

CRN keynote

Some Christian Perspectives on Migration and the challenge to Human Rights

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When the Universal Declaration on Human Rights was promulgated in 1948 it enshrined for the first time in international protocol three basic, cross-state migrant rights – the freedom to migrate, the right to claim asylum and the right to be recognised as a member of a nation state. These were amongst the most controversial rights to get agreement on in the drafting stages of the Declaration and were in the end exceptionally hard won around the diplomatic table – and as we well know their implementation over the decades since has lost none of its controversy – witness the current European disputes over the Lampedusa migrants.¹

If we were to stop a passer-by on the street outside this Church this morning, I am sure that they would think of these rights as basically secular rights rooted in the 20thC tradition of Human Rights law. And in turn a well informed passer by might tell us that the roots of this HR tradition lie in political liberalism and the European Enlightenment 'rights of man' tradition –with political and civil rights being rooted in arguments for freedom made by proponents of liberalism and capitalism and social and economic rights being rooted in arguments for equality rooted in European Marxism and Socialism.

But how many of even our well informed passers-by would note the earlier contribution of Christian and Jewish ideas of inalienable dignity and natural rights to the eventual development of human rights – particularly in the area of the dignity of migrants? That is what I want to do this morning. And this is no idle academic chatter, because this task is a timely one – for two reasons: firstly, because of one of the greatest moral contradictions of our time – over the last 50 years since the Declaration itself we have seen an unprecedented development in international and national laws of measures to protect and provide for migrants – to make real these 3 principles; and yet at the same time this has been matched – and more than – by a move to build the walls of Europe higher and higher through tighter and tighter border controls and more draconian immigration policies.

The story of the 20thC takes us from the largely open European borders of pre-1916 to Italy in 2011 when being without an identity document renders you an illegal person. Secondly, in practice – and this gathering is testimony to this – the Churches are amongst the most significant providers of practical support and real solidarity for migrant communities – and yet we don't necessarily know the teachings and history of our tradition in this area. In what I say this morning I will argue that ideas and commitments developed over the early centuries of Christian tradition have helped us develop reflection on both the dignity of migrants and a wide Christian concept of justice that applies in interesting ways

¹ To follow up discussion of the detailed stages of drafting of the Declaration and its politics see Mary Ann Glendon 'A World Made Strange'

to the migrant experience. As such Christian theology offers us clear reasons to engage with the protection and development of Human Rights for those who migrate.

1. Where do we find a tradition of thinking about migration in early Christian theology?

“For the Lord your God is God of gods, Lord of lords, the great God, mighty and awesome, who is not partial and takes no bribe, who executes justice for the orphan and the widow, and who loves the strangers, providing them with food and clothing. You shall also love the stranger, for you were strangers in the land of Egypt.” (Deut 10:17-19)

From God's blessing on Abraham's journey “Go from your country and your kindred and your father's house to the land that I will show you” (Gn12:1); to the journey of Jacob and his sons to Egypt searching for food in a time of famine; to the great Biblical drama of the Exodus; the Old Testament is in significant part a history of migration. In many ways this story continues for Jesus as he personally retraces that Exodus journey to Egypt and back as a child, walks his ministry through the Holy Land as an itinerant migrant – living in no one place. And his own teaching builds on the care for the stranger theme of the Jewish Scriptures, connecting salvation and the Kingdom of God to the care we exercise for the migrant and stranger:

“Then the king will say to those at his right hand, ‘Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me” (Matthew 25:34-36)

The story does not end with the Scriptures - the migrant experience is then re-lived over again by the early Christian community who found themselves displaced from Jerusalem and pushed as exiles and missionaries to spread their faith to every corner of the globe. Its hardly surprising then that based on these experiences Christians take for themselves the notion that the very condition of being a Christian means that we are spiritual ‘parakoi’ – a word meaning or strangers and exiles in this world. Before we even begin to look at the later moral teachings of the Christian tradition we can see that from the very origins of Christian community an identification with the migrant is hard wired into Christianity – it never can or will be just an ‘outside issue’ for us – this is an issue which goes to the core of who we are.

Yet – we need to be cautious - despite the defining presence of the migration story in Scripture it is not easy to isolate biblical insights which apply specifically to *refugees* or asylum-seeking per se. There are big cultural differences between the biblical world and ours now which make applying the morals of an ancient world to the contemporary asylum debate a quaint and dangerous task. And, let's be honest, Scripture is not always

consistent in its reflection on the care we might owe to the stranger and exile.² We are as likely to respond with fear and loathing to the other or stranger when we ourselves are feeling endangered or threatened as a community of faith. When we read sections of Ezra, Nehemiah, Deuteronomy or Jonah it is clear that whatever we have to say as a contribution to the public debate on the treatment of the migrant cannot be based on pious moral superiority – we have manifestly got it wrong too – the question is what have we learned from those experiences?

