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THE RIGHT TO TRAVEL AND MIGRATE

JAMES J. NORRIS*

OUR LATE BELOVED HOLY FATHER, Pius XII, never lost an opportunity to speak out on behalf of the men, women, and children around the world who, living in the hopelessness of refugee camps and hovels, kept their eyes longingly on the faraway lands that could provide a future for them and their children's children. No Pope in history spoke so often and so eloquently on the needs of the refugees and those in heavily populated countries, and their right to a decent living in another land. He was keenly aware of the unjust restrictions on the part of countries that could provide a haven for them, but at the same time he recognized that in the interest of the greater good, a country has the right to prevent an unrestricted flow of immigrants who might disrupt its economy.

In his high vantage point, Pius XII received a never ending flood of appeals from the victims of the war and its aftermath. Touching indeed were the letters written by those poor simple men and women whose last recourse was to pen a letter directly to the Father of Christendom, and even more touching was the concern of His Holiness to see that each one received an answer, and preferably a positive one.

In addition to the letters there came to his door a stream of visitors representing all those who sought his help to resolve their problems. Poles, Czechs, Hungarians, Russians, Chinese, Japanese, Italians, Dutch and many others turned to him to plead their cause.

It was only natural, therefore, that he should do everything within his power to answer these calls for help. Firstly, he made statement after statement on the right to migrate, as a fundamental right based on the natural law. Secondly, through his nuncios and papal representatives around the world he appealed to governments to open their doors to migrants and refugees. Thirdly, working through the Most Reverend Hierarchies, he set in motion the formation of one international agency to concern itself with migration questions, and a number of national agencies

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to occupy themselves with resettlement and integration services. Fourthly, he strengthened the position of the Sacred Consistorial Congregation in its mission for the spiritual care of migrants and, lastly, he issued the Apostolic Constitution *Exsul Familia* which, after giving the history of the Holy See's concern through the centuries for migrants, outlined the norms for the spiritual care of migrants, refugees and foreigners, no matter where they may be.

One of the lesser known statements of the late Pope on the right to migrate was made to a group of American senators in 1946, at a time when his heart was in anguish over the vast displacement of innocent peoples. At that time he said:

It is not surprising that changing circumstances have brought about a certain restriction being placed on foreign immigration. For in this matter not only the interests of the immigrant, but the welfare of the country must also be consulted. However, it is not too much, we are sure, to expect that in the process of restriction, Christian charity and the sense of human solidarity existing between all men, children of the one eternal God and Father, will not be forgotten. Immigration can help in solving one of Europe's saddest human problems, a problem which is being aggravated inhumanely by the enforced transfer of helpless, innocent populations.

This statement is one of the best summaries of the Catholic point of view on the right to migrate and can be used as the basis for a discussion of that natural right.

In a discussion of migration, we must understand that we are not speaking of the right to travel, which is at times called the right to freedom of movement. This freedom of movement is a fundamental human

right which is included in the Universal Declaration of Human Rights, promulgated in December 1948 by the UN General Assembly in these words: "Everyone has the right to freedom of movement and residence within the border of each state." (Art. 13). This is not a new right because it is a natural right; it has always existed. In the 15th century, the Catholic scholar Francisco Victoria gave fourteen reasons to justify travel of Spaniards among the Indians, and among these reasons he stated that "It was permissible from the beginning of the world, when everything was in common, for anyone to set forth and travel wherever he would."

The right to migrate, as distinct from the right to travel, has two aspects: first of all, the right to emigrate, that is, the right of the individual to leave his own country and, secondly, the right to immigrate, that is, the right to come into a country and be accepted there. Whereas the right to emigrate involves only the right to leave a given country, the right to immigrate has three aspects: the right to enter a country, the right to take up residence there, and the right to work in that country. It is, therefore, easy to understand that countries (with the exception of Soviet Russia and its satellites) accept more easily the right to emigrate than the right to immigrate, as the latter has more far-reaching consequences. In fact, the Universal Declaration of Human Rights to which I referred proclaims the right to emigrate in the following words: "Everybody has the right to leave any country, including his own, and to return to his country." Of the right to immigrate, on the other hand, there is no word in the Declaration of Human Rights. This means that it is left to the regulations of the *receiving* country to decide who shall settle there.

In the light of the foregoing, what is the Catholic point of view on the meaning and relation of these rights to *emigrate* and *immigrate*?

Migration was at one time a purely *private* affair touching only the individuals concerned. The right to immigrate, in the 18th and 19th centuries, was considered as a natural outcome of the right to travel, and immigration countries seldom refused entry to anyone, because of the need for hands and heads to increase the strength of the country.

The story of immigration to our own country under these conditions is too well known to bear repetition. On the other hand, what is not so well known is that millions of immigrants fell by the wayside and returned to their country of origin, disappointed at what they found here. The 20th century has seen a great change, with the result that today many immigration countries refuse entry to many individuals without thought for the common good of other nations or of those people who find themselves in a difficult economic situation, through no fault of their own.

The Catholic position on this question is that whereas the right to travel is a free and unrestricted right, the right to emigrate or to immigrate is a natural right which in certain special cases may be restricted by governments.

