

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,

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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 outside. 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 II⁷ and, especially, Pope Benedict XVI⁸ 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 exchange. 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 years⁹ 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. Building 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, IN: 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 anonymity 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 University 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 circumstances²⁴. 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 destructive 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 Hannah 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 Hannah 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.

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