One further note of caution before we take a leap into the world of the Spanish 16th C – I began by suggesting an overlooked Christian history to the modern human rights debate. In what follows I am going to draw out some of that earlier Christian history and some of its lessons that are relevant to us today. What I am not arguing though, is that modern 20th C HR are an automatic product of Christian thinking: rather, that this is one of a number of strands which offer us a wider moral picture in which we can situate human rights talk. Human rights law needs a human rights culture if it is to survive and grow – this is particularly the case for migrant HR – what follows is a reminder of some of that Christian culture.

Bartolome de Las Casas and Francisco di Vitoria have come to be seen by some writers as early Christian fathers of what we now call secular human rights. They were Dominican friars whose missionary and pastoral duties had taken them along with the first generation of conquistadors across the seas to the so-called New World. Despite their initial enthusiasm for the conquest they became progressively more horrified by the treatment of the Indian peoples – brutal forced conversions, the forced separation of families to work on producing a profit for the new settlers which resulted in many deaths, but most of all the new land system imposed by the conquistadors through which they came to own not just the land they had taken but the indigenous peoples who lived on them. In the face of official church approval for much of what was happening, Las Casas and Vitoria set out firstly to question whether the Spanish migration and conquest were moral, and secondly having established that much of the conquest denied the fundamental human dignity of Indian peoples, to lobby the rulers who were responsible for these policies. For Las Casas this was a lifelong battle – with some great victories and spectacular defeats. I want now to pick up two basic sets of insight which continue to shape Church teaching now.

The first great battle which Las Casas and Vitoria fought was, using the Genesis account of creation, to demonstrate to those with vested political, economic and military interests that all humanity, because it is created in the image of God carried a mark of inalienable dignity – all (whether believer or not) carried a divine mark and should be treated before the law with the respect for this dignity. To make this argument that full human dignity applied fully to all peoples - not just to Christians and Europeans was deeply challenged to

² Note for example the tension in reading Ezra-Nehemiah and parts of Ezekiel against Ruth and Deuteronomy. Interestingly Rabbi Jonathan Sacks and Susanna Snyder in her doctoral thesis (un-catalogued doctoral dissertation, submitted to University of Birmingham, 2009) argue that our capacity to make a meaningful contribution on the question of the ethics of stranger-hood and asylum is based on our mixed tradition – that we see ‘cycles of fear’ as well as ‘cycles of faith’ in Scripture – we know from the inside what it is to get this wrong and to learn and have something to say publicly on the basis of being communities of learning.

the fashionable view that indigenous peoples and cultures were less than human – views that, centuries on, we still seek to fully recover from. This first defence is sometimes referred to as a *passive* doctrine of human dignity – without me acting at all there are things owed to me simply by the fact of my human condition. But there is also a second, *active* doctrine of human dignity – we inherit from the Jewish tradition the belief that we are a people bound together not just by a common human nature but also by a Covenant, God's treaty with humanity – this Covenant reminds us of who we are and who we are called to be – we are a *community* of people, created as *social* beings, made for relationship across boundaries of bodies and countries. Engaging my dignity actively brings duties – primarily the duty to act for the common good. For Jews and Christians any modern idea of HR cannot be rooted in the claims of an isolated individual to 'possess' rights – but is rooted in a social reality, in a community of exchange and interaction. Our freedom then is not something we possess, rather our freedom is the freedom to pursue the right order – to stand before the community and confess (proclaim) the full dignity of the person and to name publicly all that distorts that dignity – which distorts right order. Human dignity is realized – or not – in community.

None of this was original to Las Casas and Vitoria – but they used this wealth of Judeo-Christian teaching to make a strong case to the Spanish rulers for a politics which respected the fundamental moral unity of the whole human family, a unity which needed to be upheld and protected in law. They argued to the Holy Roman Emperor and to the Pope that to be acknowledged as just by a Christian the law must offer a moral priority of claims to protection from harm based on this meaningful world citizenship. Sovereignty matters they said, but national laws must give teeth to this prior moral unity – to fail to do so is to distort right order, to deny the story of Creation and to forget the Covenant.