When may these restrictions be applied? An analysis of papal pronouncements and other Catholic sources show that these restrictions must be based on the moral doctrine of the Church, in harmony with justice and true Christian charity. In the Apostolic Constitution, *Exsul Familia*, the Catholic teaching on the right of individuals, and especially of families, to migrate, and on

the right of restriction by governments of this natural right is clearly set forth.

Restrictive Measures Morally Justified

If we analyze in detail this basic document concerning Catholic principles on migration we find that the late Holy Father condemned, first of all, the principles of totalitarianism which violate the natural right of man to *emigrate*. He refers to his Christmas Message of 1945 and his address to the College of Cardinals in 1946 in which he made declarations on this subject.

As to restrictions on *immigration*, he admitted only those which are tempered with "Christian charity and the sense of human solidarity existing between all men, children of the one eternal God and Father. . . ." He showed that every living being should be able to make use of the earth and that our planet is sufficiently large to permit the right of each family to a living space. This judgment is especially apparent in his letter to the American Bishops in 1948, when he declared that the natural law itself, no less than devotion to humanity, urges that doors be opened to political refugees and other needy persons who are forced to look for work opportunities in other countries.

Restrictions on immigration, when they are necessary, should not be arbitrary, lest such restrictions stem from disregard of man's rights and from worship of power, and not from any sound moral reason. The pretext of a common good "falsely apprehended or falsely applied, yet sanctioned and made mandatory by legal provisions or administration," must be condemned.

Consideration of Catholic Doctrine

Catholic scholars, in line with the above papal declarations, have tried to answer the

question — what *economic* reasons justify limitation of the right to immigrate? In some countries, trade unions, and some experts, maintain that the free right to immigrate may endanger three aspects of a country's economy: 1) living conditions, 2) working conditions, especially the unemployment situation, 3) the level of income and productivity. Father Antonio Perotti, an Italian expert who has made a special study of this problem, has arrived at the conclusion that "it is very difficult to prove, with the means offered at present by the science of economics and immigration statistics, that immigration is a factor detrimental to the economic standard." He shows from both the historical and economic point of view that a cause and effect relationship between immigration and economic crisis is quite superficial. "The State is not free," he writes, "to act according to its will and whim, but it is bound to justify its policy of limitation. . . . The end of the economic activities of human society is to insure the maintenance of its people, not vice-versa. Therefore, the limitation of the exercise of a natural right may *not* be justified whenever it is dictated not . . . by the real, common good, but by a predestined economic structure."

A report summing up the conclusions on the right to migrate was submitted to the International Catholic Migration Commission Congress at Breda, Holland, in 1954. This report was the result of studies made by the ICMC Information Center and it makes the following points:

Taking into account reservations made by the immigration countries and in order not to change the present situation too abruptly, a reasonable degree of restriction would seem advisable, at least during the transition period; the following suggestions

may, therefore, be taken into consideration:

a) consular or administrative control on arrival in the immigration country should be admitted only for reasons of national security (agitators, politically undesirable), public safety (criminals), public health (mentally sick or those suffering from infectious diseases), and public morality (immoral persons);

b) immigration countries should avoid those measures which aim at safeguarding, in an exaggerated way, their spiritual, cultural, and linguistic heritage, but facilitate the integration of immigrants by their dispersal among communities and in surroundings most favorable to their adaptation;

c) immigration countries should have the right to restrict immigration for economic reasons only in case of mass movements which would menace the equilibrium of industrial centers; in these cases immigrants could be directed to rural or other regions where new forms of industry may be created.

The Australian Bishops, in their Social Justice Statement of 1953, *Land Without People*, arrived at the same conclusions, in these words:

There is a natural right to immigration and emigration which may not morally be denied or nullified by the acts of governments. Reasonable regulation of migration is legitimate; to use apparently *reasonable* regulations in fact as a means of denying the right is not legitimate. Consideration of national sovereignty over unoccupied or unused territory may not be carried so far that free access to the earth's bounty . . . should be denied to needy but worthy persons who have been born elsewhere.

The only conclusion that can be drawn from all the statements of the Pope and others is that the material goods of this world were created for all, and not for a select few; the human family is one — all must have access to the earth's abundance; all must have a sense of responsibility for

the welfare, both spiritual and material, of all our brothers on the face of the earth, be they white, yellow, brown, or black. The solidarity of the human family demands that this be a matter of concern to each of us as individuals — we may not shirk this responsibility.

Lest there be a misunderstanding, I should like to make clear that I do not feel that migration is the sole solution to the world problems of population and refugees. It is only one of the solutions, and not the one that will solve the problem for the majority of such people. Nevertheless, we must recognize that for vast numbers of people migration is the only answer to their problem. What other solution is there for the peoples of the Netherlands, Italy, and Greece, whose economies cannot possibly expand to the point where they will support their annual population increase as well as the refugees on their soil? What other possible solution can there be for the refugees from Yugoslavia who are daily fleeing into Italy and Austria? What of the refugees who have been waiting for years in the camps of

Germany and Austria? These are examples of those to whom the application of the right to migrate has a real and vital meaning. Must they go on looking to a future of hopeless despair, while a near-sighted selfish concern keeps doors closed to them? I say near-sighted because these people bring assets and ultimately riches to their new country. One has only to look around and see that the level of living standards is raised and the economies prosper most in those countries where immigration has taken place in substantial numbers.

