



World Day of Migrants and Refugees

'If there ever was a vulnerable person, a migrant child who is traveling alone would certainly seem to fit that definition. To turn our back on these populations, to demonize them, and to treat them as outcasts and unwelcome directly contravenes our obligation to approach vulnerable populations with particular care.'
US Conference of Catholic Bishops, June 2016

1. Introduction

Each year on 15th January the Church draws attention to issues pertaining to various categories of displaced persons. On the secular calendar, 20th June is marked as World Refugee Day. Both days speak to the same realities of eliminating the vulnerabilities of displaced persons and ensuring justice for those who bear this burden.

This year Pope Francis drew special attention to the plight of child refugees.¹ More than half of the world's 65 million refugees are children, and this number is rising. In September 2016, UNICEF estimated that one in 200 children is a refugee. It was also estimated that nine out of ten refugee and migrant children reaching Europe are unaccompanied. In the first five months of 2016, 7000 unaccompanied children reached Europe from Africa.

The USA has calculated that "an average of 6 800 children [were] apprehended in each year from 2004 – 2011. The number jumped to over 13 000 children in Fiscal Year 2012 and over 24 000 in 2013. Over 50 000 were detained in FY 2014 and, although a decrease was evident the following year (28 387), the numbers again increased in the first quarter of FY2016 (18 558)."²

At present the vast majority of child refugees come from a total of ten countries, with Syria and Afghanistan producing the most. Recent surveys suggest that 30% of all migrants in Africa are children. In addition, roughly 250 million children live in countries or areas ravaged by war and conflict.

In the light of this tragic situation, Pope Francis has called for an emphasis on protection, integration and the search for long term solutions to be a major part of all advocacy and activism with regard to child refugees. Earlier, Pope Francis referred to the influx of child refugees as a "humanitarian emergency," and stressed that "as a first urgent measure, these children are to be welcomed and protected."³

2. Principles and Policies

The Australian Catholic Social Justice Council (ACSJC) states the following as a guiding principle:

"The best interests of the child, and the right of the child to health and education services and to protection, must always be a priority. Access by independent professionals for monitoring the extent to which such rights are in fact enjoyed is necessary. The standards applied should be no less rigorous than those that apply to other children resident in Australia. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status, or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties."

In South Africa we need to consider the challenge

of Pope Francis against the backdrop of the proposals contained in the government's Green Paper on International Migration issued on 24th June, 2016. The Green Paper acknowledges the rise in the migration of children but does not focus on child migration as such, nor does it try to understand the impact of its proposals on children. It does, however, include children together with women as a particularly vulnerable group when it speaks of those negatively affected by an overloaded asylum system.

2.1. Processing asylum seekers

One area where there is concern with regard to children is the proposal to establish 'Asylum Seeker Processing Centres' near the borders, where asylum seekers would be accommodated while their status is determined. It is proposed that vulnerable groups (which as we saw above, include children) and high-risk asylum seekers could be accommodated in secure detention centres while their claims are being processed.⁴ Given that children are already referred to as a vulnerable group, this would imply that refugee children would be held in such centres while their claims are processed. However, as a signatory to the UN Convention on the Rights of the Child, South Africa should only detain children 'as a matter of last resort.'⁵ In our own law, in the important case of *Centre for Child Law and Another v Minister of Home Affairs and Others* 2005(6) SA 50 (T), the High Court held that unaccompanied asylum-seeking children cannot be detained at the Lindela Repatriation Camp and must be accommodated in a place of safety.

The government's new policy proposals have found very little, if any, support amongst those working in the sector, and resistance to it will probably spiral upward in the months ahead. It is also to be noted that the Green Paper makes no mention of any conditions or arrangements with regard to the proposed processing centres. If they come into being, arrangements will have to be monitored meticulously for they could easily give rise to an unhealthy environment where vulnerabilities could be exploited and a human rights culture compromised.