Las Casas and Vitoria start a tradition still ongoing for moral theologians today: wrestling with the question of the status and meaning of borders. For Las Casas and Vitoria sovereign borders are not 'good' or 'bad' in and of themselves – (*in fact* their research was about defending some notion of sovereignty in order to protect the Indian peoples from Spanish aggression). Instead they argue that for Christians borders are made meaningful insofar as they serve BOTH the common good (allowing protection of life and increased human wellbeing within a political community) AND allow for..... the generous recognition of the duty of hospitality AND more than this, of the fundamental unity of the humanity which should be respected as a first principle wherever possible – for a Christian, borders only have moral meaning if they are about BOTH protection and generosity – you can't have one without the other. So the question their moral thinking bequeaths to us to ask in each new generation: to what extent current border controls and current government immigration policy can be considered genuine contributions to the common good of BOTH British society and in the service of a meaningful notion of world/global citizenship – To which do we give priority when push comes to shove?

The legacy of their work is felt in the contemporary church. In 2003 the American Catholic Bishops Conference went perhaps further than any other in publishing five Christian principles that should govern a nation's immigration policy which aimed to balance the global, national and local aspects: 1) persons have a right to find opportunities in their

homeland 2) persons have the right to migrate in order to support themselves and to provide for their families wellbeing 3) sovereign nations have the right to control their borders 4) refugees and asylum seekers should be afforded protection. They also stressed the need to protect family life which is placed under particular pressure in the migration process.

In order to formulate these 2003 principles particularly shaped by the US/Mexico border difficulties, the American Bishops were drawing on that legacy of 16th and 17thC work of Vitoria and Las Casas.³ They were also drawing from a wider concept of Christian justice that I think offers rich food for thinking about uniquely Christian contributions to the human rights debate, which I want to unpack and apply to the UK context in the last part of my talk this morning. This *is a multi-dimensional concept of Christian justice* that had been developed through reflection on Greek ideas of justice, Jewish and Christian Scripture, and the work of the great theologians St Augustine and Thomas Aquinas.

For the Christian, true and full justice is only possible in God's kingdom, but we are given the mandate to use our human creativity and rationality to strive to create the best possible conditions for justice in the here and now. I am going to talk about three facets or characteristics of Christian justice – and tentatively I will offer my own initial attempt to apply each facet of justice to critical issues in current migration policy.

Distributive justice: the meeting of need

Firstly, we can say that for a Christian, justice is concerned with the meeting of basic needs and ensuring a fair distribution of the world's goods and resources – including the fair distribution of justice itself. We tend to describe this as the 'distributive' character of justice. Asylum policy is precisely about the meeting of basic need – the need for protection when one's state of residence can no longer provide the basic circumstances needed for *my* survival and flourishing. Yet, at a domestic level there remain critical questions about access to competent lawyers, worries about the impact of reduction of support for legal aid and about the destitution of failed sanctuary seekers. But the distributive question also calls attention to the international causes of forced migration: persecution – political and religious, food security, extreme poverty, war and genocide.

Two things follow from this: firstly a point of moral principle - that Christian views of distributive justice might be interpreted as implying that immigration policies should relate clearly to development and aid policies. Secondly, a more pastoral point – that many migrants experience a double dose of distributive injustice - it is often global distributive injustice that impels migration in the first place, and national distributive injustice which can characterise the experience of seeking status in the new country.

In this context many also feel uneasy about the immigration cap which will strictly limit economic migration and give priority to those coming to take up jobs earning over £40,000

³ *Strangers No Longer: Together on the Journey of Hope*, Joint Pastoral Letter, Catholic Bishops of Mexico and United States

and from highly skilled graduate backgrounds, thus offering further structural privilege for those who already have most global mobility. It seems entirely possible to argue that this policy appears to make a negative contribution to global need for greater distributive justice.

From a Christian perspective, such policies risk narrowing and instrumentalising the common good so that it means little more than a response to the values of business- and the academic elite, who are well able to lobby government for nuancing of legislation. The international market for talent is already characterised by a concentration of rewards among the few. This increases the danger of a 'winner takes all' logic becoming hardwired into immigration policy, *thereby* increasing the trend to make smooth the paths to privileged economic migration – more likely to be white and male - whilst raising the barrier to those either in need of protection or simply determined to better their dire economic circumstances. Aquinas' thinking on distributive justice pushes us to think again and more creatively about the demands of our national and global citizenship.

Contributive justice: freedom and the social nature of the person

It probably seems common sense to most of us that a basic meaning of justice is that we should share resources fairly. Perhaps less obvious is the second characteristic of Christian justice: its contributive or *social* character. This means that the virtue of justice is made real in the freedom that we have to shape and approve the system of laws and values of the society in which I live. A crucial part of justice is therefore my freedom to contribute to the common good and to both assent to and shape the laws to which I will be subject.

