available to asylum seekers or protected persons, who are expected to find accommodation on the open market after their stay at an open centre.

---

[34] "Rents Go Up, Up and ... Away," *Times of Malta*, Aug 8, 2016.

[35] Malta. Department for Industrial and Employment Relations, accessed Aug 14, 2016, https://dier.gov.mt/en/Employment-Conditions/Wages/Pages/National-Minimum-Wage.aspx.

[36] Malta. National Statistics Office, *Statistics on Income and Living Conditions 2014: Salient Indicators,* news release 167/2015, https://nso.gov.mt/en/News_Releases/View_by_Unit/Unit_C1/Living_Conditions_and_Culture_Statistics/Documents/2015/News2015_167.pdf.

[37] "Rising Rental Prices are Squeezing Low-Income Families," Times of Malta, Aug 8, 2016.

[38] These localities are Marsa, Msida, Gzira, St Paul's Bay, Hamrun and Birzebbugia. See Charles Pace and Leonid McKay, *Putting Integration into Perspective: Studying Integration Efforts of Beneficiaries of International Protection and Identifying Areas where Special Input is Needed* (Malta: Refugee Commissioner's Office, 2013).

[39] Malta. Housing Authority (2017), *Rent Subsidization on Privately Owned Dwellings 2017*, accessed Mar 13, 2017, http://housingauthority.gov.mt/en/Documents/Schemes/Sussidju%20fuq%20il-Kera%20-%20English%202016.pdf.

There are no data available to specifically illustrate the housing situation of migrants. Eurostat shows Malta to have one of the lowest overcrowding rates in the EU as well as one of the lowest housing cost burdens. However, while 3.9% of Maltese nationals live in overcrowded accommodation, this was true of 7.4% of those born outside the EU.[40] Similarly, while 1.1% of Maltese nationals face a housing cost over-burden,[41] this is true of no less than 13.1% of non-EU nationals. As these figures incorporate also those non-EU nationals who reside in Malta on the basis of a work permit and (hence) a regular income, overcrowding and housing cost burdens are likely to be far greater among the group under study.

Migrants also face housing discrimination, as evidenced in two key studies which have identified considerable reluctance on the part of prospective landlords to rent their properties to this group,[42] as well as discrimination (experienced in particular by male, black, Arab and Muslim individuals) in the form of verbal and non-verbal intimidation and harassment by property owners and neighbours.[43] This is in breach of the EU's Racial Equality Directive 2000/43/EC which prohibits direct or indirect discrimination in access to goods and services. However, ethnic minorities are often unaware of their rights or of remedies that they may pursue in the event of discrimination. Others may be aware, but may lack faith in the likelihood of a fair outcome, or may even fear retaliation.

As to the labour market, like all non-EU nationals, migrants require an employment licence to work in Malta. Refugees and protected persons are granted an employment licence in their own name; but in the case of asylum seekers, the licence is issued in the name of the employer.[44] The employment licences of the latter group are only issued on a six-month basis, subject to possible renewal depending upon the outcome of their application or appeal.

---

[40] Eurostat, *Migrant Integration Statistics: Housing,* accessed Aug 8, 2016, http://ec.europa.eu/eurostat/statistics-explained/index.php/Migrant_integration_statistics_-_housing#Housing_cost_overburden_rate.

[41] The share of the population living in households where the total cost of housing accounts for more than 40 % of a household's disposable income.

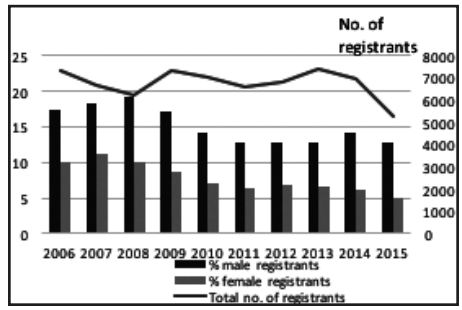
[42] Fondazzjoni Suret il-Bniedem, *Housing Asylum Seekers,* http://www.pfcmalta.org/uploads/1/2/1/7/12174934/housasyseekers.pdf.

[43] Marika Fsadni and Maria Pisani, "*I'm not Racist but...": Immigrant & Ethnic Minority Groups and Housing in Malta* (National Commission for the Promotion of Equality 2012), https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/I_m_Not_Racist/imnrb_research(1).pdf.

[44] Jobsplus Malta, *Employment Licences Unit: Guidelines for Clients,* last modified Jun 1, 2016, https://jobsplus.gov.mt/employers-mt-MT-en-GB/employing-persons/fileprovider.aspx?fileId=1342.

There is little evidence as to the impact of asylum seekers on the local labour market. At 4.0% of the working-age population, the unemployment rate in Malta in June 2016 was the lowest among the EU28.[45] As illustrated in the accompanying graph, the proportion of all persons registering for work in elementary positions (typically the labour entry point of migrants) has, if anything, declined both in absolute terms and as a percentage of all job seekers since the increase in migration. In 2006, men registering for elementary positions amounted to 17.4% of all male job seekers; this figure had declined to 12.9% in 2015 even in the face of a 27% drop in the total number of persons seeking work.

Fig. 1 - Persons Registering for Work, 2006 - 2015[46]



There is no official employment rate for migrants. According to Eurostat, the employment rate in 2015 was 67.9% for Maltese nationals aged between 20 and 64, and 63.2% for non-EU citizens,[47] although the latter figure incorporates all third country nationals (and not just migrants as defined in this article). In their study, Pace and McKay (2013) have found that almost 60% of migrants were unemployed, and of those who worked, many were employed outside the law.[48] Their findings correspond closely to an estimated employment rate of 35%, which is based on 2014 data showing that 1,980 migrants (refugees, asylum

---

[45] Eurostat, *Unemployment Rates, Seasonally Adjusted, June 2016*, last modified Jul, 29, 2016. http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Unemployment_rates,_seasonally_adjusted,_June_2016.png.

[46] National Statistics Office. Various, from archives: https://nso.gov.mt/en/News_Releases/Archived_News_Releases/Pages/Archived-News-Releases.aspx.

[47] Eurostat, *Employment rates of Population Aged 20–64,* accessed Aug 8, 2016, http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Employment_rates_of_population_aged_20%E2%80%9364,_by_groups_of_country_of_citizenship_and_sex,_2015.png.

[48] Pace and McKay, *Putting Integration into Perspective.*

seekers and protected persons) held an employment licence[49] at a time when the UNHCR estimated that there were 5,588 such persons in Malta.[50] In general, most third country nationals are employed in the cleaning, hospitality, care and construction sectors,[51] somewhat notorious for precarious working conditions.

Language barriers and lack of recognized qualifications inhibit labour market access, as does the persistence of discrimination in recruitment. As both a major trade union and a leading NGO in this field has pointed out,[52] although discrimination is not rare, few cases are actually reported, due to lack of awareness or fear of retaliation. This notwithstanding the fact that discrimination is specifically outlawed by Malta's Employment and Industrial Relations Act as well as the Equality for Men and Women Act, both of which make provisions for the investigation of complaints. Migrants are also more prone to be in casual or undeclared labour, meaning they are often underpaid, and deprived of health and safety provisions and social security benefits among others. As pointed out by migrants during a protest held in 2015, of those who do work legally and pay taxes and national insurance, only the minority who are granted refugee status are actually entitled to the benefits (such as pensions) that accrue from such payments.[53]

Attitudes to Migrants

That migrants are discriminated against in the labour and housing markets appears to be widely acknowledged. According to a survey conducted on behalf of UNHCR in 2012 on public perceptions towards migrants in Malta,[54] 80% of Maltese believe that discrimination occurs in the labour market, while 71% believe it to occur in the housing market. However, less than one in eight respondents believe that migrants should be helped to find work or housing. In

---

[49] "Filipina Women Top List of Third Country Workers," *Times of Malta,* Jan 12, 2014.

[50] This is a very crude estimate and suffers a number of flaws: it does not account for undeclared work; it might also include employment licences that are redundant because the job was never taken up or no longer performed.

[51] *Times of Malta,* Jan 12, 2014.

[52] "Gauging Workplace Abuse of Immigrants is Difficult," *Times of Malta,* Oct 8, 2013, http://www.timesofmalta.com/articles/view/20131008/local/Gauging-workplace-abuse-of-immigrants-is-difficult-.489443.

[53] "Migrants to Protest Against Discrimination in Documentation and Legal Status," *Times of Malta,* Mar 12, 2016, http://www.timesofmalta.com/articles/view/20160312/local/migrants-to-protest-against-discrimination-in-documentation-and-legal.605344.

[54] UNHCR, *A Report on Public Perceptions about Refugees and Migrants in Malta,* 2012, http://www.unhcr.org.mt/charts/uploads/resources/read/files/5_what_do_you_think_ppr_2012_unhcr_.pdf.

general, the study found that respondents appear less likely to fear the economic impact of migrants than the social one. Only 16% feared that migrants "take jobs," but while 68% did not personally know a migrant, almost half believed that migrants threatened their way of life.

The issue of migration is clearly a charged one. According to the Standard Eurobarometer 86,[55] in 2016 immigration was the issue that most preoccupied the Maltese. In fact, at 46% of respondents, the Maltese were most likely among all EU member states to consider immigration to be the "most important issue facing their country" at present (followed by the environment, at 26%; and rising prices, at 25%). Asked whether immigration evoked their positive or negative sentiment, 60% of the Maltese said they felt positive in respect with EU migrants (close to the EU28 average of 61%), but only 23% felt positive about non-EU migrants, the seventh lowest in the EU28 and 14 percentage points below the EU average of 37%.

At first, this outlook is hard to reconcile with other data sources where Malta ranks relatively high on various indicators of altruism, though admittedly more in terms of donating money than personal involvement. In the World Giving Index conducted by Gallup, the Maltese ranked eleven among the 135 countries covered for the years 2010 to 2014.[56] In terms of the components of this rank, Malta placed third worldwide for donating money; forty-sixth worldwide for volunteering time; and seventy-third worldwide for helping a stranger. The measurement of attitudes towards development also ranks Malta among the top 20% of EU member states in respect of support for poverty alleviation in developing countries, and for NGOs active in this area.[57]

On the other hand, the stranger in our midst is less well regarded, with not infrequent reports of racial abuse towards migrants both in person and through the blogs of local media, showing profound hostility among what one might hope is a fringe minority. Recent research by Gordon Sammut and Mary Anne Lauri (in press) has examined the different acculturation preferences of ethnic groups in Malta. While the Maltese, like all other ethnic groups, were

---

[55] European Commission (2016). *Standard Eurobarometer 86 (Autumn 2016),* accessed Mar 13, 2017, http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/STANDARD/surveyKy/2137.

[56] Charities Aid Foundation, *World Giving Index 2015*, https://www.cafonline.org/about-us/publications/2015-publications/world-giving-index-2015.

[57] European Commission, *Special Eurobarometer 441: Citizens' Views on Development, Cooperation and Aid*, accessed Aug 10, 2016, http://ec.europa.eu/europeaid/special-eurobarometer-441-european-year-development-citizens-views-development-cooperation-and-aid_en.

significantly more likely to favour multiculturalism, the mean preference for multiculturalism was lowest among the Maltese compared to other ethnic groups; in addition, the Maltese expressed among the highest mean preferences for assimilation and segregation. The same researchers found that the number of ethnic friends, and the frequency of meeting them, were significantly correlated with a preference for multiculturalism, leading the researchers to call for the fostering of greater intercultural contact in order to "transform cultural diversity into added value."[58] Further research by Gordon Sammut et al., illustrates the negative social representation of Arabs in Malta, largely attributed to religious differences. However, this is much less prevalent among Maltese who have Arab contacts, lending further support to the call for intercultural contact.[59]

Much is already being done by civil society groups that have been relentless in their support of migrants. Numerous faith-based and humanitarian NGOs[60] have been the agents of change and development in this area, at the forefront of efforts to represent and respond to migrants' needs, pushing for legislative reform, improved and extended services and benefits, standing against instances of inhumane treatment and push-backs, and pressing for the development of a national integration strategy.

Concluding Reflections

The findings presented above suggest that the impact of arrivals of asylum seekers in Malta over recent years can hardly be considered as jeopardy of social and economic wellbeing in Malta. While the cost of managing the asylum process and of providing benefits to eligible migrants is sizeable, it is not believed to be alarming, and fails to take into account the economic benefits that migrants make, both through the payment of national insurance and the filling of labour market gaps among others. Socially, migration has proven to be a more divisive issue as it is clearly a widespread preoccupation and one that appears to derive from perceived threats to Maltese cultural identity.

In the light of Pope Francis' call for a shared response, more needs to be done to

---

[58] Gordon Sammut and Mary Anne Lauri in *Mutual Intercultural Relations in Plural Societies*, ed. John W. Berry (Cambridge: Cambridge University Press, forthcoming).

[59] Gordon Sammut et al., "Arabs in Europe: Arguments for and against Integration," *Psychology & Human Mobility* (under review).

[60] For instance, Jesuit Refugee Service (Malta), Aditus Foundation, Integra Foundation and the Malta Emigrants' Commission, but also, African Media Association Malta, Foundation for Shelter and Support of Migrants, International Association for Refugees, Kopin, Migrants' Network for Equality, Migrant Women Association Malta, Organisation for Friendship in Diversity, Peace Lab, People for Change Foundation, and SOS Malta.

improve the living conditions at the open centres and to combat discrimination in the housing and labour markets; to promote the employability of migrants and to actively consider the extension of contributory benefits to those who have made the relevant contributions on the same grounds as nationals. It is also necessary to strive to transform hearts and minds by fostering inter-cultural contact and promoting mutual tolerance and respect. One trusts that the forthcoming Integration Strategy will address these matters, in partnership with the NGOs in this field and the full involvement of service users.

Sue Vella
Department of Social Policy & Social Work
Faculty for Social Well Being
University of Malta
Msida MSD 2080
Malta

email sue.vella@um.edu.mt

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 77-99

Colin Calleja,
Michelle Attard Tonna,
Simone Galea,
Michael Grech,
Maria Pisani[1]

Mercy in the Maltese Educational System: Education Practices to Foster Respect for Diversity Towards the Migrant Population

Introduction

The growing diversity of learners in Maltese schools presents new challenges to policy-makers and practitioners. Schools and teachers often find themselves at odds when trying to respond to the increasingly diverse needs of the student population within schools. Over the past decade Malta made the shift from a country of emigration to a country of immigration. This trend is represented in Maltese schools, as the student population becomes increasingly heterogeneous. While this new reality is more pronounced in certain areas, all colleges[2] have a representation of non-Maltese students, with Maria Regina College having the highest representation with a total of 1,134 students (819 at primary level, 95 in middle school and 220 in secondary school) and Saint Nicholas College having the lowest number, with a total population of eighty one migrant students (fifty-nine in the primary, eleven in middle school and eleven in the secondary school).[3] Research from different European countries

[1] Colin Calleja (head of department), Michelle Attard Tonna (lecturer), and Simone Galea (associate professor) are members of the academic staff at the Faculty of Education, University of Malta. Michael Grech is a lecturer in philosophy at the University's Junior College; and Maria Pisani is a lecturer at the Faculty of Social Well Being, University of Malta. All authors have contributed equally to this paper.

[2] Maltese schools are organized into a college network that is formed of ten colleges. Each college is composed of a number of kindergartens, primary and secondary schools.

[3] These statistics were confirmed with the respective college principals in March 2017.

and other countries around the world hosting migrant populations show that on average, students from migrant backgrounds are significantly underperforming in relation to their peers.[4] Malta is no exception.

This reality brings forth the urgent need for schools to develop strategies that help migrant learners integrate successfully within the school community, while assisting the rest of the student and teaching community to develop values and attitudes that underline the value openness and learning from diversity.[5] Schools can be the places where citizens and migrants learn how to live together without feeling excluded because of their ethnic, cultural, and religious backgrounds and the colour of their skin.

Schools are places where the fear of the stranger and the anxiety that results from it can be deflated. The school can be a place where the "other" can be deciphered and understood; it is a place where, living, sharing, collaborative productivity and realisation of potential can also be learnt. This would allow school communities to go beyond tolerance (to tolerate the existence of opinions or behaviour) and to accept and recognize the richness of the "strange" and the "different," and establish a genuine understanding of the "other" through the use of reason. Such environments nurture empathy[6] - by nurturing compassion and feeling for the sufferings of others. The "other" comes to be seen as an object of love and mercy, of care and hospitality.

Within this argument mercy is seen as a key component of dealing with the need of seeing the "stranger" as an opportunity of reaching out to fellow human beings. This "reaching out" gives one the possibility of giving the "other" the entitlement to live within a community. Notwithstanding the differences, we share a common humanity, and therefore we can live together and enrich one another. Within this scenario, difference turns out to be a tool for educability.

This article presents ethical and philosophical traditions that may underpin the virtue of mercy in the context of immigration with particular emphasis

---

[4] Vicki Donlevy, Anja Meierkord and Aaron Rajania, *Study on the Diversity within the Teaching Profession with Particular Focus on Migrant and/or Minority Background: Final Report* (Brussels: European Commission Directorate-General for Education and Culture and ECORYS, 2016), 15.

[5] Barry van Driel, Merike Darmody and Jennifer Kerzil, *Education Policies and Practices to Foster Tolerance, Respect for Diversity and Civic Responsibility in Children and Young People in the EU* (Luxembourg: European Commission Directorate-General for Education and Culture and the Public Policy and Management Institute, 2016), 71.

[6] Lou Agosta, "The Development of Sympathy in Hume's Thinking: From a 'Delicacy of Sympathy' [i.e., Empathy] to a Taste," accessed March 21, 2017, https://empathyinthecontextofphilosophy.com/2009/11/16/the-development-of-sympathyin-in-humes-thinking-from-a-delicacy-of-sympathy-i-e-empathy-to-a-taste/

on the education of migrant learners. This will be followed by a description of the local educational scenario in relation to the migrant student population in Maltese schools. Finally, the article will present proposals for education policy and schools to effectively grow into inclusive environments that have as their main objective the support of all learners in order to succeed. These suggestions would embody and reflect in concrete contexts and situations the theological virtue of mercy as it is understood and characterized in the initial sections of this paper.

Citizenship and the Migrant "Other"

The discussion so far has been based on the distinction between the citizen and the migrant, and this in itself requires critical reflection. Any discussion of migrants and rights and obligations relating to them must necessarily interrogate notions like citizenship, the nation state, and democracy. The sovereign nation state delineates its border with other states; it also establishes borders between citizens and non-citizens: those who belong, and those who do not. As such, the presence of the migrant embodies the "other," reinforcing the social construction of the nation state. Whilst citizenship does not ensure equality (gendered, racialized and class divides are always present), the legal aspect of citizenship, that which ensures the "right to rights," is intrinsically exlusionary, regulating who belongs to this bounded political community and who does not. As such, as Hannah Arendt[7] has argued, the nation state cannot deliver the principles on which it was premised, namely equality, solidarity and liberty, while "laws that are not equal for all revert to rights and privileges, something contradictory to the very nature of nation-states."

Citizenship then has always been a contested notion. Yet, major complexities have come to the fore in view of the intensification of migration within a globalized world. The images we have all been exposed to over the past months, within (the so called) Fortress Europe, with the reinforcement (both metaphorical and physical) of borders in view of the "refugee crisis," highlight this point. Access to rights and justice, if nothing else, the basic right to dignity, is quite literally at the mercy of the democratically elected leaders of the nation states. Such a reality also raises important questions as to how citizenship is taught within the school curriculum. If, as Claudia Ruitenberg[8] has argued, citizenship education must

---

[7] Hannah, Arendt, *The Origins of Totalitarianism,* new ed. (Orlanda FL: Harcourt Inc., 1968), 290.

[8] Claudia W. Ruitenberg, "The Practice of Equality: A Critical Understanding of Democratic Citizenship Education," *Democracy & Education* 23, no.1 (2015): 5.

stress equality, then citizenship education must shift away from the preparation of citizenship as the acquisition of identity (with the onus on the personal and the social), towards citizenship education as "fostering commitment to equality." This would require placing the political role of the citizen at the core, and citizenship as the political, democratic role of holding the state accountable. In this regard, the classroom can become the space where all students can engage in democratic and political processes, and use their voice to engage in action geared towards demanding equality and social justice.

Certainly, the school is no utopia. It tends to be defined by and to reproduce inequalities. Yet, the possibilities for transformation towards social justice cannot be ignored. If we acknowledge that all education is political, then the possibilities exist to disrupt the hegemony of citizenship and the nation state, as they exist today - to "democratize democracy."[9] Such an approach may be aligned with the words of Pope Francis, if true mercy is to demand justice, citizenship education can create the political space to demand transformation. Humanitarian aid, and services or benefits accorded to migrants should remain, even if not legally justified. The virtue of mercy is important in this regard.