2.3. Human rights concerns

The ACSJC, in a submission to the Australian Human Rights Commission as part of the National Inquiry into Children in Immigration Detention, wrote with regard to this issue:

"The core of any policy dealing with people must be a determination to protect human dignity. Essential to the policy dealing with children in immigration detention must also be a determination to ensure that the rights of the child and the child's family are protected. The policy of locking up men, women and children, or diverting them to neighbouring countries, fails this fundamental test. It treats people who have committed no offence as if they are criminals. The isolation of detention centres and the difficulty of access to them means a scarcity of services, in particular those needed by children and families with children. Processing needs to be done within a reasonable and limited time, and asylum seekers need to know the amount of time their case should take."⁶

With regard to the aspect of ensuring a thorough human rights environment, the Australian Church points out that

"Child and adult refugees and asylum seekers are persons, and should enjoy the whole range of human rights. Obviously food, clothing, housing and protection from violence are required, but so too are access to education and medical assistance, the reunification of families, the possibility of assuming responsibility for their own lives, cultivating their own cultures and traditions, and the free expression of their faith."⁷

2.3. The integrity of families

A second area of concern with regard to children, and to the integrity of family life, revolves around the possibility of dependents (very often but not only children) who arrive in the receiving country after the main applicant and then, at a later date, seek to be joined to the main applicant's refugee file. The Green Paper points to examples of other countries where only those dependents who arrive simultaneously with the main applicant are documented; those dependents who arrive later are not allowed to be joined to the file. It is possible that another model could be to allow refugees a certain time period in which they can add dependents' names to the file. Allied to this is the fact that the Green Paper offers no particular process for dealing with the applications of unaccompanied minors or separated refugee children who lodge their own asylum claims.

The Australian Church holds that "family groups should be dealt with as a unit so that all family members get their visas at the same time."⁸ The principle of being dealt with as a unit is key in this

regard. The Bishops of the USA provide some of the theological underpinnings for this principled position. In their pastoral letter, *Strangers No Longer: Together on a Journey of Hope*, they say, “The first point of reference for action on behalf of refugees must always be the human person rather than the interests of States or of national security, because the person comes before and above the State. Human persons live in families.”

They go on, in their 2016 World Refugee Day message, to assert:

“The person is not only sacred but also social. At the foundation of the social character of the person is the family—it is where we first learn how to interact with and engage the wider community. The violence and corruption present in the countries where many unaccompanied migrant children originate cause a great deal of stress on families that often leads to division and separation. Steps need to be taken to create such conditions that families can remain in their homeland with one another, without having to constantly fear that violence will visit their doorstep and cause any one of them harm. Until that time, policies should be implemented to ensure that families are reunited here in the U.S. and provided with some degree of protection for as long as it is too dangerous for them to return home.”⁹

3. Catholic Social Teaching

The US Bishops have also noted that “the Church has an abiding concern for human life from conception until natural death; the lives of migrant children do not fall outside the Church’s commitment to protect and nurture life at all its stages. Children who are fleeing violence and seeking safety should be given due process under the law and provided with the necessary screenings to ensure that they will be given the help necessary to ensure their well-being.”

Catholic Social Teaching (CST) makes the point that refugees and migrants who flee poverty, hunger and diminished opportunities also have a right to support and to the help necessary to ensure their well-being. This is an important contribution to advocacy because it offers a moral base, stemming from the principle of the ‘universal destination of goods’, for a wider understanding of the obligation to provide protection to vulnerable groups (in this case, children) beyond the categories offered in the

classic international instruments. Pope Pius XII had already pointed out that every individual and every family has the right to a decent life as befits their dignity.¹⁰ If people cannot affirm their dignity or live fulfilled lives they have right to move to places where this can be realised. Thus, economic refugees cannot be excluded out of hand. Here, CST poses a challenge to the prevailing wisdom.