Christian thinking about justice is deeply connected to ideas of freedom – by Christian standards a just society is one in which there is greatest potential for me to choose to act, participate and communicate as a social being. But for the Christian, freedom is not something I own or possess, freedom is a relational thing – given as gift and to be expressed and shared between people in a community as gift. I become who I am called to be through exercising my ability to contribute, to act, to shape the world around me. This isn't just an added extra – it is central to Christian understandings of justice.

This is perhaps the area of thinking about justice which seems most lacking in even basic fairness for sanctuary seekers. By and large those travelling through the asylum process have no ability to meaningfully assent to the detail of the national law to which they are subject or to change it. Equally many feel that the refusal to grant permission to work, an unobstructed right to marry and sustain family life, the administrative use of family splits, the use of detention for largely administrative reasons, any reasonable control over accommodation location and relocation, render absent any sense of real contributive or social justice. It is this perception of the absence of social or contributive justice which has impelled many Church based groups to campaign for greater dignity, self-determination and capacity for asylum seekers, and especially to be allowed to experience meaningful relationships of trust, stability and humanity during the period of their claim being processed.

Commutative justice: justice as a personal relationship

Thirdly, and less commonly spoken of these days, is the notion of justice as 'commutative' – this refers simply to the interpersonal character of justice – it is a way of reminding us that justice is a profoundly personal relationship, at the heart of which should be relationships of trust and humanity. Christians understand themselves to be called by a personal relationship with a just God to share with others – person to person – the *hesed* (loving justice) of their God. This covers everything from the fairness of a contract that two of us might make privately between ourselves to the way in which I feel I have been treated by those who administrate a system or deal with my claim. It is interesting that social scientists have discovered that it is this person to person contact which we often remember most particularly about our brush with the justice system – how a police officer treated my claim, how an officer in a detention centre managed my request for medical support, how my lawyer listened to me or presented my case. Put simply, what tends to make justice feel legitimate or illegitimate is how we were treated – its personal character.

We know from the research of all the major voluntary sector groups working in the area of asylum and refugee care, as well as from the findings of the IAS, that whilst some improvements have been made in recent years, the system still largely fails to offer a sense of commutative or person- to -person justice to those who travel through it . It is impossible to overstate the loneliness and depression felt by so many asylum seekers who find both the administrative process of handling their claims as well as the social climate in which they make these claims frustrating and demeaning. This reflects concerns about the absence of due process, the failures to honour a fair contract between the individual asylum seeker and the state. In cases where asylum seekers are wrongly detained, cases inordinately delayed, key evidence lost, or destitution was caused by uncoordinated provision between NASS and UKBA, the terms of this third kind of 'commutative' justice are clearly broken.

Despite all the complexity I have laid before you, including the byways of 13th and 16th Century theology, the basic question I am posing is this: when we look at asylum and immigration provision how does the Christian tradition help us to think about what is fair and what is right? How do old ideas formed in earlier conflicts help provide fresh encouragement to develop a culture not just norms of human rights?

My interest this morning is less to present fixed answers and more to do two things: to argue that there is a credible and important Christian tradition of thinking about migration as a moral and spiritual question – there IS Christian ground to stand on as we look out into our local, national and global communities. But also to argue that - quite rightly - we don't have a timeless pre-set Christian immigration policy up our sleeves.

Rather, in addition to the most basic call to stand in solidarity with those who migrate, and to understand our own lives' migrations within a spiritual and moral context, we might follow Las Casas' lead in using our Christian worldview to engage with those responsible for the political structures which regulate migrants lives. This suggests a confident and

principled engagement by Christians with what is frequently a pretty poor quality national debate.

Can we, as Christian global and national citizens, model a good quality conversation about what is fair and what is right? As Christians who understand ourselves as spiritual migrants - citizens of two cities – pursuing this conversation is both our right and our responsibility – it might also be our gift.

Basic Bibliography for Further Reading

Roger Ruston, (2004) *Human Rights and the Image of God*, SCM Press

*This text includes lengthy discussion of the work of Vitoria and Las Casas

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Luke Bretherton, (2010) *Christianity and Contemporary Politics*, Blackwell (see chapter on Asylum)

Catholic Church Documents used in my talk:

The Love of Christ Towards Migrants (Erga Migrantes Caritas Christi) Pontifical Council for Migrants and Itinerant Peoples

Strangers No Longer: Together on the Journey of Hope, Joint Statement of Mexico and US Bishops Conferences

Pacem in Terris, encyclical on Human Rights of Pope John XXIII