Understanding Mercy

In the history of Western thought, Mercy has been characterized in two ways. A tradition, going back to Seneca and stretching to modern writers like Martha Nussbaum relates mercy to crime, punishment and retribution. In this tradition, Mercy is "the inclination of the mind towards leniency in exacting punishment."[10]

Mercy has also been considered as a species of love, and along this line, it is not considered necessarily in relation to retributive justice. Indeed, mercy related to punishment might be considered as just one species of mercy. According to Aquinas,[11] mercy is a response to the suffering of others, and is manifested in the attempt to alleviate that suffering. Mercy involves a "passive aspect," wherein one is affectively influenced by the needs or suffering of others, and an "active aspect" where, if possible, one actively seeks to remove the source of misery.[12] It is a virtue in the Greek sense of the term; an *arete* ' (skill) one needs to rationally develop

---

[9] Etienne, Balibar, "Historical Dilemmas of Democracy and their Contemporary Relevance for Citizenship," *Rethinking Marxism* 20, no.4 (2008): 522.

[10] Benjamin, S. Yost, "Responsibility and Revision: A Levinasian Argument for the Abolition of Capital Punishment," *Continental Philosophy Review* 44, no.1 (2011): 54.

[11] *STh* II-II 30.

[12] Luigi, Sartori, "Misericordia," in *Enciclopedia Filosofica*, 2nd ed. (Venezia: Istituto per la Collaborazione Culturale, 1975), 618.

and nurture. In concrete situations it may entail various features: adopting a particular attitude, performing acts of benevolence and/or forgiveness or showing kindness, depending on the case in question. It is in this second sense that Pope Francis understands mercy. In what follows we shall make a critique of the concept of this characterization of mercy; i.e. we will analyse the limits and consider the possibilities of the concept. We shall consider mercy in relation to a group of individuals – migrants - who come to Europe in general and Malta in particular.

Should one focus on Malta, the group of people who are classified as "migrants": "persons who come to our country and end up on a relatively long-term residence," is varied and needs to be specifically defined. Migrants arrive in Malta in various ways, from different continents, for different purposes, have different legal statuses, come from different socio-economic, ethnic and religious backgrounds, have different abilities and levels of education, and have different needs. These differences need always to be taken into consideration and the temptation to consider migrants as a homogenous whole is to be resisted.

The Limits

Mercy is a virtue that may be manifested at different levels. It may be manifested at an individual level, when someone adopts a merciful attitude and/or carries out acts of mercy in relation to another or to a group of individuals who stand in some need. It may also be manifested at a collective level, when a group of individuals shows mercy towards another group or towards a particular individual.

Mercy may involve certain negative features, especially in relation to the educational and political spheres that are our main concern. It may seem inimical to the existence and coming into being of political, cultural and economic structures based on justice and rights. For instance, if a group which, as often happens in these cases, is vaguely characterized as "European" or "Maltese," provides some educational service/s to another group (for example "migrants") out of mercy, the latter would apparently not have a claim to the service provided. At any time, the service in question may be withdrawn, without the latter party being in a position to appeal, except to the former group's good will. Mercy may also abet a culture of dependence and inequality. If we consider once again the scenario of migrants receiving some service, this scenario of mercy renders these migrants as dependent on the other group providing the service in question. Moreover, if Maltese or Europeans enjoy the services in question as a matter of right, whereas non-European migrants receive the service in question as a form of concession (which can be withdrawn at any time), an inequality between the two groups would be sustained.

Another example of such limits may involve the legal domain. Speaking of mercy in relation to a particular set of migrants, such as, those who did not enter Malta in a regular manner may contribute to the (incorrect) assumption that these migrants are fundamentally legal trespassers and hence, as a matter of law, ought not to enjoy the rights and freedoms that an ordinary law abiding person ought to enjoy. If some benefit is accorded to them, it is accorded despite their dubious legal status. Acts of mercy with migrants may therefore actually reinforce the popular myth that some (racialised) migrants are illegal[13] or irregular, rather than rights-holders and primarily victims (economic, political or both) of the wrong doings of others.

Possibilities

Mercy however may play a positive role in a number of respects. If we were to suppose that structures concerning rights and justice regarding individuals or groups do not exist, or that they exist but not in an acceptable or humane manner, the virtue of mercy may move people to attempt to change and amend the structures in question. This is indeed in line with how Pope Francis understands the role of mercy. In his address to the Jesuit Refugee Services the Pontiff states that "true mercy, the mercy God gives to us and teaches us, demands justice; it demands that the poor find the way to be poor no longer ... It asks us, the Church, us, the City of Rome, it asks the institutions - to ensure that no one ever again stands in need of a soup kitchen, of makeshift lodgings, of a service of legal assistance in order to have his legitimate right to live and to work, to be fully a person, recognized."[14] In this sense being merciful is motivated by the aim that those in need do not persist in depending on others. This kind of mercy then, seeks to empower those who are in need rather than to confirm them to dependency.

Moreover, any characterization of rights or setting up of a just political, economic or educational arrangement will, by definition, involve borders and lines. Situations will obviously develop that fall outside these lines and borders;

---

[13] The belief that asylum seekers are residing in Malta illegally is a myth. The term "illegal immigrant" is widely used in political and popular discourse; however, every human being has the right to seek asylum in another country, as per the 1951 Geneva Convention. An asylum seeker is a person who has entered a legal process of refugee status determination. In Malta, for example, the vast majority of asylum seekers are granted some form of international protection, and as such they are residing legally.

[14] "Address of the Holy Father Francis during his Visit to the 'Astalli Centre' Jesuit Refugee Service in Rome, 2013," accessed May 15, 2017, w2.vatican.va/content/francesco/en/speeches/2013/september/documents/papa-francesco_20130910_centro-astalli.html.

situations that are not covered by the provision of rights or services that these entail. This is especially so in relation to vulnerable groups. While equality is an ideal, one should not naively ignore that different people come from different backgrounds, some of which are privileged/disadvantaged in relation to others. This is especially so in education and in relation to migrants, particularly those who hail from backgrounds characterized by suffering, war or denial. These circumstances should not be denied in the name of some fictitious concept of equality; fallaciously assuming or pretending that students come from similar backgrounds, or that their education will automatically involve a level playing field. Not merely will such students have particular needs that require specific provisions, but the cases where their needs will fall outside established parameters are likely to be more numerous in relation to students who hail from backgrounds that are more mainstream.

In this regard we would also like to develop an insight from the Jewish-Lithuanian-French philosopher Emmanuel Levinas. Levinas characterizes mercy in the first sense mentioned above, i.e. in relation to retributive justice.[15] Yet, there are insights in his work that may be adopted even in relation to how mercy is being understood here. Levinas maintains that comprising all our obligations and provision of needs entirely within legal and political structures is not merely impossible, but also undesirable. In his words, "politics left to itself bears tyranny within itself; it deforms the 'I' and the 'other' who have given rise to it for it judges them according to universal rules and thus in absentia."[16] Universal provisions and stipulations cannot capture the specific requirements of the "other," which demands an encounter and an annunciation. One owes an obligation to the "other," irrespective of boundaries and margins; a being responsible for the "other," even for aspects we normally do not think ourselves responsible for. Developing the virtue of mercy as is being understood here may help in this regard.

Mercy and Education

The role of mercy may also seem controversial in that it apparently conflicts with political ideals that conceive education as something provided as a matter of entitlement, in terms of a basic human right, or as a matter of social justice. In Malta, education has been traditionally envisaged as an entitlement. This entitlement is grounded in the notions of justice, of availability of educational

---

[15] Yost, "Responsibility and Revision," 43.

[16] Emmanuel Levinas, *Totality and Infinity: An essay on Exteriority* (Dordrecht: Kluwer Academic, 1991), 300.

opportunities, of inclusivity, and of taking into account the different and varying needs of students to ensure that their educational experiences are fruitful and successful. Should then education be about granting children that to which they are entitled? Or does entitlement need to be supplemented by acts of mercy? If education is a right, how can one speak of mercy in relation to education? If mercy is part of the equation, this becomes particularly problematic, if not outrightly dangerous, with regards to migrant children, as their education is being literally left at the mercy of responsible authorities.

Despite these justified worries, one may again argue that, just as justice and stipulated rights may not tell the whole story in society in general, so also with regards to education, the provision of the latter cannot be simply construed as a matter of statutory entitlement. Even with regards to education, just as much as mercy demands justice, justice cannot be brought about without mercy, without a compassionate understanding of the needs, problems and suffering of others.

Mercy is essential to our reflection on how educational justice can be actualized and how the entitlement of educational provision for migrants is guaranteed. Educational provision on its own cannot rely solely on an expression of justice at institutional and administrative levels. To be just, educators need to be conscious of the rights of children, understand different notions of social justice, and gain knowledge on how to bring these concretely into being in schools. Being just in education goes beyond the simple following of established laws, and adherence to rules and practices that ensure entitlement. Once again, this would involve borders, entitlement and non-entitlement. Education is rather an encounter of people, which derives its meaning from the relations that are established among them. Educational practices where the people remain detached from each other are neither usually fruitful nor effective in spite of being informed by principles of justice. Sensitivity to people's different needs and conditions is essential. Mercy kindles the spirit within which educational entitlement is given. It is the merciful giving of educators that guarantees quality of the educational entitlement that students have.

Consider for example a school whose mission is to ensure just education. It lays down rules and practices that insist on the distribution of resources and time, establishes a code of practice that highlights respect for all differences as well as ensures freedom of expression and participation of vulnerable and marginalized children and their families. Without the merciful actions of educators who recognize their responsibility in encountering their students as unique individuals, this school would become merely a vehicle of delivery of goods and services that arise out of a detached obligation to others.

Mercy therefore necessitates of schools to take into account the students' life histories and the particular conditions and contexts in which migrant students live. Being merciful is an important aspect in education in that it does not reduce the latter to an impersonal delivery to what people are entitled to. Education depends very much on the educators' relation with others, their response to them, and the way they act to bring about what is publicly considered to be just.

Migrant Students' Cultural Capital

An evaluation of a migrant student's educational experience necessitates an evaluation of the educational structures that provide learning opportunities for these students. Apart from the resources related to economic and financial capital which adversely affect minority students in the educational process, one should also consider the systematic deficiencies of the school system with regards to minority students.[17] Research on migrant students in schools suggests that schools do not accommodate the specific needs of migrant students and that cultural barriers lead migrant students to be stereotyped.[18] This arises through a lack of understanding, knowledge of and respect for migrant students, their culture and their transitory lifestyle. Even in cases where one does not witness outright discrimination or racist remarks, migrant students may still be negatively labelled or stereotyped. While some teachers may act compassionately towards migrant students, others do not.

---

[17] Richard L. Sparks and Leonore G. Ganschow, "Teachers' Perceptions of Students' Foreign Language Academic Skills and Affective Characteristics," *The Journal of Educational Research* 89, no.3 (1996): 183; Janin Brandenburg, et al., "Over-Identification of Learning Disorders among Language-Minority Students: Implications for the Standardization of School Achievement Tests," *Journal for Educational Research Online* 6 (2016): 60; Elena Makarova and Dina Birman, "Minority Students' Psychological Adjustment in the School Context: An Integrative Review of Qualitative Research on Acculturation," *Intercultural Education* 27, no.1 (2016): 3.

[18] Juan Cardenas, "An Educational Plan for the Denver Public Schools," accessed May 15, 2017, http://files.eric.ed.gov/fulltext/ED096046.pdf; Blandina Cardenas, "The Theory of Incompatabilities: A Conceptual Framework for Responding to the Educational Needs of Mexican American Children," accessed May 15, 2017, http://eric.ed.gov/?q=theory+of+incompatabilities+cardenas&id=ED174383; Lindsey, Tricia, "First Refugee and Migrant Simulation Aims to Dismantle Stigma, Stereotypes," accessed May 15, 2017,http://search.proquest.com.ejournals.um.edu.mt/docreview/1782317059?accountid=27934; Anne K. Reitz, Jens B. Asendorpf and Frosso Motti-Stefanidi, "When do Immigrant Adolescents Feel Personally Discriminated Against? Longitudinal Effects of Peer Preference," *International Journal of Behavioral Development* 39, no.3 (2015): 198.

The characteristics of migrant students may be incompatible with the education system they find themselves in, and lead to cultural and educational barriers:

- the barriers related to migrant students' and parents' cultural capital, especially involving language and communication
- the barriers referring to migrant families' parenting approach with regards to education, especially students' and parents' level of knowledge of the school system, their attitude towards teachers and education, and their level and kind of involvement with the school system.[19]

Pierre Bourdieu's theory is helpful in this regard. He differentiates between three different types of capital, which may affect social mobility, and life chances:

- economic or financial capital, such as parental income, wealth, and assets. Economic capital would allow a family to buy the time and resources needed to bolster its cultural and social capital, so that in this way, the three forms of capital are profoundly interrelated;
- cultural capital, including language proficiency and the ability to assimilate cultural objects, such as music and art; and
- social capital, the networks and social ties that may prove useful (or harmful) in furthering students' academic and social success.[20]

The focus on these different types of capital frames our argument about the way migrant students may be disadvantaged. A case in point is the way parents of different students approach and interact with schools and teachers. While the parents of a good number of Maltese students (especially those who do not have cultural and social deficit) may feel a sense of entitlement when dealing with teachers, those of some migrant students - when migration intersects with poverty, "race" and insecure legal status - are more likely to be deferential and outwardly accepting. While parents of Maltese students may act in an assertive manner, question teachers and intervene on behalf of themselves and their children[21] the parents of migrant students may not directly intervene with teachers in the education process on their children's behalf. Furthermore, because of language difficulties they may experience, migrant students do not voice their concerns

---

[19] Janese L. Free, Katrin Kriz and Jenny Konecnik, "Harvesting Hardships: Educators' Views on the Challenges of Migrant Students and their Consequences on Education," *Children and Youth Services Review* 47, no.3 (2014): 191.

[20] Pierre Bourdieu, "The Forms of Capital," in *Handbook of Theory and Research for the Sociology of Education*, ed. John H. Richardson (West Port, CT: Greenwood, 1986), 241-258; Elliot B. Weininger, "Pierre Bourdieu on Social Class and Symbolic Violence," in *Approaches to Class Analysis*, ed. E.O. Wright (Cambridge: Cambrdige University Press, 2005), 116-165.

[21] Annette Lareau, "Invisible Inequality: Social Class and Child-Rearing in Black Families and White Families," *American Sociological Review* 67, no.5 (2005): 759.

and do not ask questions - they may not know how, or may not feel empowered enough to do so.

Legal Provisions

Like most countries, Malta extends the right to compulsory education to all children, irrespective of their country of origin as long as they have a legal status (regulation 3 of Subsidiary Legislation (*SL*) 217.05) or fall under the stipulations of the *Migrant Workers (Child Education) Regulations: Legal Notice 259/2002 SL 327.220,* or the *Refugee Act Chap. 420*. Children coming from other EU member states and children of Third Country Nationals (TCNs) that fall under the above mentioned regulations are entitled to free State education. The Refugee Act also extends the right for "access to State education and training" to applicants for international protection. The Migrant Worker (Child Education) subsidiary legislation extends the duty of the State to take appropriate measures to ensure that "free tuition is given to children of migrant workers ... in particular the teaching, as adapted to the specific needs of such children, of any of the official languages of Malta"; and "within reasonable limits" to promote "the teaching of both mother tongue and the culture of the country of origin of such children in cooperation with such country of origin."

Maltese authorities are legally obliged to provide access to all students regardless of status, as long as these can provide a permanent address in order to be registered.[22] In the Maltese context, difficulties for non-EU nationals start once they reach non-compulsory age. On moving from secondary to post-secondary education, the law is not clear, and as the law stands at present, non-EU nationals are asked to pay for continuing their education from this level of education onwards. This situation is undoubtedly causing a lot of anxiety to students - and their parents - who would like to continue their education but have no financial means to do so. This situation is also creating a gap that would have a long-term effect on the employment prospects of migrants.

This ambiguity needs to be rectified if we are truly seeking to ensure that future migrant adults are well equipped to contribute to society and be provided with the skills required for them to meet the challenges of the twenty-first century. It is in such situations, where the legal framework is still not in place, that the role of merciful action needs to intervene. Civil society has to ensure that obstacles for the "poor" and the underprivileged are resolved both for the immediate - for those that are caught in this legal limbo - and for a more sustainable future.

---

[22] Families wanting to register their children in a school need to have a permanent address. This measure is restraining some 200 school-age immigrant children from attending school.

Teachers' Judgements

The provisions of *SL* 327.220 also stipulates that all necessary measures should be taken "for the adequate training of teachers providing tuition to the children of migrant workers." Such professional preparation is crucial since teachers' influence and judgements can have a determining effect on learners. Teachers' judgements of students' achievement can influence students' educational experience.[23] Misjudgement of students has its roots in the theoretical developments of the self-fulfilling prophecy:[24]

- teachers show differential expectations regarding students' academic achievements
- teachers treat students in different ways
- differential treatment influences students' motivation and emotions
- these changes reinforce teachers' expectations
- a self-fulfilling prophecy occurs when these changes are reflected in students' achievement.

Teachers' misjudgement and students' motivation are mutually related. The particular characteristics of different sets of students may influence the teacher's judgements about these students, which judgements may determine how teachers relate to these students.[25] This may often be the case with migrant students who are a minority in a classroom, and whose language barrier may deter them, at least temporarily, from performing well and achieving at par with their peers. Language is an educational barrier for migrant students, especially if their families/parents have trouble communicating with educators, and educators have trouble communicating with them. Skills in a classroom's working language/s are related to course grades and students may underperform if they have consistent difficulties in communicating or understanding the language of instruction within the classroom. Migrant students may also find difficulties in completing their homework because of their and their parents' language barrier. They may get held back as a result of their level of language proficiency, which may lead them to feel demotivated and discouraged. As a result, migrant students may even distance themselves from learning and school entirely.

Because of the language difficulties that they encounter in the classroom, migrant students are likely to be judged as poor spellers, or as reluctant towards reading; or are sent to complementary and remedial classes. It is hence important

---

[23] Zhu Mingjing and Detlef Urhahne, "Teachers' Judgements of Students' Foreign-Language Achievement," *European Journal of Psychology of Education* 30, no.1 (2015): 24.

[24] Ibid.

[25] Ibid.

that schools, and teachers, identify migrant students' situational, motivational and emotional characteristics that can be conducive to future achievement deficits. Once teachers recognize that their judgements may affect their perceptions of students' motivational characteristics and their perceptions of students' abilities, they are likely to respond more supportively and positively than teachers who believe that such students lack motivation, have a poor attitude, or simply cannot perform well and register progress. Similarly, once teachers are aware of the students' difficulties with language and respond to them adequately, they would be in a better position to understand why these students are encountering problems in their classroom. Under such circumstances, teachers may need to make curricular adaptations which would involve designing classroom instruction to meet the needs of a population with different language skills. When this is not possible or feasible, teachers may need to refer these students to classes where they can receive support for their language learning difficulties.

Measures for the Integration of Migrant Children

It is here pertinent to present possible measures that can be taken in order to ensure an equitable educational provision to migrant children in harmony with the basic principles of inclusion. All measures discussed in this paper have been to a greater or lesser extent, implemented in different European countries. Various European reports have discussed the measures taken by different member states in their efforts to integrate migrant children in schools. What will be discussed here are practices and measures that support the educational community to meet the educational needs of the migrant population. The discussion will also include different approaches that can be taken to position the intercultural approach within our national curriculum, and the support and training to teachers that this would require in order to enable them to deal with issues raised within such a reality.

These measures should not be understood along the provider-beneficiary model; something that would suggest the banking concept of education, which is ultimately debilitating to the beneficiaries and not consistent with the understanding of mercy as outlined in the first part of this article. Unfortunately, this is a drawback of many provisions and measures that are provided to migrants and other groups. The aim of the measures is not merely to provide an entitlement, but to empower migrant children, parents, schools and communities at large to become critical and reflective agents of change. These social, political and empowerment ideals are fundamental benchmarks in relation to which the success of the measures being suggested ought to be assessed. The benefits of these measures are also far-reaching, and should not be evaluated exclusively in relation to schools and or on a short-term basis.