In his message, Pope Francis emphasises protection, integration and the search for long term solutions. These are important buttresses for some of the arguments put forward in the current debate around displaced persons. We have clues in the CST tradition that the search for lasting solutions understands the root causes of migration – poverty, injustice, religious intolerance, armed conflicts – and insists that these must be addressed so that migrants can remain in their homelands and support their families.

The Pope says:

“A way has to be found to enable everyone to benefit from the fruits of the earth, and not simply to close the gap between the affluent and those who must be satisfied with the crumbs falling from the table, but above all to satisfy the demands of justice, fairness and respect for every human being.

“Essential to the attainment of these national goals is the moral imperative of ensuring social justice and respect for human dignity. The great biblical tradition enjoins on all peoples the duty to hear the voice of the poor. It bids us break the bonds of injustice and oppression which give rise to glaring, and indeed scandalous, social inequalities. Reforming the social structures which perpetuate poverty and the exclusion of the poor first requires a conversion of mind and heart.”¹¹

It is in following this trajectory that we can begin to shape long-term solutions. Following the Pope’s logic, this more prophetic challenge needs to be part of the advocacy package we bring to policy discussions with regard to displaced persons. Protection requires, at a minimum, that migrants have a right to claim refugee status without incarceration and to have their claims fully considered by a competent authority in a transparent process and within a reasonable time frame. Implied in this is the right to have one’s

dignity respected and to enjoy basic human rights irrespective of one's legal status.

In South Africa the huge backlogs and – by its own acknowledgement – the rampant corruption in the Department of Home Affairs, which oversees matters pertaining to displaced persons, make compliance with this requirement a pipe dream. The Green Paper itself acknowledges this very lamentable situation. It is an area where the church has, over recent years, done monitoring and advocacy, but in light of the Popes recent message, it is obviously an area for more focussed attention.

4. Conclusion

The issue of integration in CST implies more than accommodation within the dominant culture. It also means developing agency so that displaced persons can participate in the creation of their own futures. The Pope recently reminded leaders

in the corporate world that “our great challenge is to respond to global levels of injustice by promoting a local and even personal sense of responsibility so that no one is excluded from participating in society.”¹²

And again, “the renewal, purification and strengthening of solid economic models depends on our own personal conversion and generosity to those in need.”¹³

These reflections offer guidelines for taking principled positions and giving public shape to our personal theological convictions. And they offer some valuable insights to work from in our engagement with the Green Paper on International Migration, which will continue to be a key policy focus in 2017 and beyond.

Peter-John Pearson
Director

References

The Australian Catholic Social Justice Council, in a submission to the Australian Human Rights Commission as part of the National Inquiry into Children in Immigration Detention.

www.aph.gov.au/Parliamentary.../House_of_Representatives_committees?.../detention

United States Conference of Catholic Bishops. World Refugee Day 2016. June 2016

<http://www.usccb.org/about/resettlement-services/world-refugee-day.cfm>

www.justiceforimmigrants.org/OnStrangersNoLonger.htm (United States Conference of Catholic Bishops. January 2003.)

¹https://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20160908_world-migrants-day-2017.html

²<http://www.usatoday.com/story/news/nation/2014/06/17/children-surge-immigration-texas/10643609/>

³ Angelus, St Peter's, 16th January 2017

⁴ It should be noted that the Green Paper is at pains to point out that these proposals are not to be thought of as contrary to the policy of non-encampment which has always been part of South Africa's refugee philosophy.

⁵ See para 37(b) of the Convention. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁶ See www.aph.gov.au/Parliamentary.../House_of_Representatives_committees?.../detention

⁷ *Ibid.*

⁸ *Ibid.*

⁹ www.usccb.org/about/migration-policy/upload/

¹⁰ *Exsul Familia Nazarethna*, 1952

¹¹https://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20160908_world-migrants-day-2017.html

¹² <http://time.com/4589651/pope-francis-global-forum/>

¹³ *Ibid.*