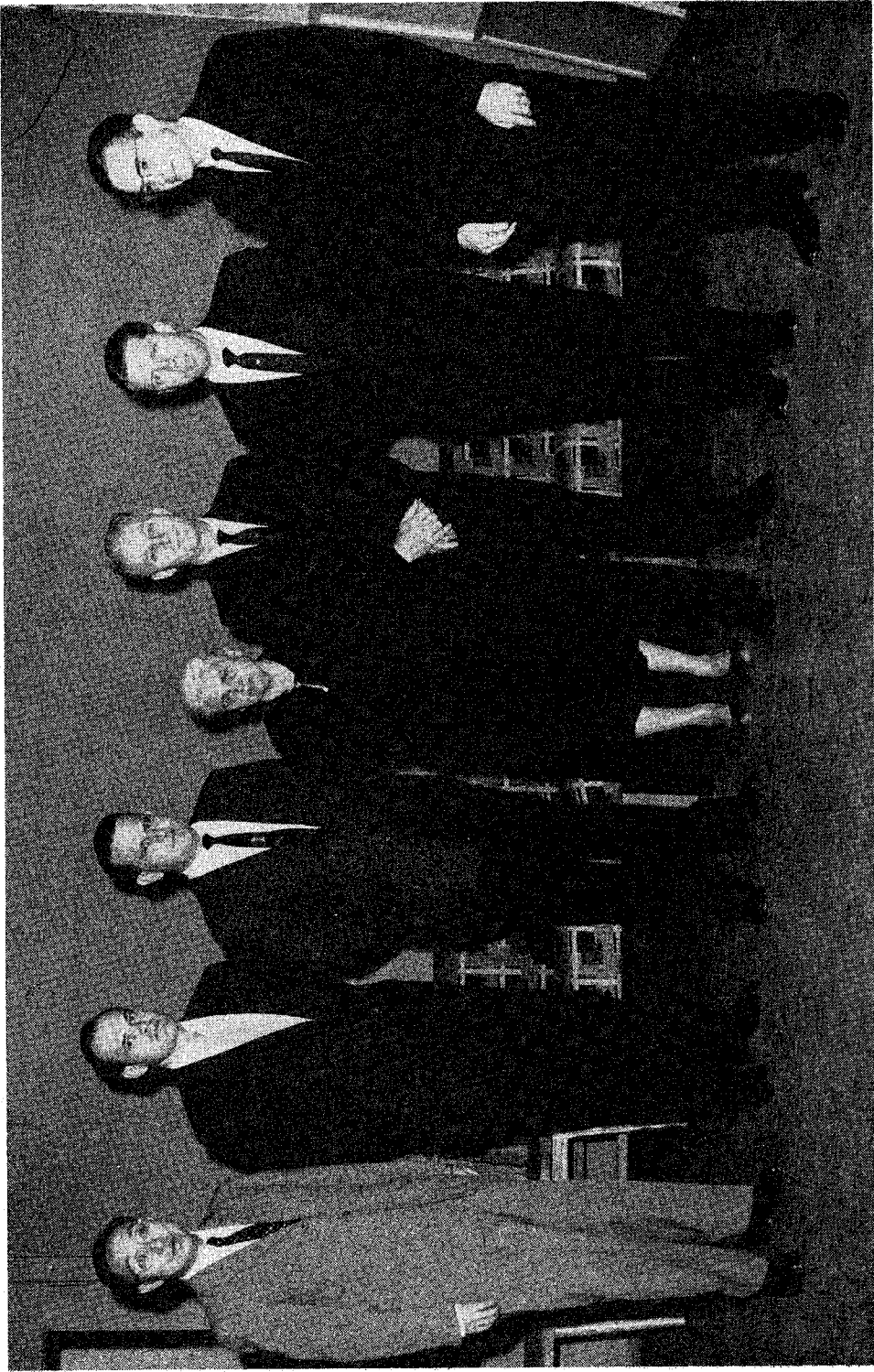
During World Refugee Year our hands and hearts must go out to refugees wherever they may be: 200,000 Algerians in Morocco and Tunisia; 1,000,000 Palestine Arabs; 1,000,000 Chinese in Hong Kong; the aged; the tubercular, the physically handicapped—these and all the able-bodied who have a claim, in both charity and justice, on our help in building new lives, either where they are now living in despair or in a new homeland, where they can exercise their God-given right to raise their families in dignity and decency.

ROLE OF FORCE

(Continued)

aggressions throughout the world, he explained to his candidates the symbolic meaning of the slap on the cheek. He was making those men and women soldiers of Christ in a world where Christ and all He stands for are under relentless attack. So

he reminded them that they might be called upon to fight and die for their faith. This thought must be with us always. We must work for peace through the successful development of a true international juridical order but we must be willing to fight and die for such an order and for justice, the only true basis for peace.



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