Orientation Measures for Migrant Parents

Supporting migrant parents, especially those who lack proficiency in the language of the host country is needed to help boost their involvement in the education of their children.[26] This would also empower them as stakeholders within the context of school; giving them greater access to school life and possibly to decision-making. Parental involvement is also known to be a key factor in the academic success of children.[27] The Southwest Educational Development Laboratory[28] in their report *A New Wave of Evidence* go even further and conclude that, "when schools, families, and community groups work together to support learning, children tend to do better in school, stay in school longer, and like school more." They also concluded that children whose parents involve themselves in the life of the school, regardless of their income or background, were more likely to do better academically, have regular attendance, have better social skills and tend to move on to post-secondary education. The report insists that a way for addressing the achievement gap could very well be for schools to continue to support and encourage the involvement of parents at school. Such parental involvement is known to benefit also the "school to improve and innovate, also in their intercultural policies."[29] Different colleges and schools can implement different measures in order to include parents of migrant students in school.

A first step towards effective parental involvement is for schools to ensure that important documentation is made accessible to all parents. A number of schools around Europe have made such documentation available in various languages. It would therefore be a good measure for schools to have basic documentation about the Maltese educational system and other school policies translated in various languages. Such translations can be made through the involvement of the parents themselves who are conversant with target languages and other community resources such as migrant organizations and embassies. Such services could also be centralized either at a college level or as one of the services

---

[26] Public Policy and Management Institute (PPMI), *Study on Educational Support for Newly Arrived Migrant Children: Final Report* (Luxembourg: European Commission Directorate-General for Education and Culture, 2013): 113.

[27] *Education and Migration: Strategies for Integrating Migrant Children in European Schools and Societies: A Synthesis of Research Findings for Policy-Makers* (Brussels: European Commission and the Network of Experts in Social Sciences of Education and Training [NESSE], 2008): 53.

[28] Ann T. Henderson and Karen L. Mapp, *A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement* (Austin, TX: Southwest Educational Development Lab., 2002), 7.

[29] PPMI, *Study on Educational Support for Newly Arrived Migrant Children,* 102.

offered by the newly established Unit for Migrant Learners at the Ministry for Education and Employment.

Parents of migrant children wanting to register their children, or already having children in Maltese schools could also be invited to meetings in which they are given useful information on procedures, transition choices, support services that they can avail themselves of, and other topics of particular interest to migrant parents. Such meetings may also require the services of interpreters and can either be organized specifically for migrant parents or together with other parents who in some cases can offer interpreting services themselves.

In order to continue supporting migrant parents and to help cater for the ongoing mediation and communication with these parents, a number of European countries reported that they were offering additional resource persons to schools, such as cultural mediators and home-school liaison officers. Understanding and catering for cultural differences can help schools involve migrant parents in their children's school life. Such services would also benefit teachers to adapt communication methods to reach out to parents to help support migrant children.

Outreach should be made to migrant parents and their communities and to NGOs working with migrants, so that these bring additional resources to the schools. Different European countries have employed such an approach to mentor and support students in mother tongue instruction through after-school programmes. This has increased the performance and self-confidence at school of disadvantaged migrant students. Such collaboration with migrant communities and NGOs working with migrant communities has boosted networking and a sharing of experiences.[30]

Ensuring Inclusive Settings - Reversal of Selection Policies

Most research suggests that student selection is inadvisable. Many international studies have shown that the earlier the tracking starts, the greater would be the chances of inequalities.[31] Studies also show that where early selection is adopted,

---

[30] Ibid., 107.

[31] Gary N. Marks, "Cross-National Differences and Accounting for Social Class Inequalities in Education," International Sociology 20, no.4 (2005): 485; Giorgio Brunello and Daniele Checchi, "Does School Tracking Affect Inequality of Ppportunity? New International Evidence," Economic Policy 22, no.52 (2007): 784-785; Daniel Horn, "Age of Selection Counts: A Cross-Country Analysis of Educational Institutions," Educational Research and Evaluation 15, no.4 (2009): 344; Van Driel, Darmody and Kerzil, Education Policies and Practices to Foster Tolernce, Respect for Diversity and Civic Responsibility in Children, 15; Herman G. Van de Werfhorst and Jonathan J.B. Mijs, "Achievement Inequality and the Institutional Structure of

migrant students may more often be assigned to lower bands with the result that schools have lower academic expectations of such students. Such low expectations have a major influence on student achievement.[32]

The 2008 report of the Network of Experts in Social Sciences of Education and Training (NESSE), compiled for the European Commission Directorate-General for Education & Culture, quotes a number of studies that show that late selection of students to different tracks (ability grouping) offer better educational opportunities for disadvantaged children. The report makes reference, among others, to a comprehensive study by Schofield (2006)[33] which concludes that "considerable evidence exists [to show] that tracking and related kinds of ability grouping with curricular differentiation, ... often contribute to the achievement gap between initially lower- and initially higher-achieving students, by undermining the academic achievement of the former group." Schofield explains, "Because a disproportionate number of students from migrant backgrounds are in the former group for various reasons, such forms of ability grouping are likely to increase the achievement gap between migrants and others." The NESSE report goes on to emphasize that "selective systems contribute to increasing the problems of minority children and do little to support them"; disabling rather than empowering these children, and producing negative effects that do not concern simply academic achievement but extend beyond the school.[34]

These studies and others evidently show that selection is not the way we should be tackling the challenges faced by the increase of diversity within Maltese classrooms. The banding system recently introduced in primary schools and the fine-setting system in secondary schools need to be reversed and replaced with inclusive pedagogies that support all students as learners. Farley[35] in his comprehensive review of studies on the influence of peers on academic achievement concludes that, when exposed to classmates with higher educational

---

Educational Systems: A Comparative Perspective," Annual Review of Sociology 36 (2010): 408.

[32] John Hattie, "The Applicability of Visible Learning to Higher Education," *Scholarship of Teaching and Learning in Psychology* 1, no.1 (2015): 87; Ross Miller, "Greater Expectations to Improve Student Learning: National Panel," accessed March 16, 2017, http://oldcourtmiddle.pbworks.com/w/file/fetch/68214430/Greater%20Expectations%20to%20Improve%20Student%20Learning.pdf.

[33] Janet W. Schofield, *Migration Background, Minority-Group Membership and Academic Achievement: Research Evidence from Social, Educational and Developmental Psychology* (Berlin: Arbeitsstelle Interkulturelle Konflikte und Gesellschaftliche Integration, 2006), 95.

[34] Heckmann, *Education and Migration: Strategies for Integrating Migrant Children in European Schools*, 21.

[35] As cited in ibid., 27.

aspirations, minority children increase their own, have higher expectations, improve academic achievement and at the end of their compulsory schooling they are more likely to attend college and get better jobs after graduation. Farley[36] concludes that, "the great majority of studies show that the achievement of majority group and/or middle class students does not decrease" in integrated schools. Obviously this is only true as long as the right conditions are in place.

Quality Schools with Quality Teaching

Individual schools and classrooms can make a marked difference in supporting learners to succeed. John Hattie[37] in his meta-analysis of hundreds of studies showed that teachers could make a significant difference (30% variance) in the learning process of students. He shows that teachers who work with others to seek evidence of their impact on students, who inform students early what success looks like, who provide appropriate levels of challenge and feedback, and who have aligned their claims about success, assessment and teaching, would be powerful contributors of learning.

Previous studies[38] list a number of characteristics that make up a good school and benefit all students. Among these characteristics one finds a shared pedagogical concept and good cooperation among teaching staff; high quality school management and leadership; high expectations of teachers towards students coupled with readiness to give support; good quality teaching; ensuring effective learning time (fewer hours of teaching lost); and involvement of parents in school life. The combination of these characteristics and others ensure good quality education for the underprivileged and migrant children within an inclusive environment. This combination of characteristics however, is also beneficial to students, teachers and members of the community who are neither underprivileged nor migrants, and helps to broaden their perspectives and provide a realistic scenario of the diversity one finds in society at large.

Language Support Policies

Lorenzo Milani used to emphasize mastery of the "word"; of language and of languages, as a key feature of his pedagogic and liberatory project. Learning a

---

[36] Ibid., 527.

[37] John Hattie, *Visible Learning: A Synthesis of Over 800 Meta-Analysis Relating to Achievement* (New York: Routledge, 2009), 31-35; Hattie, "The Applicability of Visible Learning to Higher Education," 87.

[38] As cited in Heckmann, *Education and Migration: Strategies for Integrating Migrant Children in European Schools,* 22-23.

language empowers the learner and helps create spaces where critical and human encounters can take place.

In relation to schooling a key competency crucial to academic success is proficiency in the language of instruction (in the case of Malta, both English and Maltese). Glory Gatwiri,[39] insists that "language proficiency may have a profound effect on an individual's ability to learn and develop, due to its key role in the transmission of information and regulation of cognitive processes."

This type of support in European countries falls under one of the following categories or models, the integrated model, viz. (support given within an inclusive classroom), or a separate model (support given to migrant children grouped together following a special language programme different from that given to native students). Both models are delivered within a mainstream setting.

Once an adequate initial assessment of language skills has been conducted, schools that apply the integrated model allocate migrant children to mainstream classes to follow the regular age-appropriate curriculum with the rest of the class. In such arrangement children are given linguistic support on an individual basis during normal school hours within an inclusive setting. Some European countries organize "extra-curricular" language tuition in which pupils are given lessons outside regular school hours, to further support and accelerate language acquisition.

Those countries adopting the second model often do so alongside the integrated model, and migrant students are offered support (mainly linguistic support) outside the regular classroom but within the same school premises. This practice is either done for a transitional period for some hours during the week (joining the regular class for the rest of the time), or for longer periods of time where they spend one or several years in a special class. This second model is the one preferred by Maltese schools. Up to 2016 migrant students used to be taken to separate premises and only "upon completion of an induction process, [would] the learner be registered in the mainstream, in the school of the locality of residence."[40] As from this scholastic year (2016-2017) the policy has changed slightly; children arriving at different times of the year are given a language support programme for a whole scholastic year, in most cases within a mainstream premises thus giving these children the possibility of sharing the same break time with their Maltese peers.

---

[39] Glory Gatwiri, "The Influence of Language Difficulties on the Wellbeing of International Students: An Interpretive Phenomenological Analysis," *Inquiries Journal* 7, no.5 (2015): 38, http://www.inquiriesjournal.com/a?id=1042 .

[40] Malta. Ministry for Education and Employment, *Country Report (Malta) - Education* (Floriana: MEDE, 2015), 52.

Notwithstanding the general policies and practice, schools in Malta are free to take initiatives and make their own arrangements. A case in point is the experience of a particular secondary school in Malta that has designed its own distinctive language programme within mainstream curriculum. Here one finds the two models implemented in parallel. This is how one of the teachers explained what is happening:

> Up to last year students arriving during the year, who had neither English nor Maltese proficiency, used to be sent for the induction course offered at a centre close to the school locality but not within the school premises. Here they used to be given basic English language lessons, and some Maltese lessons, to enable them to survive in mainstream once they return. Notwithstanding the valuable work carried out by the teachers at these centres, after six weeks these students used to return with some basic English proficiency, but in terms of their integration they used to have a very hard time.
>
> In our school we have long since taught Maltese as an additional or foreign language - here we provide every year-group different options, including one for students learning Maltese as a foreign or additional language. These lessons are given while the rest of the students are following their Maltese lessons. For the rest of the day they follow the regular timetable. These students would have the same number of lessons as their Maltese counterparts with the difference that they would follow a programme tailored on the Common European Framework (level A1) with the aim that after a few of years they can join the mainstream programme and eventually can sit for the SEC (Secondary Education Certification). The learning of Maltese will also help them in other academic subjects taught in Maltese. Unfortunately due to lack of teachers it is not always possible to make this programme available to all year-groups.
>
> During this scholastic year we have three types of programmes. Migrant students who arrive at different times of the year without basic proficiency in the English language join one of two induction courses (one targeting the first two years of secondary or middle school, and another targeting the final three years of compulsory education [3rd, 4th and 5th forms]). Both programmes run over a scholastic year and the focus is on English, Maltese, Mathematics and some other basic subjects. These migrant students are grouped together but remain in the same school. This allows us to move them to mainstream classes once we see that they have gained enough proficiency that allows them to follow the regular programme.
>
> Then there are those who follow a regular timetable since their English is of a good level, and they are just grouped to learn Maltese which is taught to them

> as an additional language. These students would follow the same timetable as the others who are following regular Maltese. They are assessed with an adapted paper that fits their particular programme.

The above case study is a good example of implementation of the two models (run in parallel) within the same school. Though one might have reservations on aspects of implementation, what is praiseworthy here is the school's commitment to respond to the varied needs of the migrant student community within the school timetable and premises.

Within the above two broad models one can find a wide range of measures that can be grouped under three categories or elements:

- Measures which are intended to compensate for language needs of migrant pupils whose mother tongue is not the language of instruction. Such programmes are usually based on "linguistic" immersion in which pupils are exposed to the target language and receive intensive tuition - individually or in small groups - during normal school hours.
- Measures that aim at supporting migrant students in other areas of the curriculum. Here the teacher is expected to collaborate with other resource staff to modify the mainstream curriculum and assessment to the competency level of the migrant child who remains in the classroom.
- Pupil-teacher ratio is reduced allowing more time for the class teacher to assist individual students in their natural environment.[41]

It is worth noting that notwithstanding the diversity of measures taken by different countries, all measures seek to be offered within a mainstream setting, and the language support given is based on a teaching approach to language as a "second or additional language."

The 2013 study on Educational support for newly arrived migrant children prepared by the Public Policy and Management Institute insists that such training should not be confined to language teachers but should be open to all teachers "so that teaching of academic subjects and language happen in a coordinated way, which can also help avoiding the delay of academic learning due to the low language proficiency."[42] This preparation should be introduced in both pre-service and in-service training.

---

[41] Eurydice, *Integrating Immigrant Children into Schools in Europe: Survey* (Brussels: Eurydice, 2004), 16.

[42] PPMI, *Study on Educational Support for Newly Arrived Migrant Children,* 95.

Mother Tongue Instruction

When children are offered opportunities to learn in their mother tongue they are more likely to succeed academically[43] and help develop self-confidence and self-esteem. A positive approach to multilingualism, and the appreciation of native languages of migrant students is crucial to help them excel in their education, and develop a positive and appreciative approach to diversity and identity among the larger community. These opportunities can take the form of: offering such native languages as modern foreign languages within the curriculum, using bilingual classroom assistants to support learners during subjects, provide team teaching with a mother tongue teacher and training teachers how to support their students in using their language competencies as a learning tool (Public Policy and Management Institute (PPMI).[44] The report also emphasizes the need to have a national language policy that takes a positive approach to migrant students and focus on their linguistic resources and potentials. Therefore together with the learning of the host country's language/s, migrant students should be provided, whenever possible, with the possibility to learn their parents' native language/s and in the early years of their education the possibility to promote learning through the native/home spoken language. It is to be noted that, "research increasingly shows that children's ability to learn a second or additional languages (e.g. a *lingua franca* and an international language) does not suffer when their mother tongue is the primary language of instruction throughout primary school"[45] and fluency and literacy in the mother tongue lay a cognitive and linguistic foundation for learning additional languages.

Other Support Policies

There are many policies that can be adopted that would help all learners, and not only migrant students. What follows are some of such policies that have been listed in a previous publication[46] and that would help support all students, in particular migrant students:

---

[43] Kimmo Kosonen, "Education in Local Languages: Policy and Practice in Southeast Asia," in *First Languages First: Community-Based Literacy Programmes for Minority Language Contexts in Asia* (Bangkok: UNESCO Asia & Pacific Regional Bureau for Education, 2005), 5.

[44] PPMI, *Study on Educational Support for Newly Arrived Migrant Children,* 95.

[45] *Enhancing Learning of Children from Diverse Language Background: Mother Tongue-Based Bilingual or Multilingual Education in the Early Years,* ed. Jessica Ball (Paris: UNESCO, 2011), 6.

[46] Colin Calleja, Bernard Cauchi and Michael Grech, *Education and Ethnic Minorities in Malta* (Malta, Ministry of Education & Culture. Lifelong Learning Programme, 2010), 39-41.

- Ensuring continuous monitoring and evaluation of students' progress. Such a policy would ensure that students who are identified as underachieving are given the necessary assistance in time.
- Ensuring the provision of in-class prevention support programmes for under-achieving students and migrant students who might be facing difficulties. Such provision would help prevent performance gaps.
- Opening up second chance education programmes to migrant students, such as those mentioned in the National Strategic Plan for the Prevention of Early School Leaving in Malta (2014).
- Ensuring that the investment which government is making in Early Childhood Education is also made available to migrant students. Such childcare facilities and early childhood education should be given by well-trained and highly qualified educators prepared to deal with children coming from different cultural backgrounds.
- Textbooks that are provided for use in Maltese classrooms should reflect different ethnicities, cultures and beliefs. Such exposure would help all children appreciate the richness and opportunities that diversity brings with it.
- School calendars should also include important commemorations of major festivities pertaining to the different minorities.
- Set up after-school programmes that involve members of migrant communities, especially with regards to tasks that require cultural interpretation. The provision and access of these programmes in terms of time and logistics should be taken into consideration.
- Promote policies that would encourage and facilitate the process for young people of ethnic and cultural minority background to follow teaching careers. The experience of other countries shows that having teachers with a migrant or minority backgrounds has a positive influence on the achievement of migrant learners. Unfortunately, regulations that insist that all teachers who teach in Maltese schools should have an Ordinary Level in Maltese to be able to apply to join the teaching profession is a stumbling block for those migrants who have arrived here with a teaching qualification from their country of origin or who would like to pursue this profession locally.
- Develop opportunities that promote successful individuals within migrant communities as role models for everyone.
- Since secondary schools provide canteen services, these should provide for the dietary requirements of migrant children and of those who due to their religion or ethnicity would require special food requirements.

Such policies encourage respect and reflect acceptance within the school community.

Conclusion

Different countries have found different ways of integrating migrant students into the school system. Notwithstanding the variety of measures taken, most countries have ensured that the assistance provided is not exclusionary but given within the mainstream system.[47] Apart from the need to create a well-developed reception system through which migrant students and their families are introduced to the country's educational system, an initial assessment of these students' educational background is crucial. In a country like Malta, where resources are limited and all schools follow a National Curriculum Framework, a central reception centre should suffice to coordinate such services. Once the initial assessment has been completed students should be placed in mainstream schools so that children could interact with their Maltese peers. Such interaction favours the transition of these children and their integration within the school community.

The Report on the Educational Support for Newly Arrived Migrant Children commissioned by the European Commission[48] suggests the introduction of targeted dispersal policies. Such a policy would allow authorities to distribute children between schools by college or even better between colleges thus ensuring the proper distribution of migrant children across different geographic areas of the country. Such a measure (which of course offers its own challenges) would ensure the right mix of foreign and native language speakers, offering a greater opportunity to develop language skills through social interaction.

---

[47] Eurydice, *Integrating Immigrant Children into Schools in Europe,*16.

[48] PPMI, *Study on Educational Support for Newly Arrived Migrant Children,* 95.

Colin Calleja
colin.calleja@um.edu.mt

Maria Pisani
maria.pisani@um.edu.mt

Michael Grech
michael.grech@um.edu.mt

Michelle Attard Tonna
michelle.attard-tonna@um.edu.mt

Simone Galea
simone.galea@um.edu.mt

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 101-112

Frances Camilleri-Cassar[1]

Trapped at the Periphery? Interdisciplinary Perspectives on African Migrant Women in Malta

What are the key concerns facing migrant women in Malta? To what extent are they able to integrate into Maltese society? Is the labour market accessible or inaccessible to women migrants? How are migrant women challenged by multiple discrimination? This article is concerned with women who migrate from African countries,[2] many of whom are rescued at sea, hopeful of a better life in Europe.

The central point of this study is to highlight a few specific themes that appear to capture the lived reality of migrant women in Malta, within the broad context of poverty and social exclusion, and God's plan for the human person and for the world. What is the message which these African women in Malta are conveying to Catholic theology? What do their stories narrate about God? How can theology be of concrete support to these women in their quest for emancipation? In his message for the World Day of Migrants and Refugees, Pope Francis says: "From the Christian standpoint, the reality of migration, like other human realities, points to the tension between the beauty of creation, marked by Grace and the Redemption, and the mystery of sin. Solidarity, acceptance, and signs of fraternity and understanding exist side by side with rejection, discrimination, trafficking and exploitation, suffering and death."[3]

---

[1] Frances Camilleri-Cassar is an associate professor in the Faculty of Laws at the University of Malta, with research interests in social policy and equality law.

[2] The majority of women migrants relevant to this study come from Somalia, Eritrea and the Sudan (personal communication with the Agency for the Welfare of Asylum Seekers [AWAS], Malta).

[3] Pope Francis, *Message for the World Day of Migrants and Refugees 2014,* August 5, 2013, no. 3.

The main argument of this article is that African women migrants in Malta are often trapped at the periphery of society, and at risk of the most extreme forms of poverty and social exclusion. For instance, they have little access to information about the legal framework regulating asylum procedure, and legal assistance to them is generally inadequate. Moreover, while Malta's reception policy was amended in 2016, the current procedure only offers a dead end result because the integration policy process percolates through the pipeline for many years. Economic activity and financial independence are rarely possible for women migrants due to the exploitative nature of the labour market. Despite their vulnerability, however, little is known about the existing reality of women migrants' lives, the disadvantages which they encounter in a tightly knit Maltese society, and their specific needs as women, and very often as women with dependent children.

The objective of this study is to address some of the difficulties faced by migrant women in Malta. Is contemporary theology ready to be liberated from its "precisions" and "categorizations" in the face of these trapped women's experiences? Is theology ready to move away from its "comfort zones" in its quest for more relevance? Different areas of concern will be discussed: reception legislation, the asylum procedure and judicial process, the integration policy, economic activity, and the prevalence of multiple discrimination.[4] The study adds depth and nuance to the discussion by demonstrating the implications for evidence-based decision making, and the role of the State towards the inclusion of marginalized women in Maltese society. The discussion will commence with a brief overview of the reception legislation, followed by a discussion of the asylum procedure and the judicial process. The section on Malta's integration policy will provide evidence of a structure that for many years has remained at a stage of "near" comprehensively. This will be followed by a debate on women's employability and their place in the labour market. The penultimate section will discuss multiple discrimination among Malta's forcibly displaced women, and will conclude with a critical analysis of the study findings, and their implications for the legal and social rights of African migrant women, insofar as they bear directly on relevant policy responses.

[4] The term "multiple discrimination" refers to any discrimination against a woman which does not only involve gender. See European Commission, *Multiple Discrimination in the EU in 2009,* Special Eurobarometer, no.317, EMPL/G/2 (Brussels: Directorate-General for Employment & Social Affairs, 2009).

Reception Legislation

The reception of asylum seekers is regulated by the Reception Conditions Directive, which has been signed into law Maltese legislation by the amended Reception of Asylum Seekers (Minimum Standards) Regulations, SL 420.06.[5] The Directive has been re-cast as Council Directive 2013/33 and lays down standards for the reception of applicants for international protection. For instance, standards include - but not only - an adequate standard of living, a clear definition of "minor" status for persons under eighteen years, as required by international standards, and conditions of detention for immigration related purposes.[6]

The legislative measures which still need further development include an amendment of Article 25A (10) of the Immigration Act (Cap 217). For example, the amended Reception of Asylum Seekers (Minimum Standards) Regulations, SL 420.06, needs to include an obligation to inform detainees and enable them to challenge not only the duration but also the reasons and alternatives for their detention. While acknowledging the challenges of migration faced by the State and society, Pope Francis enjoins to reflect on mutual enrichment:

> The presence of migrants and refugees seriously challenges the various societies which accept them. Those societies are faced with new situations which could create serious hardship unless they are suitably motivated, managed and regulated. How can we ensure that integration will become mutual enrichment, open up positive perspectives to communities, and prevent the danger of discrimination, racism, extreme nationalism or xenophobia?[7]

The Asylum Procedure

For refugees and women asylum seekers in particular, their right to stay in Malta is determined by the outcome of the asylum procedure, which is evidence-based and regulated by strict procedural rules. The outcome of this procedure determines not only the right to stay in Malta, but also the quantity and quality of rights, as these are essentially linked to the legal status granted to the migrant woman. The different types of protection envisaged by law and policy include:

---

[5] http://www.justiceservices.gov.mt/DownloadDocumentaspx?app=lom&itemid=10662&1=1,accessed January 26, 2016.

[6] https://www.easo.europa.eu/sites/default/files/public/Dve-2013-32-Asylum-Procedures.pdf, accessed May 15, 2017.

[7] Pope Francis, *Message for the World Day of Migrants and Refugees 2016,* September 12, 2015, no. 6.

refugee status, subsidiary protection, and temporary humanitarian protection. Each status comes with a different set of legal rights, ranging from comprehensive legal ones in the case of a refugee status, to little or no rights at all in the case of temporary humanitarian protection (THP) for failed asylum seekers. In November 2016, THP was repealed.

There are, however, certain issues which tend to influence the outcome of the asylum procedure. For instance, a migrant woman may lack access to accurate information about the legal framework regulating asylum procedure. This is particularly true of asylum seekers in detention, but it may also be on the increase among asylum seekers living in the community, especially those not living in an open centre. Lack of information often leads women to take the wrong decisions and mess up their chances of getting protection. One women respondent in a study undertaken by the Jesuit Refugee Service in Malta claims that:

> I said the truth about many things in my interview but I also hid a lot of things from my life - intentionally. I was new and I didn't know that what happened to me could make a difference to my future. When I arrived, I meant to say everything but people inside [in detention] told me not to say certain things because I will get a "reject." There was a lot of fear around me and I was terrified. The interpreter was a Somali man and I was not brave enough to tell him everything.[8]

There are a number of reasons why a woman would not disclose all information details.[9] For example, she may be suffering from the impact of past experiences, such as torture or trauma, which often lead to post traumatic stress disorder or other psychological problems that lead to fear and lack of trust. Alternatively, she may have been advised by other detainees, relatives or friends who mean well but who are as lost as the migrant woman herself. A migrant woman may lack access to adequate and effective legal assistance. This is essential throughout the asylum procedure but especially following the outcome of a negative administrative decision at first instance.

In the case of a negative administrative decision at judicial level and request for a second appeal, the challenge to find a committed legal-aid person becomes more pronounced, especially for migrant women trapped at the periphery as a result of little financial means and no social capital. Malta's legal-aid system, that is state funded, has been frequently and severely criticised for its lack of quality service and reliability. Nevertheless, information divulged during later

---

[8] Jesuit Refugee Service, Malta, *No Giving Up: Story of Unfinished Journeys* (Malta: Jesuit Refugee Service, 2015), 24.

[9] Data compiled in 2016 through personal communication with the Jesuit Refugee Service, Malta.

stages of the asylum procedure, inevitably raises questions regarding the woman's credibility.

Other factors that influence the outcome of a decision are not only based on the woman's performance at an interview, but depends also on her age, educational background, and her other life experiences as well as on the level of trust and understanding by the system, all of which have an impact on how much migrant women could effectively benefit from a judicial process that is ultimately designed to protect them. Other concerns that tend to influence the outcome of the asylum procedure arise from the competence and quality of interpretation services, confidentiality and trustworthiness.

Another concern for migrant women is the residence permit. Women become economically and emotionally dependent on their male spouse when the resident permit is issued in the husband's name. There are instances when a woman living in a violent relationship fears reporting the abuse to the police because "once she reports, they deport" especially if the country of origin is relatively safe.[10]

Integration Policy

The social integration of migrants is given precedence in the basic objectives of the Common Fundamental Principles for the EU Immigrant Integration Policy which assumes a holistic approach that focuses on the educational, social, health, cultural, political, and residential legislation and policies. However, Malta still lacks a policy for the integration of migrants. In 2015, a public consultation was launched with the aim of formulating a national framework for an integration strategy 2015-2020,[11] with the intent of significantly improving Malta's track record. One targeted improvement that links with the focus of this study is migrant participation in key organizations, such as, trade unions, women's organizations, political parties, and national pressure groups, as well as policies that target discrimination in employment, housing, health and education. However, to date, all this still remains on paper.

In tandem with this, there is a scarcity of key information and reliable statistical data regarding African migrant women in Malta. For example, "there is a considerable difference between the total number of migrant workers (3,965), as

---

[10] Personal communication with the Jesuit Refugee Service, Malta in 2016.

[11] Malta. Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, *Towards A National Migrant Integration Strategy, 2015-2020* (Malta: Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 2015), http://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Documents/2015%20%20Integration/MSD_Report%20booklet_JF_rev4.pdf.

reported by the National Statistics Office, and the total number of foreign work-permit holders (7,635) reported by the Employment and Training Corporation [ETC]."[12] Among the reasons for this difference is that national statistical data relies on collective households - not individuals - with the result that hundreds of refugees, persons on temporary humanitarian protection, and asylum seekers in Malta are automatically left out of the picture.[13] In comparison to other European countries, Malta's generally underdeveloped integration policy, has for some years been highlighted by the Migration Integration Policy Index which analyses and compares social integration policies in EU and non-EU countries. The Index shows that while Malta's strongest policy areas concern family reunion and permanent residence, it ranks particularly poorly in integration measures, especially in employment and the labour market.[14]

Labour Market

In Malta, job quality and working conditions are regulated by the Employment Law, and migrants are eligible to similar work conditions as Maltese citizens. However, although migrants are bound to pay taxes and national insurance contributions, Malta provides no regular targeted support for labour market integration, and eligibility to social assistance and social security is critically weak.[15] Moreover, the State does little to facilitate the recognition of migrants' skills obtained outside the EU.[16]

To compound the issue, trade unions in Malta are reluctant to support the integration of migrant workers, and collective agreements fail to include them, or address their specific needs.[17] Although on paper, employers' associations appear supportive of migrants' integration into the labour market, Malta's Employment and Training Corporation[18] signals that employers maintain a negative attitude towards the employment of migrants with the potential risk of

---

[12] Manuel Debono, *Malta: The Occupational Promotion of Migrant Workers* (Malta: University of Malta Centre for Labour Studies, for the European Foundation for the Improvement of Living and Working Conditions), no. 1, accessed March 12, 2016, http://www.eurofound.europa.eu/ewco/studies/tn0807038s/mt0807039q.htm.

[13] Ibid.

[14] "Malta: Key Findings," in *Migrant Integration Policy Index* (MIPEX) 2015, http://www.mipex.eu.

[15] Ibid.

[16] Ibid.

[17] Debono, *The Occupational Promotion of Migrant Workers,* no. 3.2.

[18] Malta's ETC is a national public employment agency which provides training programmes and employment services.

migrant exploitation.[19] Under these circumstances, migrants in Malta, especially women, continue to face discrimination when accessing jobs, in the level and quality of work, and in payment.[20]

Stereotypes such as the most widely use of the veiled woman and "otherness" not just visually but also in terms of their religion and customs, make it hard for African migrants to find employment and integrate themselves within Maltese society. Often, migrant women are employed in the informal economy without entitlement to social benefits in case of sickness or injury at work. Discrimination at work can also find expression in blatant exploitation by unscrupulous employers who pay migrant women (and men) little or nothing for their often undeclared work. [21] Malta's Employment and Training Corporation claims that "irregular migrants are at great risk of exploitation."[22] For instance, the fact that people on humanitarian protection in Malta need their employer to apply for their work permits, leads to a very clear temptation to cut corners, not apply for such permits, and employ migrants at a much lower rate than they would have been expected to pay had such permits been acquired.[23]

Notwithstanding these facts, there is little effort by the State towards the integration of migrant women into Malta's labour market largely as a result of the ambivalent approach adopted by trade unions, and xenophobic attitudes emerging among the Maltese population. For example, trade unions in Malta strongly voice disquiet about the undercutting of wages as a result of the lower pay given to migrant workers, and "have over the years been reluctant to help with the integration of migrants."[24]

Another issue which NGOs in Malta signal as problematic is that there is little enforcement by the State to ensure that migrant women are employed legally, and that the minimum conditions set out by law are being respected. Migrant women usually take up jobs in the informal economy, with low pay and bad working conditions. Most migrant women living in open centres in Malta seek economic activity in temporary jobs in the low wage sector, largely segregated, and female dominated such as housekeeping and cleaning in hotels.[25] Overall it is possible

---

[19] Debono, *The Occupational Promotion of Migrant Workers,* no. 3.2.

[20] European Network Against Racism (ENAR), *Shadow Report on Racism in Malta, 2006,* no.1, accessed February 20, 2016, cms.horus.be/files/99935/MediaArchive/pdf/Malta_2006.pdf.

[21] Frances Camilleri-Cassar, "Living on the Edge: Migrant Women in Malta," *International Journal of Comparative and Applied Criminal Justice* 35, no.3 (2011): 200.

[22] Debono, *The Occupational Promotion of Migrant Workers,* no. 3.2.

[23] ENAR, *Shadow Report,* 2006, no. 4.1.

[24] Debono, *The Occupational Promotion of Migrant Workers,* no. 3.2.

[25] Personal communication with the Agency for the Welfare of Asylum Seekers, Malta.

to argue that the often weak socioeconomic or insecure legal situation renders migrant women vulnerable to exploitation and unfair treatment, with little possibility of defending themselves at law. The peripheral labour market position of migrant women derives mainly from poor education and language skills, racial discrimination, lack of recognition of their skills and educational attainment, a vulnerable legal status (work or resident permit), sparse information and social networks, and the cultural and religious norms prevailing in the "receiving" country.[26] All these factors increase the risk of poverty among migrant women.[27] In his message to the world on the day of migrants and refugees, Pope Francis enjoins us to reflect on the phenomenon of migration which is not unrelated to salvation history, but is part of that process: "Each person is precious; persons are more important than things, and the worth of an institution is measured by the way it treats the life and dignity of human beings, particularly when they are vulnerable, as in the case of child migrants."[28]

Multiple Discrimination

Malta's Equal Treatment of Persons Order (Legal Notice 85 of 2007 subsidiary legislation to the European Union Act) prohibits discrimination on the basis of racial and/or ethnic origin in the provision of social security, health care, social advantages, education, and in the access and supply of goods and services. The National Commission for the Promotion of Equality is designated as the national authority for promoting equality of treatment without discrimination for all persons, and for reviewing the working of the provisions of this Legal Notice.

Women migrants are likely to face discrimination and exclusion for more reasons, and in more spheres of their lives, than migrant men. Besides sex discrimination within and outside their communities, women migrants often face social prejudice due to cultural and religious differences.[29] Access to education, to employment, and to social and health services are significant areas where migrant women are in a more disadvantageous position than ethnic minority men and the women and men in the host society. "This creates multiple

---

[26] European Commission, *Ethnic Minorities in the Labour Market: An Urgent Call for Better Social Inclusion; Report of the High Level Advisory Group of Experts on the Social Integration of Ethnic Minorities and their Full Participation in the Labour Market* (Brussels: Directorate-General for Employment Social Affairs and Equal Opportunities, 2007).

[27] Ibid.

[28] Pope Francis, *Message for the World Day of Migrants and Refugees 2017,* September 8, 2016, no. 7.

[29] Camilleri-Cassar, "Living on the Edge," 202.

barriers to their full integration in society, hampering the freedom to choose how to live their lives, and also affecting their children's access to social protection, education, and healthcare."[30]

The differing levels between policy on paper and policy in practice seem to suggest that discrimination and racism have been inadequately addressed in Malta. Victims of race or religious discrimination in Malta fail to seek justice in various circumstances of their life, as enforcement of the law against discrimination is weak, and only a narrow range of sanctions is available. Moreover, legal procedures are lengthy, and although complainants may receive legal aid, they are often not informed of their rights as victims, nor protected against resultant victimization.

There is now substantial evidence to show that women are particularly vulnerable to multiple discrimination in the labour market, and other areas of life.[31] However, legal expertise on multiple discrimination of migrant women is missing in Maltese law. Another flaw in current legal provisions for the equal treatment of persons is the failure to acknowledge the complexity in the lives of migrant women. There is no distinction between the voices, needs, and interests of women, men, and children which tend to be multi-layered, complex, and diverse. More specifically, the law does not protect against discrimination on many levels, and there is no special provision for women who are susceptible to several disadvantages when compared to other women and migrant men. Although women migrants in Malta are not a homogeneous group, they share similar experiences of stereotypes, stigmatization, inequality, and peripheral existence. In a spirit of agonism, one would here ask to what extent does the Christian understanding of the omnipotence of God and the presence of evil in this world, match with the tragic concrete reality of African women migrants? "Doubly poor are those women who endure situations of exclusion, mistreatment and violence, since they are frequently less able to defend their rights. Even so, we constantly witness among them impressive examples of daily heroism in defending and protecting their vulnerable families."[32]

---

[30] Expert Group on Gender Equality, Social Inclusion, Health and Long Term Care, *Ethnic Minority and Roma Women in Europe: A Case for Gender Equality?,* final report (Brussels: European Commission, 2010),

[31] ENAR, *Response of the European Network Against Racism.* Consultation on Modernising Social Protection for Greater Social Justice and Economic Cohesion: Taking Forward the Active Inclusion of People Furthest from the Labour Market, (COM [2007] 620 final), accessed January 26, 2016, http://cms.horus.be/files/99935/MediaArchive/pdf/FEB08 consultation%20 Active%20Inclusion.pdf.

[32] Pope Francis, *Apostolic Exhortation* Evangelii Gaudium, November 24, 2013, no. 212.

Indeed, the most significant gap in Malta is its antidiscrimination measures which provide no remedy under Maltese law as a result of weakly enforced definitions of multiple discrimination. Discrimination is indivisible to legislators, and widespread social stereotypes make it difficult for migrant women, who are also socially marginalized, to integrate into Maltese society.

Concluding Remarks

This study of migrant women provides an insight into the legal and socioeconomic situation of a disadvantaged group of women trapped at the periphery of Maltese society, and examines existing laws and policies that target poverty and social exclusion. The dearth in research and studies, and the scarcity of data disaggregated by gender, religion, and race, do not allow for an in-depth understanding of the most marginalized women, their specific needs for participation in the labour market, their well-being, and their overall integration into Maltese society.

Policies towards the inclusion of African migrant women in Malta are few, and their effectiveness cannot easily be assessed because law enforcement and sanctions against racial discrimination are weak. For instance, MIPEX finds that Malta scores only 40/100 in terms of migrant integration and ranks 33 out of 38 countries. Principles of equal treatment are still missing in Malta's integration policies, as evidenced, for example, in the restrictions for African migrants to become long term residents that would guarantee basic equal rights to health services, education, political participation and access to the labour market.[33]

Migrant women face multiple disadvantages that call for changes in policy and legislation, and real improvements in their disadvantaged and socially excluded lives. Indeed, urgent action is needed to eradicate discrimination and promote diversity.[34] For example, rarely does the State take into account the existing realities in the lives of migrant women by listening to them and involving them in discussions pertaining to policies that concern *them* directly.

Migrant women in Malta have no voice; they are invisible to legislators and policy makers; their needs are unknown, and NGOs contend that although services are in principle free and open to all migrants, "there is total lack of

[33] Migrant Integration Policy Index 2005, http://www.mipex.eu/

[34] Frances Camilleri-Cassar, *An EAPN Malta Brief Reaction to Malta's National Report on Strategies for Social Protection and Social Inclusion 2008-2010* (Malta: European Anti-Poverty Network, 2008),

policies in this."[35] Although from a legal standpoint the primary responsibility to protect those most at risk lies with the State (UNHCR, 2006), in practice, the provision of social benefits and employment tend to be given with reluctance in Malta.[36]

In view of the ongoing conflicts and repression in a number of African countries, and Malta's added attraction as a member of the European Union, the stream of migrant women will continue to increase. A first step in this regard is to gain adequate knowledge about their specific needs and conditions. It is only in the light of available information that legislation and policies could be drawn up and implemented to respond to the exigencies of vulnerable groups, especially the socially vulnerable women at the periphery of Maltese society. A growth in such practices would require a refiguring of the ways in which traditional notions of migrants and women of ethnic minorities are conceived within law, policy, and practice alike. Such a model may require a new approach on a needs criterion. For example, migration law and integration policy need considerable improvement to meet the needs of women, particularly pregnant and nursing mothers, and to ensure protection of their dignity and rights: "How beautiful are those cities which overcome paralysing mistrust, integrate those who are different and make this very integration a new factor of development! How attractive are those cities which, even in their architectural design, are full of spaces which connect, relate and favour the recognition of others!"[37]

Malta is encouraged to act with urgency on drawing up a long-term migration policy, taking into serious consideration future challenges, the fundamental rights of migrants, and especially the special needs of women. By defining strategic goals, specifying expected results, and enhancing accountability, Malta could improve delivery of protection to the most socially excluded women living at the periphery of Maltese society.

Migrant women would benefit from regular courses in language and culture to ensure easy access to information regarding their rights and social integration. Empowerment skills are necessary if women are to seek employment in the formal labour market. The government is also encouraged to promote access to its employment market, and make it more inclusive for integrating migrants and minority women. Migrant women need to be especially protected against illegal work and exploitation by employers, and

---

[35] ENAR, *Shadow Report 2006,* no. 5.4.

[36] The Today Public Policy Institute (TPPI), *Managing the Challenges of Irregular Immigration in Malta* (Malta: TPPI, 2008), accessed January 14, 2016, http://www.tppi.org.mt/cms/reports/IrregularMigration/Report.pdf.

[37] Pope Francis, Evangelii Gaudium, no. 210.

as the standards of work for migrants are under threat, the more these illicit practices spread with impunity.[38]

Malta is urged to develop consultation mechanisms and dialogue at a national level between migrant women, grassroots NGOs, and public bodies involved in the integration process. Migrant women have specific social disadvantages which ask for gender sensitive policy approaches, and their role in childcare makes them an even more important focus for social inclusion policies. For example, one of the aims of the European Union's open method of coordination in social inclusion and social protection is to increase the involvement and participation of stakeholders in the policy development process. In his Apostolic Exhortation, Pope Francis calls on the Church to face the challenges of poverty: "They have much to teach us. Not only do they share in the *sensus fidei*, but in their difficulties they know the suffering Christ. … We are called to find Christ in them, not only to lend our voice to their causes, but also to be their friends, to listen to them, to speak for them and to embrace the mysterious wisdom which God wishes to share with us through them."[39]

Drawing on the emergent findings of this study, I raise two questions from an interdisciplinary perspective of State and theology: How often does Malta take into account the existing realities in the lives of African migrant women by listening to them, and involving them in discussion pertaining to law and policies that concern *their* lives directly? Could African women trapped at the periphery of Maltese society be calling for a paradigm shift within theology: from a theology that provides precise answers, to a theology that is built on companionship and dialogue?

---

[38] Camilleri-Cassar, *An EAPN Malta Brief Reaction.*

[39] Pope Francis, *Evangelii Gaudium,* no. 198.

Frances Camilleri-Cassar
Department of Media, Communications and Technology Law
Faculty of Laws
University of Malta
Msida MSD 2080
Malta

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 113-125

Kevin Schembri[1]

The Dignity and Rights of Migrants in Catholic Canon Law

Introduction

This study investigates the role of canonical norms in the mission of the Catholic Church to promote, protect and ensure respect for the dignity and rights of refugees and migrants.[2]

The motivation behind this objective is two-fold. On one hand, the definition and guarantee of the rights of individual persons constitute one of the primary

[1] Kevin Schembri is a lecturer in canon law at the Faculty of Theology at the University of Malta. He received his academic formation at that University and at the Pontifical Gregorian University in Rome, and is currently promoter of justice and defender of the bond for the Archdiocese of Malta.

[2] The term "refugees" refers to those persons whose situation is often so dangerous and unbearable due to persecution or armed conflict, that they flee and cross national borders to seek safety in neighbouring countries. For such persons, denial of asylum has potentially deadly consequences. Amended by the Protocol of 1967, article 1 of the 1951 UN Refugee Convention (*The Convention Relating to the Status of Refugees*) defined a "refugee" as 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 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." On the other hand, the term "migrants" refers to those persons who choose to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, education, family reunion, or other reasons. Unlike refugees, migrants usually face no impediment to return home. See UNHCR, "Convention and Protocol Relating to the Status of Refugees," accessed June 21, 2017, http://www.unhcr.org/3b66c2aa10; Adrian Edwards, "UNHCR Viewpoint: 'Refugee' or 'Migrant'; Which is right?," accessed April, 18 2017, http://www.unhcr.org/news/latest/2015/8/55df0e556/unhcr-viewpoint-refugee-migrant-right.html.

goals of Catholic canon law.[3] On the other hand, the experience of millions of refugees and migrants who often undergo violation or loss of their proper dignity and rights is one of the most dramatic human realities of our times,[4] and raises a powerful echo in the heart of the Church.[5] In 2016, around 65.6 million individuals - that is, around six million more than two years earlier - were forcibly displaced worldwide as a result of persecution, conflict, violence, and other factors; among them, more than 22 million were refugees, over half of whom were under the age of eighteen.[6] Faced with these realities, the Catholic Church recognizes her call to be "a vigilant advocate," ardent in her defence of migrants from any unjust restriction of their natural right to move freely, and respectful of their proper dignity and rights, even in cases of non-legal immigration.[7]

This study will cover a three-stepped analysis: it will first offer a very brief introduction to Catholic canon law; secondly, it will outline the canonical norms that deal with the dignity and rights of refugees and migrants at large; and thirdly, it will present the rights of Christian migrants, that is, the rights that arise from the sacrament of baptism.

Catholic Canon Law

Like all other organized groups or societies, the Catholic Church has its own order, structures, discipline and procedures. This whole system is called canon law. Due to the mystical nature of the Church, canonical legislation is different from that of other civil or political communities; its fundamental nucleus is constituted by divine and natural law, to which all the other sources of law must correspond.

---

[3] See Pope John Paul II, "Apostolic Constitution *Sacrae Disciplinae Leges*, 25 January 1983," *Acta Apostolice Sedis* (*AAS*) 75/II (1983), vii-xiv.

[4] See Pope Francis, "Apostolic Exhortation *Evangelii Gaudium*, 24 November 2013," *AAS* 105 (2013), 1019-1137, par. 210.

[5] See Vatican Council II, "Pastoral Constitution *Gaudium et Spes*, 7 December 1965," *AAS* 58 (1966), 1025-1115, par. 1; Pope Francis, "Apostolic Exhortation *Amoris Laetitia*, 19 March 2016," *AAS* 108 (2016), 311-446, par. 46. For a historico-theological overview of the Church's concern for refugees and migrants, see Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "Instruction *Erga Migrantes Caritas Christi*, 3 May 2004," *AAS* 96 (2004), 762-822, par. 12-33.

[6] See UNHCR, "Global Trends. Forced Displacement in 2015," 2, 5-8, accessed June 25, 2016, http://www.unhcr.org/statistics/country/576408cd7/unhcr-global-trends-2015.html; UNHCR, "Global Trends. Forced Displacement in 2016," 2, accessed June 21, 2017, http://www.unhcr.org/statistics/unhcrstats/5943e8a34/global-trends-forced-displacement-2016.html.

[7] Pope John Paul II, "Apostolic Exhortation *Ecclesia in America*, 22 January 1999," *AAS* 91 (1999), 737-815, par. 65.

For this reason, "what is just (or unjust) in the ecclesiastical society is primarily determined in consideration of the origin, structure, finality, goods, and means given by God to His Church. All of these elements reflect the complex unity of the divine and the human that exists within the Church, and the same is also found within the juridical relations which are derived from these elements."[8] Hence, any reference made to Catholic canon law must always take into consideration the teaching of the Second Vatican Council on the nature of the Church, namely, that the earthly and visible assembly (structured with hierarchical organs), and the spiritual community (enriched with heavenly things as the Mystical Body of Christ), are not to be considered as two realities; rather they form one complex ecclesial reality.[9]

Throughout the centuries, this system of laws and norms has been shaped by numerous legislative or judicial acts of ecclesial authorities, by customs that have expressed a sense of justice among the Christian faithful, and by the commentaries of renowned jurists. In the last century, its development was defined by the process of codification, as well as by the directives of Second Vatican Council that were received into the two Codes that currently govern the Catholic Church: the *Code of Canon Law* (*CIC*), which was promulgated on the 25 January 1983 by Pope John Paul II and forms the central compilation of rules for the Latin (Western) Church, and the *Code of Canons of the Eastern Churches* (*CCEO*), which was promulgated by the same Roman Pontiff on the 18 October 1990 to regulate the discipline of the Eastern Catholic Churches. Over the last three decades, a small number of canons have been modified, to reflect better certain theological truths or pastoral needs of the Church. With regard to our study, the changes brought about by the motu proprio *De Concordia Inter Codices* are of particular relevance.[10] Moreover, the canonical legislation contained in the two Codes has been supplemented with specific regulations and instructions issued by the competent ecclesial authorities. This study will make frequent references to the *Juridical Pastoral Regulations* (*JPR*) that are included in the Instruction *Erga Migrantes* and were issued by the Pontifical Council for the Pastoral Care of Migrants and Itinerant People in May 2004.

---

[8] José Tomas Martín de Agar, *A Handbook on Canon Law* (Montréal: Wilson & Lafleur, 2007), 4-5.

[9] See Vatican Council II, "Dogmatic Constitution *Lumen Gentium*, 21 November 1964," *AAS* 57 (1965), 5-75, par. 8.

[10] Pope Francis himself acknowledges that one of the reasons behind the issue of the motu proprio is the reality of migration, particularly among Christians: "in our day in which the mobility of the population has effected the presence of a large number of Eastern faithful in Latin territories. This new situation generates many pastoral and legal issues, which need to be resolved with appropriate standards." Pope Francis, "Motu Proprio *De Concordia Inter Codices*, 31 May 2016," *AAS* 108 (2016), 602-606.

Canon Law and Rights of Migrants at Large

Notwithstanding the fact that canon law is more focused on matters pertaining to the reality and experience of baptized persons, it contains several norms that can be easily applied to the reality of all migrants, including those who are not Christians.

It is true that the two Codes make only one direct reference to refugees and migrants, that is, when they request Catholic parish priests and clerics to be especially attentive towards those who live far from their own country (cf. *CIC* can. 529, §1; *CCEO* can. 381, §1). Nonetheless, through other canons, they oblige the Christian faithful to assist the poor - and very often, refugees and migrants fall within this group - from their own resources, promote social justice, and help with the needs of the Church so that she can proceed with her works of charity (cf. *CIC* can. 222; *CCEO* can. 25; *JPR,* art. 2, §1). In fact, canon law explicitly considers the exercise of works of apostolate and charity, especially those towards the needy, as one of the three proper purposes of the temporal goods of the Church (cf. *CIC* can. 1254, §2; *CCEO* can. 1007). The canons also state that Christians, in exercising their own rights, must always take into account the rights of others, as well as their duties towards other individuals (cf. *CIC* can. 223; *CCEO* can. 26).

On the same lines, Church legislation binds diocesan and eparchial bishops to be charitable and show themselves concerned not only for the Christian faithful entrusted to their care, but also to those who are not baptized and are present in their territory (cf. *CIC* can. 383; *CCEO* 192). On their part, clerics are requested to adopt measures to foster peace, unity and harmony based on justice among all people (cf. *CIC* can. 287, §1; *CCEO* can. 384, §1). Furthermore, the two Codes contain three practical rules that present clerics with a possibility to show solidarity with deprived migrants on a very practical level: members of the clergy are to foster simplicity of life, refrain from all things that have a semblance of vanity, and use for works of charity those superfluous goods which have come to them on the occasion of their exercise of ecclesiastical office (cf. *CIC* can. 282; *CCEO* can. 385, §1).

In addition to this, canon law also speaks of canonical rights that pertain to those who are not baptized but have a particular relationship with the Church, such as catechumens (cf. *CIC* cann. 206, §2; 788, 1170, 1183; *CCEO* cann. 9, §2; 587; 875) and those non-baptized persons who are married to Catholics (cf. *CIC* can. 1135; *CCEO* can. 777).

The canonical norms which touch upon the experience of refugees and migrants who are not necessarily baptized are based on various principles. First and foremost, one finds the principle of *justice*. In 2003, Pope John Paul II stated

that "the service of the Gospel also requires the Church, in defending the cause of the oppressed and excluded, to call on the political authorities … to grant refugee status to those who have left their country of origin because of threats to their life, to help them return to their countries, and to create conditions favouring respect for the dignity of all immigrants and the defence of their fundamental rights."[11] Secondly, such norms are based on the principles of *mercy* and *inclusion*, for the reason that the Catholic Church considers herself a Church without frontiers and mother to all.[12] In being merciful and inclusive with refugees and migrants, the Church also benefits since "human mobility, which corresponds to the natural historical movement of peoples, can prove to be a genuine enrichment for both families that migrate and countries that welcome them."[13] Thirdly, the principle of *reciprocity* is also significant in this regard, because reciprocity enables different persons "to live together everywhere with equal rights and duties" and urges each one "to become an 'advocate' for the rights of minorities when his or her own religious community is in the majority."[14] Fourthly, such canonical norms are also driven by the principle of *evangelization*, since the Church "must be constantly concerned to provide for the effective evangelization of those recent arrivals who do not yet know Christ."[15] While affirming that the right to religious freedom must be respected, and that it is strictly forbidden to compel or allure someone in an inappropriate way to join the Church (cf. *CIC* can. 748, §2; *CCEO* can. 586), the two Codes affirm that the Gospel message needs to reach equally all human beings in every age and in every land (cf. *CIC* can. 211; *CCEO* can. 14). Finally, these norms are motivated by the principle of *education*, because one of the functions of Church legislation is to spell out and remind everyone of the values and standards of the community.[16]

Canon Law and Rights of Baptized Migrants

Having outlined the canonical norms that deal with the rights of refugees and migrants at large, let us now turn our attention to those aspects of canon law that concern the rights of baptized migrants.[17] This is important because

---

[11] Pope John Paul II, "Apostolic Exhortation *Ecclesia in Europa*, 28 June 2003," *AAS* 95 (2003), 649-719, par. 103.

[12] See Pope Francis, "Apostolic Exhortation *Evangelii Gaudium*," no. 210.

[13] See Pope Francis, "Apostolic Exhortation *Amoris Laetitia*," no. 46.

[14] Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "Instruction *Erga migrantes*," no. 64.

[15] Pope John Paul II, "Apostolic Exhortation *Ecclesia in America*," no. 65.

[16] See James A. Coriden, *An Introduction to Canon Law* (New York: Mahwah, 2004), 6.

[17] Many of these norms are found in the two lists of canons that are found in the two Codes

a relative majority of refugees and migrants around the world are baptized. In 2012, Christians comprised nearly half (49%) of the total number of persons (around 214 million) who reside permanently in a country other than where they were born[18] .

Three Key Notions: Baptism, Communion and Domicile

The notion of "baptism" is fundamental in Catholic canon law. Through baptism, an individual is not only incorporated into Christ and starts sharing in His priestly, prophetic, and royal functions; he or she is also incorporated into the Church and is thus constituted a person with the duties and rights that are proper to Christians. For this reason, canon law states that there exists among all the baptized a true equality regarding dignity and action by which they all cooperate in the building up of the Church according to one's own condition and function (cf. *CIC* cann. 96; 204, §1; 208; 849; *CCEO* cann. 7, §1; 11; 675).[19]

At the same time, Church legislation speaks of different levels of "communion" among Christians. It states that the Church of Christ, constituted and organized in this world as a society, "subsists" in the Catholic Church (cf. *CIC* can. 204, §2; *CCEO* can. 7, §2), and hence proclaims that the Catholic Church is "one embodiment of that greater gathering made up of all those baptized into Christ."[20] The distinction between those members of the Christian faithful who are in full communion with the Catholic Church (i.e., Latin and Eastern Catholics) and those who are in partial communion with her (i.e., non-Catholic Christians) is based on the bonds of the profession of faith, of the sacraments, and of ecclesiastical governance (cf. *CIC* can. 205; 840; *CCEO* can. 8).[21] This

---

and which speak of the rights and duties of a) the Christian faithful in general (cf. *CIC* cann. 208-223; *CCEO* cann. 7-26) and b) the lay members of the Christian faithful (cf. *CIC* cann. 224-231; *CCEO* cann. 399-409). It is important to point out that these lists constitute a new feature in canon law and do not follow a clear systematic order; at times, they do not even distinguish between those rights that are purely human and those that arise from baptism. Moreover, these canons are not exhaustive because they express a set of rights that is relevant to a particular historical moment. See Adolfo Longhitano, "Il popolo di Dio," in *Il diritto nel mistero della Chiesa*, 3 vols., ed. Gruppo Italiano Docenti di Diritto Canonico (Roma: Pontificia Università Lateranense, 2001), 2: 35.

[18] See Pew Research Center, "Faith on the Move: The Religious Affiliation of International Migrants, March 2012," 11-12, accessed June 25, 2016, http://www.pewforum.org/files/2012/03/Faithonthemove.pdf.

[19] See Vatican Council II, "Dogmatic Constitution *Lumen Gentium*," no. 32.

[20] James A. Coriden, *Introduction to Canon Law*, 60.

[21] See Gianfranco Ghirlanda, *Il diritto nella Chiesa mistero di comunione: Compendio di diritto ecclesiale* (Roma: G&B Press, 2014), 40-43; Vatican Council II, "Dogmatic Constitution *Lumen*

distinction is very relevant and significant for our study because around 51% of the two billion Christians worldwide are Catholic, while 37% are Protestant and 12% are Orthodox.[22]

Since this study deals with the reality of migrants, it is also important to present briefly the understanding of the notions of "residence" and "domicile" in Church legislation because these have several juridical effects and make migrants part of a parish, diocese or eparchy (cf. *CIC* cann. 12, §3; 13; 105; 107; 1115; 1408; 1409; 1413; *CCEO* cann. 831; 915; 916; 1491, §2; 1074; 1075; 1079; *JPR* art. 1, §2). According to Catholic canon law, a person is said to be a "resident" in the place where he or she has a domicile; a "temporary resident" in the place where he or she has a quasi-domicile; a "traveller" if the person is outside the place of a domicile or quasi-domicile which is still retained; and a "transient" if the person does not have a domicile or quasi-domicile anywhere (cf. *CIC* can. 100; *CCEO* can. 911). Canonical domicile is acquired by that residence within the territory of a certain parish or at least of a diocese or eparchy, which is either joined with the intention of remaining there permanently unless called away, or has been protracted for five complete years. The same conditions apply for the acquirement of canonical quasi-domicile, except that in this case, the period related to the intention of remaining there, or to the protraction, is three months (cf. *CIC* can. 102; *CCEO* can. 912).

Rights Related to the Quest of Holiness

In virtue of their duty, that arises from baptism, to direct their efforts to lead a holy life (cf. *CIC* cann. 210; 217; *CCEO* cann. 13; 20), Christian refugees and migrants have the right and duty to worship God according to the prescripts of their own rite and to follow their own form of spiritual life (cf. *CIC* can. 214; *CCEO* can. 17, 40). For this reason, canon law binds diocesan and eparchial bishops to show concern for all the Christians faithful entrusted to their care, including those who are baptised but are not in full communion with the Catholic Church (cf. *CIC* can. 383; *CCEO* 192; *JPR* art. 16-18).

Gentium," nos. 8, 13-15; "Decree *Unitatis Redintegratio*, 21 November 1964," *AAS* 57 (1965), 76-89, par. 1, 3, 4, 13; Congregation for the Doctrine of the Faith, "Responses to Some Questions Regarding Certain Aspects of the Doctrine of the Church, 29 June 2007," *AAS* 99 (2007), 604-608.

[22] See Pew Research Center, "Global Christianity: A Report on the Size and Distribution of the World's Christian Population, December 2011," 10, 21, accessed June 25, 2016, http://www.pewforum.org/files/2011/12/Christianity-fullreport-web.pdf.

Speaking of Catholic migrants who are members of a different rite or *sui iuris* Church, canonical legislation requests diocesan and eparchial bishops to provide for the spiritual needs of such faithful who are present in their territory; do their best in order that these faithful retain, cultivate and observe the rite of their own Churches; and foster relations with the higher authorities of these Churches. On the other hand, Eastern patriarchs have the duty to follow their faithful who reside outside the territorial boundaries of their Churches, in order to provide them with protection and spiritual good (cf. *CIC* can. 383; *CCEO* cann. 38; 148; 193; *JPR*, art. 1, §3).[23] It is also the duty of the hierarchy to make sure that those who have frequent contacts with the faithful of another rite are instructed in the knowledge and practice of that rite (cf. *CCEO* can. 41). In 2003, Pope John Paul II stated that "specific pastoral care needs to be given to the integration of Catholic immigrants, with respect for their culture and their distinct religious traditions."[24] A year later, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People pointed out that the large number of Eastern Catholics who were moving into Western countries "raises the question of their pastoral care" and presents the Church with "an urgent matter to examine the pastoral and juridical consequences of the growing number of these faithful living outside their traditional territories and of the contacts being established officially or privately at various levels."[25]

In this spirit, Church legislation also requests that in order to better assist refugees and migrants who are unable to avail themselves of the ordinary care of pastors, the competent authorities should consider the possibility to erect personal parishes, exarchies or eparchies (cf. *CIC* can. 518; *CCEO* cann. 148; 280, §1; 311, §1; 315; *JPR*, art. 6), establish particular pastoral structures and spiritual missions (cf. *CIC* cann. 294; 516; *JPR*, art. 7), and create specific figures, such as episcopal vicars, syncelli, and chaplains, with this specific mission (cf. *CIC* cann. 383; 476; 568; *CCEO* cann. 193; 246; *JPR*, art. 4-5, 8-11).[26] The juridical norms

---

[23] See Pope John Paul II, "Apostolic Exhortation *Pastores Gregis*, 16 October 2003," *AAS* 96 (2004), 825-927, par. 72.

[24] Pope John Paul II, "Apostolic Exhortation *Ecclesia in Europa*," no. 103. To this end, the Roman Pontiff had also encouraged contact and cooperation between the Churches in their native countries and those to which they have migrated, in order to study forms of assistance which could even include the presence among immigrants of priests, consecrated men and women, and properly trained pastoral workers from their own countries.

[25] Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "Instruction *Erga Migrantes*," nos. 25-26.

[26] See Vatican Council II, Decree *Christus Dominus*, 28 October 1965," *AAS* 58 (1966), 673-696, par. 23, 27; Pope John Paul II, "Apostolic Exhortation *Ecclesia in America*," no. 65; "Apostolic Exhortation *Ecclesia in Europa*," no. 103. At the same time, the Pontifical Council for

of the Church also outline the requirements and conditions related to the help offered by religious institutes towards the apostolate among migrants (cf. *JPR,* art. 12-15), as well as the duties of the Migration Commission or the bishop promoter (cf. *JPR*, art. 20).

Christian migrants have also the right to receive assistance from the sacred pastors out of the spiritual goods of the Church, especially the Sacraments and the Word of God (cf. *CIC* can. 213; *CCEO* can. 16; *JPR*, art. 1, §1). It must be remembered that the reception of the sacraments by Catholics according to the rite of another Catholic Church *sui iuris*, does not entail enrolment in that Church (cf. *CIC* can. 112, §2). On the other hand, canon 844 of the *CIC* and canon 671 of the *CCEO* present the fundamental principles concerning any exceptional reception of the sacraments of penance, Eucharist, and anointing of the sick by Catholics from non-Catholic ministers in whose Churches these sacraments are valid. These canons, along with canon 116 of the *CIC* as modified by the motu proprio *De Concordia Inter Codices*,[27] also regulate the exceptional administration of the sacraments by Catholic ministers to members of the faithful who are not Catholics, while differentiating between Orthodox and other non-Catholic Christians.[28]

Moreover, canonical legislation states that, within the confines of their territory, the local ordinary, hierarch and pastor validly assist or bless marriages not only of their subjects but also of those who are not their subjects, provided that one of them is ascribed to their Latin or *sui iuris* Church (cf. *CIC* can. 1109; *CCEO* 829). With regard to the right of individuals who wish to petition the Church to investigate the validity of their marriage, the changes brought about by *Mitis Iudex Dominus Iesus* (*MIDI*) and *Mitis et Misericors Iesus* (*MMI*)

---

the Pastoral Care of Migrants and Itinerant People upholds that when the canonical erection of such stable structures for pastoral care appears difficult or inopportune, pastoral assistance must still be offered to Catholic immigrants pastorally "in whatever manner seems best in view of circumstances, even without specific canonical institutions." In such circumstances, "informal, perhaps spontaneous, pastoral arrangements deserve to be recognized and encouraged within ecclesial circumscriptions, independently of how many people benefit from them, if only to avoid the danger of improvisation and isolated and unsuited pastoral workers or even of sects." See Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "Instruction *Erga Migrantes*," no. 92.

[27] See Pope Francis, "Motu Proprio *De Concordia inter Codices*, 31 May 2016," no. 10.

[28] See Vatican Council II, Decree *Orientalium Ecclesiarum*, 21 November 1964," *AAS* 57 (1965), 76-89, par. 27; Pope John Paul II, "Encyclical Letter *Ecclesia de Eucharistia*, 17 April 2003," *AAS* 95 (2003), 433-475, par. 45; Pontifical Council for Christian Unity, "*Directory for the Application of Principles and Norms on Ecumenism*, 25 March 1993," *AAS* 85 (1993), 1039-1119, par. 122-136.

have granted migrants a better and increased possibility to present their case. Nowadays, cases regarding the nullity of marriage that are not reserved to the Apostolic See can be also adjudicated in the tribunal of the place in which either or both parties have a domicile or a quasi-domicile (cf. *MIDI* can. 1672; *MMI* can. 1358).[29]

In matters regarding assistance with the Word of God, baptized migrants have a right to a Christian education and to engage in the sacred disciplines, with a just freedom of inquiry and with the opportunity to express freely and prudently their opinion on those matters in which they possess expertise (cf. *CIC* cann. 217-218; 299; *CCEO* cann. 20-21; 404).

On the same lines, bishops, along with clerics and members of the laity, are bound to make themselves available to Christian migrants, since these too must have the possibility to make known to the pastors of the Church their needs and desires, especially spiritual ones, and to manifest to them and to the rest of the Christian faithful their opinion on matters which pertain to the good of the Church (cf. *CIC* can. 212; *CCEO* can. 15).

Rights Related to the Apostolate and Mission

Since all Christians have the duty and right to promote the growth of the Church and to engage in her apostolate and mission of evangelization (cf. *CIC* cann. 210-211; 781; *CCEO* cann. 13-14; 584), Catholic canon law obliges clerics to go beyond any temptation of clericalism and to respect, promote and protect the mission of the laity in the Church and in the world (cf. *CIC* can. 275, §2; *CCEO* can. 381, §3; *JPR*, art. 3). In virtue of their baptism, and without prejudice to the conditions laid out in Church legislation, Catholic migrants have the right to establish and govern associations of the faithful for purposes of charity, piety or evangelization. According to their own state and condition, they too have the right to promote or sustain apostolic action even through their own undertakings (cf. *CIC* cann. 215-216; *CCEO* cann. 18-19; *JPR*, art. 3). This is especially the case with lay persons who are bound by a particular duty to imbue

---

[29] See Pope Francis, "Motu Proprio *Mitis Iudex Dominus Iesus*, 15 August 2015," *AAS* 107 (2015), 958-970; "Motu Proprio *Misericors et Mitis Iesus*, 15 August 2015," *AAS* 107 (2015), 946-957. With regard to the domicile or quasi-domicile of the parties, prior to this modification, only the following tribunals were competent for cases concerning the nullity of marriage: the tribunal of the place in which the respondent had a domicile or quasi-domicile, and the tribunal of the place in which the petitioner had a domicile, provided that both parties lived in the territory of the same conference of bishops or nation, and provided that the judicial vicar of the domicile of the respondent gave consent after hearing the respondent (cf. *CIC* 1673; *CCEO* 1359).

and perfect the order of temporal affairs with the spirit of the Gospel (cf. *CIC* can. 225, §2; *CCEO* cann. 401; 406).[30]

Canon law also calls upon the whole ecclesial community to manifest particular care, assistance and support towards migrant families, in particular spouses, parents and godparents, since these have a special role in the building of the people of God and the education of their children, even in matters of faith (cf. *CIC* cann. 226; 774, §2; 793, §1; 872; 1136; *CCEO* cann. 407; 618; 627; 684; 783). For this reason, Pope Francis has recently insisted that, in accompanying migrant families, the Church needs to create a specific pastoral programme that respects the culture of these persons, their human and religious formation, as well as the spiritual richness of their rites and traditions.[31]

Rights Related to Ecclesiastical Offices and Functions

The Catholic Church must also strive to include and engage more Catholic migrants in her internal structures. This is particularly true to those ecclesiastical offices, functions and services which, in one way or another, touch upon the reality of migration; in such cases, migrants can offer, thanks to their own experience, a most valuable contribution as experts and advisors (cf. *CIC* can. 228; *CCEO* can. 408). Moreover, and without prejudice to the conditions laid out in canonical and liturgical legislation, baptized migrants should also be allowed to fulfil certain liturgical functions and ministries (cf. *CIC* can. 230; *CCEO* cann. 403; 709, §2).

Like all members of the Christian faithful, migrants who devote themselves permanently or temporarily to special service of the Church must be given the opportunity to acquire the appropriate formation required to fulfil their function properly. With the prescripts of civil law having been observed, they too have the right for their social provision, social security, and health benefits to be duly provided, as well as to decent remuneration appropriate to their condition so that they are able to provide decently for their own needs and those of their family (cf. *CIC* can. 231; *CCEO* can. 409).

Rights Related to Penal Matters

The ecclesial community must do all that is necessary to ensure that no one is permitted to tarnish illegitimately the good reputation of migrant persons, nor

---

[30] See Vatican Council II, "Decree *Apostolicam Actuositatem*, 18 November 1965," *AAS* 59 (1966), 837-864, par. 23-24.

[31] See Pope Francis, "Apostolic Exhortation *Amoris Laetitia*," no. 46.

to injure their right to protect their own privacy (cf. *CIC* can. 220; *CCEO* can. 23). Moreover, Catholic canon law requires that all members of the Christian faithful have the right to legitimately vindicate and defend their rights in a competent ecclesiastical forum, be judged according to the prescripts of the law if they are summoned to a trial by a competent authority, and not be punished with canonical penalties except according to the norm of law (cf. *CIC* can. 221; *CCEO* can. 24).

Conclusion

This brief study has drawn attention to the expression, promotion and protection of the dignity and rights of refugees and migrants in Catholic canon law. Such a presentation is needed not only because the canonical norms surrounding these rights "remain largely unknown" even within ecclesial circles,[32] but also because, over the last years, Pope Francis has placed the pastoral care of refugees and migrants among the most important dimensions of the mission of the Catholic Church. In July 2013, just four months after his election, he dedicated his first trip outside of Rome to visit Lampedusa, the small Italian island that hosts thousands of immigrants. In October 2013, he used harsh words about migrant tragedies at sea, and a month later, exhorted all countries "to a generous openness which, rather than fearing the loss of local identity, would prove capable of creating new forms of cultural synthesis."[33] He has also taught that Christians should respect and embrace with affection Muslim immigrants in the same way that they themselves hope and ask to be received and respected in countries of Islamic tradition.[34] In September 2015, the Pontiff called upon every parish, religious community, monastery, and shrine in Europe to welcome one family of immigrants, while in February 2016, he stopped to pray in Ciudad Juarez for all those who had lost their lives trying to cross the border between Mexico and the United States. Two months later, he joined Patriarch Bartholomew of Constantinople and Archbishop Ieronymos II of Greece on an emotional and deeply symbolic journey to the Greek island of Lesbos and took twelve Syrian refugees with him to Rome. In the statutes of the newly-established Dicastery for Promoting Integral Human Development, Pope Francis stated that the dicastery's section which dealt specifically with matters regarding refugees and migrants was to be temporarily (*ad tempus*) placed under the direction of the Supreme Pontiff, who would oversee it in the manner he deems appropriate.[35]

---

[32] James A. Coriden, *Introduction to Canon Law*, 62.

[33] See Pope Francis, "Apostolic Exhortation *Evangelii Gaudium*," no. 210.

[34] See ibid., no. 253.

[35] See Pope Francis, "*Statutes of the Dicastery for Promoting Integral Human Development*," 17

Catholic canon law can play an important role in the evolving circumstances surrounding the reality of refugees and migrants around the world. At a time when official institutions and legislative bodies around the world are grappling with political, economic and humanitarian solutions to the drama of migration, and when public opinion - including the outlook of several members of the Christian faithful - seems to be evolving in the direction of self-protection and hostility toward refugees and migrants, canonical legislation can be rediscovered as a powerful tool, both within the Church and on a socio-political level, that can facilitate the promotion and protection of the dignity and rights of refugees and migrants, as well as help in the education and formation of communities regarding this dramatic human reality.

Kevin Schembri
Faculty of Theology
University of Malta
Msida MSD 2080
Malta

kevin.m.schembri@um.edu.mt

August 2016," *The Canonist* 7 (2016): 180-182, art. 1, §4.

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 127-142

Pauline Dimech[1]

A Theology of Migration: Mercy and Education

One of the mandates of UNESCO is to make education accessible to all, in law and in fact, and in this respect, Maltese governments have certainly delivered. Where the education of children and young people is concerned, the principles of non-discrimination, of equality of opportunity and treatment, and of (intellectual and moral) solidarity[2] have been respected, and the constitutional right of all children to attend school has not been denied, regardless of the legal or social status of the parents. All children up to the age of sixteen are entitled to free education and are legally obliged to attend school.[3] Access to education to Third Country Nationals (TCNs) is granted through various Regulations: those concerning the status of long-term residents (Third Country Nationals), those concerning the common standards and procedures for returning illegally staying TCNs, those concerning the right to family reunification, and so on.[4]

---

[1] Pauline Dimech obtained her doctorate in systematic theology from the University of Durham and is currently a full-time lecturer within the Faculties of Theology and Education, University of Malta.

[2] Cf. the UNESCO Convention against Discrimination in Education (1960); The World Declaration on Education for All, and Framework for Action to Meet Basic Learning Needs (1990); the UNESCO Convention against Discrimination in Education (1960); the Convention on the Rights of the Child (1989); and the Convention on Technical and Vocational Education (1989); the World Declaration on Educational for All (1990); The Recife Declaration of the E-9 Countries (2000); the Dakar Framework for Action - Education for All: Meeting Our Collective Commitments (2000).

[3] Children of an applicant for asylum have the same access to state education and training in Malta as a child of Maltese parents born on the island (Laws of Malta: Refugees Act, chap.420).

[4] EU citizens, TCNs with long-term residence status, beneficiaries of internal protection and asylum seekers may apply for an exemption from the payment of fees which are normally charged for state educational institutions.

However, "there are no policies or incentives that support such access to compulsory-age education, higher education or vocational training," which means that the support is not on a basis equal to national citizens. Nor is there, in Malta, a specific policy relating to the education of migrants, or a policy on the inclusion and integration process for (im)migrant students and families.[5] In the absence of such explicit national policies, individuals working within the Education Division (including head teachers), the Emigrants' Commission, the Jesuit Refugee Service, the University's International Office, and the UNHCR Malta have had to develop administrative "policies" in order to compensate for the absence of an overarching national vision, thus ensuring that children of (im)migrants and TCNs do not become victims. Im(migrant) children also have access to an LSA (Learning Support Assistant) should that be considered necessary.

In this article, the term *im(migrants)* is being used very widely. The children and young people to whom we refer in this article may be sons and daughters of Maltese parents who have just returned from abroad; of highly skilled and business im(migrants) arriving from both the EU and from outside it;[6] of irregular, undocumented, unauthorized migrants arriving from various countries; of refugees, asylum seekers, people forced to move due to factors such as war, environmental catastrophes or development projects who are seeking refuge.[7] They could also be foreign students who arrive with temporary permission to stay in Malta. The tourist is not an (im)migrant, but the (im)migrant may be temporary, in the sense that he/she could be using Malta as a step towards resettlement in another country.[8] If these (im)migrants are residing in Malta long enough to send their children to school, then they too would qualify as the object of this study.

---

[5] Carla Camilleri and Neil Falzon, *Malta Integration Network: A Way Forward for a National Integration Policy in Malta* (Malta Aditus Foundation, 2014), 22.

[6] For the purposes of this article, children of Maltese parents who have lived abroad, and of non-Maltese Europeans who have transferred themselves to Malta, are being treated in the same way as other (im)migrants, simply because the educational challenges for their offspring are very similar.

[7] We are aware that the legal protection for refugees is generally better fostered than that of economic migrants - the category of economic migrants is not even recognized - whereas undocumented immigration would be the most controversial, even from a theological standpoint.

[8] The labels "temporary" and "permanent" are being used cautiously. Many immigration specialists agree that the labels are no longer good descriptors of migration outcomes. As Catherine Dauvergne has pointed out "rather than reflecting results - what migrants actually do - they instead reflect outcomes desired by states." Catherine Dauvergne, *The New Politics of Immigration and the End of Settler Societies* (New York: Cambridge University Press, 2016), 127.

In trying to combine the reflection on the (im)migrant with those of theology, education and mercy, there is not much to go on. Theological reflection both on the migrant, and on education, is still scarce, and, in Malta, it is practically non-existent. Combining these along with the reflection on mercy has not been an easy task. What I offer here are only a few reflections on the subject.

Ethical and Cultural Values, and Anthropological Vision

I am especially interested in the ethical and cultural values which impact on the education of children of migrant parents in Malta. There is a lot to be said about the ethical and cultural values of the Maltese, but I am especially concerned about those values which impinge directly on the way the Maltese Education System works. I use the phrase *education system* very widely: to refer to the whole educational structure, consisting of schools and other agencies responsible for the education of students and for the successful organization of such an education.

In this context, I am using the term to include State, Church, Independent schools, as well as Departments and personnel, both within the Education Division and elsewhere, that contribute to education or ensure that the system functions efficiently. It also includes policies, whether officially structured, or simply practised. It has to be said that there are various agencies outside the school system which are involved with education, even that of migrants, inasmuch as they provide some form of educational service.[9] In this sense, the educational system would include Catholic schools, parishes, welfare agencies and other Church bodies which have education as one of their roles; as well as entities such as the ETC (Employment and Training Corporation) and the Directorate for Lifelong Learning.

Rather than reflecting on the actual decisions made with regard to education, we need to dig into the deeper question, namely, into the ethical and cultural values, the anthropology, which underlie such decisions, that is, which shape the curriculum frameworks and the policies which we create, the handbooks which we compile, the demands which we make, the practices which we encourage. Our ethical and cultural values, our anthropology, will always impact our

[9] On 8 December, as a concrete sign of commitment to the Jubilee Year of Mercy, the Jesuit Refugee Service (JRS) launched an advocacy and fundraising campaign, entitled "Mercy in Motion," to implement the JRS Global Education Initiative, which aims to robustly expand both formal and informal education programmes - spanning from primary school to university, and including vocational and teacher training. It will ensure that the potential of thousands of refugee children and young adults is not wasted.

policies, whether we are cognizant of this or not. When these values are negative, their impact on the education system can be formidable. I will only mention some of the *educational vices* which are rampant in our schools, and which, I am convinced, affect the children of migrant parents more deeply than they do Maltese children.

These vices include the distrust of the stranger, the endorsement of stereotypes, the sanctioning of individualism, the belief that it is advantageous to hoard, the view that it is noble to compete, the pride which comes from one's language, culture and religion. There is the perception, which is not always based on reality, that there are only so many jobs, so much money, so many resources and so much opportunity to go around, and that these resources should not be *wasted* on foreigners. Such perceptions may drive us to avoid cooperation, become conceited, fail to appreciate the wealth of the other, and make choices that are neither welcoming nor hospitable.[10]

At this point I would like to comment on three issues. First, the issue of performance. The provision of a free place within our education system is not sufficient. Migrant children need to perform to the best of their ability. Clearly, efforts to apply the right to education are still far from ensuring that each child is either attending full time, or performing well.[11] The issue of performance is important, particularly because we are here dealing with a vulnerable group.[12] The extent of gaps in educational achievement faced by TCN students has been noted, as has the higher dropout-rates where TCN students are concerned. The EU Commission maintains that school systems ought to "adapt to the increasing diversity of the student body to deliver high-quality education for all," starting as early as pre-school. The Commission proposes that school staff should be trained in managing diversity, and that staff should include teachers with migrant backgrounds.[13] With children from migrant parents, special care

---

[10] Gloria L. Schaab, "Which of these Was Neighbour?: Spiritual Dimensions of the US Immigration Question," *International Journal of Public Theology* 2, no.2 (2008): 199.

[11] Charles Pace et al., "Unaccompanied Minors in Malta: Their Numbers and the Policies and Arrangements for their Reception, Return and Integration," (European Migration Network, Malta, May 2009), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/18._malta_national_report_on_unaccompanied_minors_final_version_8dec09_en.pd.

[12] As Gioacchino Campese has said, a preferential option for the poor would make irregular migrants, and those who do not *legally* belong to a society, who are invisible, voiceless and vulnerable, the protagonists of our theological thinking. See "The Irruption of Migrants: Theology of Migration in the 21st Century," *Theological Studies* 73, no.1 (2012): 3-32, 26.

[13] Communication from the Commission to the European Parliament, the Council, the

is needed, and the following ought to be competently administered: the initial assessment, the decision concerning the location of the school placement, the provision of additional instruction in the English language, the assistance for the acquisition of the school uniform, the psychological support for children who have been traumatized by the relocation, the support of a social worker, the granting of social benefits, the offer of courses, lessons and workshops which facilitate social integration, the efforts at family reunification, and so on. All these factors encroach on the overall performance of the students concerned, and must therefore be professionally handled.

Secondly, there is the issue of the inclusion of these children into the school community. The dean of law at the University of British Columbia, Catherine Dauvergne has said that "many of the problems of migration derive from the binary thinking...that instantiates the contemporary politics." Her complaint is that these binaries are "woefully bad at nuance."[14] In Malta, the dualistic mindset of inclusion and exclusion is especially prevalent within the educational context. When used too generically, this language tends to become unhelpful, or even divisive. Inclusion should be seen more as a continuum towards which we aspire. For this reason, the conclusions reached by someone like Colin Calleja and his colleagues in 2010, who concluded that professionals working in Maltese schools lacked the basic cultural and heuristic tools required to work with a multicultural/multi-ethnic classroom, have serious implications.[15]

No doubts can be shed on the multilingualism and multiculturalism in Maltese classrooms. Empirically - though not necessarily ideologically - multiculturalism is real, especially in schools, and this requires a certain amount of commitment on the part of practitioners. Various studies carried out locally have identified the different challenges that migrants face, have examined the different policies employed in Malta, or have suggested policies that could be beneficial to migrants on the Maltese islands.[16] One undergraduate study, carried out by Ruth Chircop and Moira Kind, emphasized "the necessity for education to foster contact among social groups." The concept is that propounded by "contact" theorists,

---

European Economic and Social Committee and the Committee of the Regions, "European Agenda for the Integration of Third Country Nationals," com (2011) 455,6, eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DCO455&from=EN.

[14] Dauvergne, *The New Politics of Immigration*, 203.

[15] Colin Calleja, Bernard Cauchi and Michael Grech, "Education and Ethnic Minorities in Malta," Malta: The e-spices Learning Partnership, 2010, www.academia.edu/304662/Education_and_Ethnic_Minorities_in_Malta.

[16] See for example Kirsten Caruana, "Integrating Students With an Immigrant Background in European and Maltese Schools: a Review" (B.Ed.(Hons.).diss., University of Malta, 2014).

namely that "if you bring together members of different social groups in settings such as schools, increased harmony among the groups is likely."[17] Chircop and Kind concluded that the schools which were most successful "tended to focus on students' sense of security, acceptance, and friendships with their peers and teachers."[18] In another undergraduate study which was carried out in 2010, the suitability of the proposed educational plans was investigated, with the intention of measuring whether these plans inspire humanitarian attitudes as regards irregular immigration. The results shed light on the importance of integrating irregular (im)migrants into the educational system.[19] In another under-graduate study, it was concluded that little or no preparation was being undertaken by schools to cater for migrant students. It was said that students were simply expected to adapt and integrate within the system together with the other local students.[20] The issue of language differences is especially distressing to all involved. Resources are limited, although language is one of the biggest obstacles both for inclusion within the schools and for integration within society.[21] The commitment to social justice and inclusion is evident in the National Minimum Curriculum, as well as in most policy documents and education reforms in Malta. The National Minimum Curriculum itself offered six principles as the foundation for an inclusive approach: entitlement, diversity, continuation of achievement, learner-centred learning, quality assurance, and teacher support. A theology of mercy would require that these educational documents, as well as the educational practices they propose, be examined through the virtue of mercy, understood as a virtue that surpasses justice.

Thirdly, there is the issue of education beyond compulsory school age. This issue is closely related to that of citizenship and of integration. In Malta, TCNs, and their descendants, face various problems where employment and residency are concerned. As has been said, "many of the policies developed in relation to residence permits and employment licenses tend to have a restrictive and exclusionary orientation and their implementation in practice is dilatory, variable and highly discretionary. In most cases, it is difficult to obtain a legal status

---

[17] Ruth Chircop and Moira Kind, "Multiethnicity and Education" (B.Ed.[Hons.] diss., University of Malta, 2005), 17-18.

[18] Ibid., 30.

[19] Stephanie Mamo Portelli, "The Attitudes of Students and Teachers towards Irregular Immigration: Can Education make a Change?" (B.Ed.[Hons.].diss., University of Malta, 2010).

[20] Maria Vella, "The Teachers' Perception of Immigrant Students' Experience in Maltese State Secondary Schools" (B.Ed.[Hons.].diss., University of Malta, 2011).

[21] David E.Zammit, "Consultative Assessment on the Integration of Third Country Nationals," (Report Prepared for the International Organization for Migration, 2010), 25, www.academia.eud/3219916/Consultative_Assessment_of_Integration_of_Third_Country_Nationals.

which is sufficiently long-term to promote social integration (citizenship)."[22] In this respect, education may be seen to be dishonest and deceitful. It seeks to prepare the descendants of im(migrants) to be fully immersed in the school community, and "to be more successful and more active participants of society," while knowing that, "it is difficult to obtain a legal status which is sufficiently long-term to promote social integration (citizenship), and that there will always be areas of ordinary social life where TCNs are segregated or treated differently from ordinary Maltese residents."[23] As things stand, children of *foreign* parents (whether from countries within the EU or from countries from outside the EU, whether born in Malta or elsewhere) will never be able to acquire Maltese citizenship. Maltese law does not allow citizenship by birth on a purely *ius soli* basis, but requires that children who are born in Maltese territory, to also be born to at least one parent of Maltese citizenship. While TCNs may apply for long-term residence status, regulated by Maltese Subsidiary Legislation (SL) 217.05, obtaining this long-term residence is quite difficult, because the criteria are tough.[24] Even so, citizenship will not follow long-term residence, at least not automatically. The son or daughter of TCN parents will always remain "foreign." The question then arises, as to whether there will ever be a time when an (im) migrant child is entitled to free tertiary education. The risk of migrant children remaining "perpetual strangers" is very real.[25]

Theological, Religious and Spiritual Values

My second interest is in the theological, religious and spiritual values which currently inform our decisions, not only for hosting and integrating migrants, but, more specifically, the policies and decisions in the educational field, or which ought to be informing such decisions. Specific data about these values is lacking,

---

[22] Ibid., 28.

[23] In Malta, marriage and kinship are "the principal official modality of social integration." The varying tariffs for water and electricity is one example of social discrimination. The number of security checks which non-Maltese have to undergo is another example. Zammit, "Consultative Assessment," 22-23, 28.

[24] In the past, every person born in Malta was automatically entitled to Maltese citizenship. However, since 2001, that law only applies to people born before August 1, 1989. The European Network on Statelessness (ENS), and the UNHCR have been pressing the European Union to fulfill its pledge made in 2012 that all member states would accede to the 1954 UN Statelessness Convention. To date, Malta has not signed it.

[25] This phrase is taken from Allan Fugueroa Deck, "At the Crossroads: North American and Hispanic," in *We are a People: Initiatives in Hispanic American Theology,* ed. Roberto S. Goizueta (Eugene, OR: Wipf & Stock, 2001), 2-3.

but we would imagine that the language of justice and mercy would have a place in this context. My intention is to bring into the conversation the theology of mercy which Pope Francis strongly invokes, and to relate a theology of migration that is motivated by mercy to current educational policy and practice on the Maltese Islands.[26]

The associate professor of law at DePaul University, Allison Brownell Tirres, is one example of an academic who has sought to encourage scholars and practitioners of immigration law to look critically at the role of mercy. While being aware that scepticism about mercy is strong, and that some believe that it contravenes justice, she maintains that mercy is a necessary countermeasure to the unrelenting harshness of criminal law today, especially where immigration law is concerned. She argues that "the lack of procedural and substantive protections for (im)migrants, the acceptance of unfettered discretion and lack of oversight of agency action, and the political subordination of noncitizens all push in the same direction - towards sovereign mercy rather than equitable justice."[27]

As a theologian, my main concern is not to explore the legal intricacies or to question the sovereignty of the State. Neither is it simply to encourage the clergy, lay workers and parishioners to show mercy by providing educational opportunities to migrants during the entirety of their migration process, although this activity may not be without importance. This article is meant to, firstly, admit that there might be a natural disinclination towards (im)migrants and their families. Catherine Dauvergne, has argued that, at a time "when more people want to move than ever before, there are no longer any places on earth that see this movement as ordinary, expected, and valued in and of itself." The crisis of asylum, a deep fear of Islamic fundamentalism, and the end of ideological multiculturalism have made hospitality more difficult.[28] Secondly, in this article, I recommend that all our theological, religious, and spiritual values ought to be fuelled by mercy, and that the (im)migrant ought to be the object of our mercy. More particularly, this article is meant to propose mercy as a hermeneutical tool. It is meant to persuade the Maltese, and educational practitioners, that mercy is

---

[26] The word "policy" is being used widely, since a national policy focusing on TCN education in Malta is yet to be published. My conclusions are based on research carried out by others who have explored the experiences, and degree of integration of TCN students within the Maltese education system, as well as the challenges and opportunities faced by these students and their families. See for example, Neil Falzon, Maria Pisani and Alba Cauchi, *Research Report: Integration in Education of Third Country Nationals* (Malta: Foundation for Educational Services, 2012).

[27] Allison Brownell Tirres, "Mercy in Immigration Law," *Brigham Young University Law Review* 2014, no.6: 1563, http://digitalcommons.law.byu.edu/lawreview/vol2013/iss6/6.

[28] Dauvergne, *The New Politics of Immigration*, 27, 35.

the tool with which to evaluate not only our current legal framework, but also our educational policies and practices.

Probably because of the highly disturbing images on the social media of desperate (im)migrants forced to flee their country, and the rising death toll because of migration, the first theologian who comes to mind is the German Catholic theologian Johann Baptist Metz, the theologian who admitted the tragedy of Auschwitz and claimed that a particular kind of mysticism was needed to help overcome the heart-rending experiences which were witnessed as a consequence of it. According to J. Matthew Ashley, the strand of Christian spirituality which Metz picked up was "one that is much more engaged and irritated by the presence of evil in creation, as well as by the lack of (or perhaps better, by the still outstanding) response on the part of God." Metz suggests a "mysticism of open eyes." Here, theological reflection takes the form of "protest" and of "insistent questioning."[29] From Metz's viewpoint, man must not allow himself neither to be anaesthetized (*Unmündigkeit*), nor to go back to the time before the Enlightenment.[30] As with Metz's interpretation of Auschwitz, I believe that, with regards to migration, what is required is not "moral self-recrimination and half-hearted overtures" but a searching examination of the very foundations of the spiritual and intellectual worldview which could allow such a catastrophe, forget it, or see it as simply an event of the past. Metz had said that theology "should never see its goal as 'solving' the question of suffering, but rather as sheltering it and clearing a space for it to irritate us, and thereby to move us to hope, to remembering the great deeds of God, to resistance, to action."[31] I agree fully with Metz's powerful theological interpretation of human tragedy. As a Christian, and as a theologian, I cannot remain unsympathetic, I cannot remain indifferent to the sorrow of (im)migrants, and I must allow myself to hope and to worship, but also to contest and to get involved.

Within the Judeo-Christian view, the call to be neighbour and to exercise hospitality remains the most fundamental starting point. In Deuteronomy, the call was to welcome the stranger, because Israel itself had been a stranger (Dt 10:18-19). In Isaiah, we have discourse about social justice and inclusion (Is 11:6-8), and about the welcome, care, and solidarity towards the migrant (Is 58:

---

[29] J. Matthew Ashley, "Introduction: Reading Metz," in Johann Baptist Metz, *A Passion for God. The Mystical-Political Dimension of Christianity* (New York: Paulist Press, 1997), 14.

[30] Metz was committed to critical dialogue with the Enlightenment because of its focus on anthropology as that which legitimates theological statements. Ashley, "Introduction: Reading Metz," 11.

[31] Ibid., 18.

5-7).[32] The call to be neighbour and to exercise hospitality provides what Gloria L. Schaab has described as "valid and unequivocal dimensions of a religious and spiritual basis for the immigration discussion."[33] *Populorum Progressio* states: "We cannot insist too much on the duty of giving foreigners a hospitable reception. It is a duty imposed by human solidarity and by Christian charity, and it is incumbent upon families and educational institutions in the host nations."[34] For its part, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People, while emphasizing the mentality of hospitality, goes further by urging reforms and commitments that are not simply national but global in scope and application.[35] Throughout the Year of Mercy, Pope Francis repeatedly invoked the concept of mercy, which he maintains, is a virtue which goes beyond justice, since mere justice is not enough.[36] The idea is that justice requires stereotypization, whereas the humanization of the individual enables us to go beyond justice. The Pope's encyclical Letter, *Laudato Si*, provides activists, educational practitioners, pastoral agents, and everyone else, with the anthropology that ought to underlie all action vis-à-vis migrants. "Every man and woman is created out of love and made in God's image and likeness (cf. Gn 1:26). This shows us the immense dignity of each person, 'who is not just something, but someone.'"[37]

Addressing the Cardinal Newman Society, Sister Anne Catherine of the Dominican Sisters of St Cecilia, describes education as a work of mercy "because it extends God's love in the world." She adds that "it is a mercy for teachers to offer their students solid content knowledge and to teach them skills that

---

[32] Giacomo Danesi, "Per una teologia delle migrazioni," in *Per una pastorale dei migranti: Contributi in occasione del 75o della morte di Mons. B.Scalabrini* (Rome: Direzione Generale dei Missionari Scalabriniani, 1980), 75-128.

[33] Schaab, "Which of These Was Neighbour?," 187. Robert McAfee Brown extends this concept of judgment from that of individuals to that of nations. See Robert McAfee Brown, *Unexpected News: Reading the Bible with Third World Eyes* (Philadelphia, PA: Westminster Press, 1984), 127-141.

[34] Pope Paul VI, *Populorum Progressio: On the Development of Peoples,* #67, 26 March 1967, http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html.

[35] Pontifical Council for the Pastoral Care of Migrants and Itinerant People, "*Welcoming Christian Refugees and Forcibly Displaced Persons: Pastoral Guidelines*," (Vatican City, 2013), http://www.vatican.va/roman_curia/pontifical_councils/corunum/corunum_en/pubblicazioni_en/Rifugiati-2013-INGL.pdf.

[36] Pope Francis affirms that wherever there are Christians, everyone should find an oasis of mercy, *The Name of God is Mercy: A Conversation with Andrea Tornielli*, trans. Oonagh Stransky (London: Random House, 2016), 119, 138-139.

[37] Pope Francis, *Encyclical Letter Laudato Si: On Care For Our Common Home* (2015), no.65.

will help them go forward and take their place in the world."[38] Writing of the theology of immigration, Gioacchino Campese from the Scalabrini International Migration Institute in Rome, said that when inspired by hospitality, such a theology would emphasize that "being with" is as important as "doing for" or "giving to."[39] This language is easily applicable to the educational context. Within the context of education, mercy demands being with others: sharing oneself, one's knowledge, one's lunch, one's time, one's thoughts, one's resources. Mercy requires intercession, advocacy, social reconciliation, solidarity. It denotes acknowledging that educational resources may not always have been used well. It entails helping "those on the move discover an inner identity that fosters their own agency."[40] The school is the perfect place for such a spirituality of "being with", since it is that safe place of proximity where we may vigorously educate ourselves about our neighbours, learn to appreciate different heritages, be open to encounter difference, and even strive to work on behalf of common causes. The school is the place where conversion from xenophobia, the overcoming of the fear of the stranger, is made possible. Within the safety of our schools, it is possible for us to become comfortable with those who have a strange language, a distinctive ethnic origin, a different tradition, an unusual way of doing things, and a different religion. The school could actually become the place where the ancestral heritages of other peoples may be embraced, preserved and even shared.

In his article, "Crossing the Divide: Foundations of a Theology of Migration and Refugees," Rev. Daniel G. Groody, director of the Centre for Latino Spirituality and Culture at the University of Notre Dame, applied four theological constructs as foundations for a theology of immigration. These four constructs are: (1) the *Imago Dei*, (2) the *Verbum Dei*, (3) the *Missio Dei* and (4) the *Visio Dei*.

The theology of the *Imago Dei* allows us to root the person in the world very differently than would be permitted when using legal or social constructs.[41] Here, the emphasis is on the humanity of the (im)migrant. As Dauvergne has said, "How we imagine immigration affects how we regulate it, measure it, and theorize it, and how we relate to migrants themselves."[42] We seriously need to

---

[38] http://www.cardinalnewmansociety.org/CatholicEducationDaily/DetailsPage/tabid/102/ArticleID/4592/Catholic-Education-%E2%80%98Extends-God%E2%80%99s-Love%E2%80%99-as-a-Spiritual-Work-of-Mercy.aspx#sthash.PgfT8eDd.dpuf, accessed June 18, 2016.

[39] Campese, "The Irruption of Migrants," 29.

[40] Daniel G. Groody, "Crossing the Divide: Foundations of a Theology of Migration and Refugees," *Theological Studies* 70, no.3 (2009): 644.

[41] Ibid., 644-645.

[42] Dauvergne, *The New Politics of Immigration*, 212.

ask about the vision of humanity which we wish to project. The theological construct of the *Imago Dei* could easily be used to challenge policies, decisions, procedures, practices, states of affairs, or courses of action, which lead to any of the *educational vices* which were mentioned earlier, namely, the distrust of the stranger, the endorsement of stereotypes, the sanctioning of individualism, the belief that it is advantageous to hoard, the view that it is noble to compete, the pride which comes from our language, culture and religion.

The second foundation identified by Groody is that of the *Verbum Dei*. Here, the incarnation is interpreted as a migration, as a crossing of borders, as a "journey into otherness and vulnerability," as an entering "into total identification with those who are abandoned and alienated." In addition, Jesus is seen as the paradigm of the migrant, through whose light, migrants and refugees may reframe their own story. Just like Jesus, migrants leave the countries which they know, undergo dangerous journeys, and take up residence in a foreign land. This may be explained through kenotic theology, since becoming a migrant "entails emptying [oneself], ... radically surrendering everything [one owns], without any assurance that what [one loses] will come back to them."[43]

The third foundation which Groody identifies is the concept of the *Missio Dei*. Here, migration is understood as a call to cross borders and to overcome barriers, and as such, is a way of thinking about God and human life and an expression of the Christian mission of reconciliation. According to Groody, the *Missio Dei* challenges our idolization of the State, of religion or of an ideology, all of which tend to exclude and to alienate others. This *Missio Dei* can become, for the receiving community, "a ministry of generous hospitality, one that is mutually enriching for those who give and those who receive, and one which involves creating space."[44] In this context, the theologians Ignacio Ellacuria and Jon Sobrino deserve a mention. According to Ellacuria, the *principal* sign of the times "by whose light the others should be discerned and interpreted" is "the historically crucified people." Ellacuria defined "his life, and his vocation as a Jesuit and as a human being in terms of 'a specific service: to take the crucified people down from the cross'."[45] The significance of the title of one of Jon Sobrino's books is evident: *The Principle of Mercy: Taking the Crucified people from the Cross.*[46]

---

[43] Groody, "Crossing the Divide," 651.

[44] See Cathy Ross, "Creating Space: Hospitality as a Metaphor for Mission," ANVIL 25, no.3 (2008): 167-176, http://biblicalstudies.gospelstudies.org.uk/pdf/anvil/25-3_167.pdf.

[45] Robert Lassalle-Klein, "Jesus of Galilee and the Crucified People: The Contextual Christology of Jon Sobrino and Ignacio Ellacuria," *Theological Studies* 70, no.2 (2009): 348, 354.

[46] Jon Sobrino, *The Principle oMercy: Taking the Crucified People from the Cross* (New York: Orbis,1994).

Finally, there is the *Visio Dei*. This theological concept emphasizes not just the ultimate priority of God and his kingdom, but also the benefit of trying to interpret situations, events and people as God would. This obviously has implications on the way we view immigration, migrants and refugees. As Groody puts it, "the *Visio Dei* shapes people's ethical dispositions and offers a new way of perceiving the *Imago Dei* in those whose dignity is often disfigured by dehumanizing stereotypes and demeaning public rhetoric."[47]

Each one of the four theological constructs (*Imago Dei, Verbum Dei, Missio Dei* and *Visio Dei)* has two consequences, both very relevant to us. The first of these is that each one includes a set of moral demands. For instance, through a consideration of the humanity of the migrant (*Imago Dei*), rather than on his or her legal status, it is possible to construct policies which are more human, more merciful, and ordered towards the good of society's weakest members, as well as towards the common good. The second consequence is that these constructs provide a theological vision of reality which will be further developed in the following section.

Locus Theologicus

So far, I have referred to the ethical and cultural values which impact on education, to the theological, religious and spiritual values which ought to inform the decisions which regard migrants and their education, and to the concept of mercy which Pope Francis is strongly trying to invoke. The next step is to promote a theology of migration which sees the migrant child as a *locus theologicus*.

Hispanic and Asian-American theologies of migration have been emphasizing how the faith experience of migrants can become a privileged *locus theologicus*.[48] Immigration certainly has an effect on religious experience. To see it as a *locus theologicus* is to see the experience of immigration as one of the fundamental resources for theological discourse. Immigration is here viewed as a theological reality rather than as a social one upon which theology may shed light. This means that migration is seen as a reality where God is present, where God can be seen to work, and, possibly, where God's mercy has been experienced. It is a way of thinking about God and about what it means to be human in the world.[49] Furthermore, migration can be seen as a theological method, that is, as a tool and an approach for doing theology, one that would help theologians to pursue the

---

[47] Groody, "Crossing the Divide," 661.

[48] Campese, "The Irruption of Migrants," 10-18.

[49] Groody, "Crossing the Divide," 642.

thinking about God, engage with the world, become familiar with the history and experience of our ancestors, comprehend the current migration movement and appreciate the human and faith experiences of the (im)migrant. You could say, as the professor of sociology from the University of Carolina at Chapel Hill, Jacqueline Hagan, has said, that theology is *learning from* the very reality of migration.[50]

Seen as a theological reality and as a theological method, the experience of migrant children and young people within our schools becomes itself a *locus theologicus*. The migration experience informs these young people concerned, who are then able to see God and his works, and to approach God, from a standpoint that is quite out of the ordinary. To say it in a more personalist fashion: from the human and faith experiences of the (im)migrant child, we can learn about God. (Im)migrant children and young people in our schools have their own stories to tell, and they can provide a particular vision of God and of human life. Young migrants may more easily identify with the concept of God as migrant and as pilgrim, than a Maltese child or youth who has not travelled. Such chidren are *a locus theologicus* both as children and as migrants.[51] The struggles involved in attempting to settle down, however temporarily, in a foreign country (in our case, the Maltese islands), are also material for theological reflection. On the other hand, a spirituality of neighbour and hospitality that is well lived will, in itself, be a *locus theologicus*, ie., "a privileged *locus* where God reveals Godself."[52] Mercy requires charitable works, but it also requires a space for the survivor to speak, and listening ears on the part of the audience, who will in turn acknowledge the suffering of others and, possibly, act to alleviate some of it.

In my view, one theologian who could shed light on migration as a *locus theologicus* is the German Reformed theologian Jürgen Moltmann. In comparison with Metz, Moltmann claims that there would be no "theology *after* Auschwitz" had there not been a "theology *in* Auschwitz." Moltmann is not just referring to the *Shema* of Israel and the Lord's Prayer which were prayed in Auschwitz, but to the elements of faith, hope and charity which were present even within this place of terror.[53] While the experience of Auschwitz and the experience

---

[50] Jacqueline Hagan, *Migration Miracle: Faith, Hope and Meaning on the Undocumented Journey* (Cambridge, MA: Harvard University Press, 2012).

[51] Bert Roebben has written about "raising children as *locus theologicus,*" and about children's theology, in *Seeking Sense in the City: European Perspectives on Religious Education* (Münster: Lit, 2009).

[52] Campese, "The Irruption of Migrants," 29.

[53] Jürgen Moltmann maintains that God was in Auschwitz and Auschwitz was in God. "The suffering of those in Auschwitz was taken up in the grief of the Father, the surrender of the Son

of migration are not identical, there are some situations when the conditions are similar. Many (im)migrants narrate stories of terror, despair and betrayal, either experienced before the journey, during the journey, or upon arrival in their new homeland. What is significant is that these stories often reveal a faith vision, a faith experience, a theological reflection that is lived out within that same experience. In such calamitous situations, the idea is not to justify the suffering, but to acknowledge that there is also a deep level where the individual, or even the people, are conversing with God. (Im)migrants are characterized by a continuous attempt to make sense of their experience, and it could be a great initiative if we were to seek to discover how migrants have been using religious resources - as a form of cultural capital - during the entirety of the migration process, from decision making, through the journey, to the arrival.

There are three implications that emerge from this reality of migration as a *locus theologicus*. First, we ought to make better use of the experience of children, of young people, and of their parents within the educational context. It is discouraging to have aggressive parents who make unreasonable demands on our system, but it is also unfortunate to have parents who never react to the school's policies or practices.[54] Secondly, it may be an expression of mercy to provide (im)migrants with an education *for* migration, that is, one which prepares them not just for multiplicity, but also for territorial movement, human mobility, and relocation, as well as one which provides them with an education for stability, consistency and tradition.[55] Migration is itself a spiritual experience. Forced relocation should certainly not be accepted uncritically. However, the state should facilitate the relocation of individual im(migrants), whenever requests are reasonable. Thirdly, such an education should be extended to Maltese children and young people as well, since all our students will be relating closely to im(migrants), and many of them will be on the move at some point or other in their lives (whether for study, for work, or for love!). It is not just im(migrants) who need this education *for* migration. This shift should be reflected in the content and method of our education, as well as in our theology. Mercy requires it.

---

and the power of the Spirit." See Jürgen Moltmann, *The Crucified God: The Cross of Christ as the Foundation and Criticism of Christian Theology*, trans. R.A. Wilson and John Bowden (London: SCM, 1989), 278.

[54] Zammit, "Consultative Assessment," 26.

[55] Dauvergne argues that immigration is no longer about "settlement" or "society." She emphasizes the "shift away from permanence as a core immigration value." Dauvergne, *The New Politics of Immigration*, 124.

Conclusion

This article has tried to address three points: first, the ethical and cultural values, and the anthropological vision, which impact on education; secondly, the theological religious and spiritual values which ought to inform our decisions and our policies, including the concept of mercy which Pope Francis strongly invokes; and thirdly, the view that immigration and the (im)migrant, including the (im)migrant child and young person, are a *locus theologicus*, a source of reflection on God and his mercy, or a demand made upon others for mercy. Research is required on various aspects related to this subject matter. For instance, we know very little about the role which the theological, religious and spiritual values of (im)migrants play throughout the migration process, as well as about the role which these values play in the creation of policies and practices vis-à-vis (im)migrants. In this article, I have tried to offer mercy as a hermeneutic for interpreting some of the most fundamental dimensions of the education of (im)migrants, as well as a different vantage point for making educational choices in their regard. I am certain that there is a lot that still needs to be said, but hope that this article will have at least initiated the conversation.

Pauline Dimech
Faculty of Theology
University of Malta
Msida MSD 2080
Malta

pauline.dimech@um.edu.mt

MELITA THEOLOGICA
Journal of the Faculty of Theology
University of Malta
67/1 (2017): 143-149

Stefan M. Attard[1]

Epilogue

The process of collecting these papers has been a fruitful exercise in bringing together different experts from diverse fields of research to make sound judgements on how the value of mercy can be integrated evermore into our social matrix. This approach, undoubtedly, marks the way forward for a holistic understanding of any human condition. That the theme dealt with, namely that of mercy shown towards the migrant, is topical can be seen from the fact that last year, "Word of the Year 2016" chosen by the Oxford Dictionaries was *post-truth,* an adjective described as "relating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief."[2] Post-truth is indicative of the way a society's norms and policies (even unwritten ones) can be shaped unless due rational consideration is allowed to form part of the equation. The encounter with people of different cultural, racial, ethnic and religious backgrounds may still cause anxiety, despite the presumed ability of the World Wide Web to diffuse fear related to such interrelations, and this can be inferred from the fact that the term *xenophobia* was chosen as another "Word of the Year 2016," this time by the renowned website www.dictionary.com.[3] Xenophobia differs from the somewhat neutral concept of "otherness" in

[1] Stefan M. Attard obtained a doctoral degree from the Pontifical Biblical Institute, Rome, and is currently a lecturer in Old Testament studies at the Faculty of Theology, University of Malta.

[2] https://en.oxforddictionaries.com/word-of-the-year/word-of-the-year-2016, accessed August 2, 2017. The issue of migration or displacement goes back to biblical times and beyond. It has been treated by the present author in a recent publication: Stefan Attard, "Dealing with Displacement and Homelessness in the Psalms: Divine Action as a Paradigm for Human Mission," in *Like a Watered Garden*: *A Festschrift for Rev Prov Dr Lucien Legrand MEP on His 90th Birthday,* ed. Stanislas Savarimuthu et al., (Bengaluru: Theological Publications in India, 2017), 1:216-245. See also the United Nations' report entitled *Guiding Principles on Internal Displacement* and its "New York Declaration for Refugees and Migrants" (Doc. A/71/L.1).

[3] Cf. http://blog.dictionary.com/xenophobia/?param=email&utm_source=Sailthru&utm_

that the former is imbued with overtones of fear.[4]

One participant at a recent annual meeting organized by the *Fondazione Centesimus Annus Pro Pontifice*, which focuses on Catholic Social Teaching, commented on how, too often, little importance is given to the social aspects of society, and that an overarching concern when dealing with such matters could easily be related to the economy. Having said this, it must also be stated that much has been done on the local level to relieve the plight of countless migrants reaching our shores. It must be admitted that methodologically, more emphasis on the tried and tested projects, practices and actions in favour of the migrant would have been in order before delving into areas which need to be rectified. However, it must also be noted that so much more is being done in the Maltese context than can possibly be quantified and acknowledged in this modest publication.

The contributions in this special number of *Melita Theologica* offer various practical proposals and recommendations that should particularly interest stakeholders and policymakers, for while compassion (*cum passio*) may focus on feelings, mercy belongs to the realm of action.[5] These proposals are intended to supplement what is already in place, and build upon the structures that already function satisfactorily. Needless to say, new and daring measures are also being proposed, the application or otherwise of which might constitute a gauge of the national willingness to implement important changes or advances in favour of the migrant.

The initiative to organize the Symposium of which this publication is the result was not a solitary cry but must be seen within the broader context of efforts being made along the same lines. In April 2016 the title of the "Third Goody Lecture in Society, Culture and History" delivered at the University of Malta Valletta Campus was *The Importance of Being Kin*. More recently, in May 2017 the "Frederick Ofosu Memorial Lecture" entitled *Speaking for Ofosu: Immigrant Experience, Multiculturalism and the Psychological Trauma of Migration*, was organized by the Department for Inclusion and Access to Learning (University

---

medium=email&utm_campaign=WOTY%202016:%20Xenophobia&utm_term=wordoftheday, accessed August 2, 2017.

[4] Attard, "Dealing with Displacement and Homelessness in the Psalms," 220: "The question of otherness is an age-old phenomenon which, despite impressive fluxes of peoples between nations, our modern world's advances in technological connectivity, and the generally increasing move away from traditional mores to an apparently bland universal, cosmopolitan existence, has not abated nor prevented modern-day human beings from having to face the complexities that arise out of living in close proximity to people from diverse milieus."

[5] Cf. Charles Elliot, *Comfortable Compassion?: Poverty, Power and the Church* (New York: Paulist Press, 1987).

of Malta, Faculty of Education). This year a project entitled *Building Capacity for Local Volunteer Initiatives and Promoting Welcoming Communities* was launched by Kopin (*Koperazzjoni Internazzjonali* - an organisation that works on international development cooperation) with the aim of enhancing the integration of refugees, asylum seekers and third country nationals living in Malta. This present publication differs in that it combines aspects of non-theological disciplines with theological insights. The rationale for having a theology paper follow a less noticeably theological one cannot be found in the belief of the medieval period that the humanities are at the service of theology. Rather, what is at stake is a two-way contribution:

- the sciences deal with the specific nitty-gritty situations of migrant issues and have to operate a hands-on approach wherein their particular fields of expertise are made to bear on the lives of migrants in order to alleviate their burdens and enhance their advancement in ways that are viable;
- theology gives a sound anthropological framework with which to approach this reality, broadening our perspectives in order to envision the human person in his or her highest possible potential. This is achieved by coordinating the entirety of human life in relation to the higher, supernatural being we call God, who thereby becomes the fixed reference point by which to gauge the value of human existence.

Only by roping in various University faculties could the achievement of a view that was as expansive as possible be ascertained in the present treatment of the subject. It is not just one research area or field that should be engaged in the implementation of mercy but it has to be a holistic and coordinated multidisciplinary approach, of which the aforementioned Symposium is but a sign. Only by allowing the sciences at large and theology to mutually inform each other would it be possible to formulate a theology of hospitality that is worth endorsing. This, indeed, must be a local (but not parochial) theology of hospitality as every country has its own specific matrix and peculiarities. It is opportune to remember that the Church's vision has never been simply to give directives on suitable ways of action vis-à-vis those arriving in multitudes at our shores or any other country's borders. It has, indeed, honoured those who have shown special concern for strangers. To mention but two, King Stephen of Hungary and Frances Xavier Cabrini are counted among the saints who have championed the cause of the underprivileged.[6] Given its Christian

[6] In his homily at the canonization of Saint Frances Xavier Cabrini on 7 July, 1946, Pope Pius XII stated: "She extended a friendly and helping hand especially to immigrants [in America] and offered them necessary shelter and relief, for having left their homeland behind, they were

anthropological compass, the Church's approach has been to raise awareness on a universal level of the great dignity of all human beings and the importance of upholding public morals; an approach which, if taken seriously, can not only lead to a drop in forced migration, but also ensure that migrants are always treated with dignity.

When one human being is helped, the entire humanity is raised. In the rationale of unity - because each human being is a unique and irreplaceable reflection of the whole human race - in welcoming the other we are welcoming a part of ourselves. Rejecting the other is tantamount, to some degree or other, to a rejection of the fullest expression of our very humanity. All discourse on the migrant as a person to be respected and not merely as a case to be handled can be most notably enlightened by the concept of "le visage d'autrui," this being one of the seminal ideas of the philosopher Emmanuel Levinas.[7] The face of the other can be said to speak to me, imposing a moral duty upon my behaviour. In many respects, it constitutes a criterion by which I must regulate my interpersonal relations. Levinas' philosophy of hospitality is thus intriguing:

> The idea of the perfect is not an idea but desire; it is the welcoming of the Other, the commencement of moral consciousness, which calls in question my freedom. ... Conscience welcomes the Other. It is the revelation of a resistance to my powers that does not counter them as a greater force, but calls in question the naïve right of my powers, my glorious spontaneity as a living being.[8]

This concept can be coupled with Valjean's powerful statement in Victor Hugo's novel *Les Misérables*: "To love another person is to see the face of God." Beholding the face of the other can therefore be said to offer a glimpse of the divine in human form. For this reason, the effort that migrants make to learn the culture and language of their host country should be matched by the endeavour of the locals to create a new language, or rather, a rich vocabulary that equips them to converse with these migrants not only verbally but socially and culturally. No one is exonerated from the arduous task of exploring ways of communicating with the other in such a way as to make oneness possible.

Modelling his or her ethic on God's work in creation, when the human being was formed out of the dust and had life breathed into his nostrils, the theologian is not fascinated only by "the starry heaven above" in some Kantian fashion, but must use his/her hands to handle the human form even when it appears but clay

---

wandering about in a foreign land with no place to turn for help."

[7] Cf. Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Dordrechet: Kluwer Academic, 1991), 24.

[8] Ibid., 84.

and earth.[9] The human being cannot be contemplated merely in some anagogical, ideal form but in its very earthly substance, which is where God's original design for humanity first reveals itself.

One of the notable concepts proposed by the moral and political philosopher John Rawls was that of the veil of ignorance. Rawls postulates a situation wherein none of the main decision makers on a certain issue knows his or her eventual position in life. Policies and norms should be created in such a presumed state of unknowing if they are to be truly just, objective and unbiased. In other words, any decision taken and any law enacted vis-à-vis migrants should originate from individuals who, conceptually, take into consideration the possibility that they themselves might end up being the recipients of such migrant-related policies.

In this regard, it must also be noted that it is fallacious to perceive oneself as the sole giver and to characterize the other as a needy receiver.[10] The givers themselves are receivers, for the Lord Jesus said: "It is more blessed to give than to receive" (Acts 20:35). Together with theology, the other four main disciplines that have contributed to this project become more authentic inasmuch as they embrace the challenges migrants bring with them. It is in mercifully dealing with migrants' predicament that laws become more just, and that educational, health-related, and social welfare efforts engage in what is most genuinely proper to their areas of expertise. But it must also be borne in mind that, whilst what is offered to migrants is often quantifiable - new laws enacted, so many hours of teaching given, a certain amount of people treated in hospitals, so many houses allocated - the wealth they themselves bring to the locals can never be measured. Hence, in line with the blessedness spoken of by our Lord, migrants are not to be seen merely as individuals whose rights are to be safeguarded, but as persons who can engage with the nationals in a human and social framework of fraternity.

---

[9] "Then the Lord God formed a man from the dust of the ground and breathed into his nostrils the breath of life, and the man became a living being" (Gn 2:7). As for Kant, it must be stated that he was also filled with wonder by "the moral world within," cf. Immanuel Kant, *Critique of Practical Reason*, trans. by Mary Gregor (Cambridge: Cambridge University Press, 2003), 133.

[10] In his unpublished M.A. dissertation *The Process of Grace in Julian of Norwich's Experience of Prayer and Contemplation*, Edward J. Clemmer skilfully expounds Jean-Luc Marion's phenomenology of "givenness" and states that for Marion it is the giver that is decided by the gift and not vice versa (p.29); cf. Jean-Luc Marion, "Sketch of a Phenomenological Concept of the Gift" [Esquisse d'un concept phénoménologique du don, 1994], in *The Visible and the Revealed*, trans. John Conley and Danielle Poe (New York: Fordham University Press, 2008), 91: "The gift itself decides: it resides in the decision of the giver, but this decision rests upon the obligation motivated by an anterior gift."

It is significant that in the Old Testament, the entry of the Israelites into the land of Canaan, the so-called Promised Land, and their settlement therein, is not envisaged as a conquest but rather as the reception of a divine gift. This truth can be gleaned from the fact that the land was apportioned by the casting of lots (believed to express the divine will) and not by personal choice. The hermeneutic implied is that the land is God's to give as he so desires (cf. Jo 18:1-10). Moreover, the settlement did not entitle the Israelites to some kind of superior attitude vis-à-vis foreigners where mercy was at stake. The Covenant Code (Ex 20:22–23:33) lays down the following command: "Do not mistreat or oppress a foreigner, for you were foreigners in Egypt" (Ex 22:21). Deuteronomy takes this to a higher level in its formulation of a positive command: "And you are to love those who are foreigners, for you yourselves were foreigners in Egypt" (Dt 10:19). In both cases, the reason behind kindness to the non-national is historicized.[11] To some extent, from a Biblical perspective, the condition of all humankind, from the moment Adam and Eve were cast out of the Garden of Eden, their natural homeland and place of origin, is one of endless wandering. What all of humanity strives to achieve on an existential level - the return to that primordial condition where we truly belong - is lived out in the flesh by a smaller (though still significantly large) number of human beings who search for a real home in a sometimes hostile world.

The Greek word *perichoresis* may inspire our reflection on this topic. The term has been used by the Church Fathers (e.g. Maximus the Confessor) to describe the kind of relationship that exists between the three Persons of the Trinity. Among its various meanings, a key concept of the term is that of "making room." In the light of the related English term *choreography*, one can poetically envisage a Trinitarian relationship that can metaphorically be described as a dance, wherein each divine Person allows the free movement of the other Persons. Would it be too far-fetched to presume that such a generous and "life-giving" movement should be reflected in the interplay between nationals and migrants, where the final choreographic movement is brought to a brand new level of performance?

It becomes clear from the papers included in this special number of *Melita Theologica* that migration is not a problem to be solved, but a challenge to be embraced. Mercy is, in the last analysis, a construct through which all must learn to view, not only a group of individuals, but society and humanity at large. In other words, mercy should be (or at times become) a principle criterion by which laws are enacted, health services are dispensed, education is offered, and social

[11] See also Pietro Bovati, "'Mio padre era un forestiero': L'insegnamento biblico sui migranti," *Civiltà Cattolica,* no. 167 (2016): 548-562.

services are structured; where the whole social family is taken into consideration. But even when the few are given prominence in the employment of this principle, it will turn out that an attitude of mercy that is based on rational considerations will be beneficial to one and all, as it creates the kind of society that is most attentive to the deepest needs of humanity at large. This so-called Mercy Project, epitomized in these papers, points to that ongoing effort which should be made by each and everyone to exalt humanity. As far as theology is concerned, this is a small contribution to the truth that this discipline's milieu is none other than the world, where the human venture steadily unfolds.

Stefan M. Attard
Department of Sacred Scripture, Hebrew and Greek
Faculty of Theology
University of Malta
Msida MSD 2080
Malta

stefan.m.attard@um.edu.mt