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ETHICAL PRINCIPLES OF REFUGEE PROTECTION IN THE EU: GUIDELINES FOR CHURCH ACTION

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The Catholic Church has always cared for forced migrants, extending a special pastoral care to them. Such a commitment has intensified in the last 70 years, thanks in part to a new general sensitivity that stems from the recognition of refugees as people entitled to international protection.

In this contribution I would like to start by presenting a summary of the teaching of the Catholic Church on refugees from Pius XII to Pope Francis. Subsequently, I will highlight the main concerns expressed in the most recent magisterial documents and conclude with a few suggestions on how the Catholic Church might translate the magisterial indications into pastoral care for refugees.

From Pius XII to Pope Francis

The magisterial documents are codified expressions of the Church's teaching ministry. In the case of human mobility, such codification started in 1952 with the Apostolic Constitution *Exsul Familia Nazarethana*. Considered as the *magna carta* of the pastoral care of migrants, this document summarizes and integrates the various strands of reflection of the Catholic Church on human mobility in earlier centuries. In the first part of the document refugees are mentioned 54 times, either alone or together with migrants and exiles, as a constant concern of the maternal care of the Catholic Church.

Inspired by Vatican II, in 1969 the Congregation of Bishops issued the Instruction *Nemo est*, which acknowledges human mobility as a complex

phenomenon that needs specialized pastoral care offered jointly by priests, religious and lay people. Although refugees are mentioned only 3 times in this Instruction as one of the target groups addressed by the migrant ministry, it is reasonable to interpret most of the recommendations in the document as referring also to the pastoral care of refugees.

Nine years later the Pontifical Commission for the Pastoral Care of Migrants and Itinerant People published the Circular Letter *Chiesa e mobilità umana*. The main document does not mention refugees, but its long pastoral Annex 7 is dedicated totally to refugees and exiles, since «The condition of exiles and refugees, whether it will be recognised legally or only de facto, is a strong stimulus to action on the part of the Church to give them the necessary guarantees of advancement as opportunity offers».

In 1986 the Pontifical Council for the Pastoral Care of Migrants and Itinerant People and the Pontifical Council *Cor Unum* jointly issued the document “Refugees: A Challenge to Solidarity” with the explicit purpose of calling attention to the inhumane conditions of refugees and promoting international solidarity towards the effects and the root causes of their situation. It is the first magisterial document *ex professo* on refugees and it introduces a series of reflections grounded in the social doctrine of the Church and clear pastoral guidelines for prompt and effective action.

In 2004 the Pontifical Council for the Pastoral Care of Migrants and Itinerant People issued the instruction *Erga migrantes caritas Christi*. This document refers explicitly to refugees 26 times. In most cases they are mentioned together with migrants, pointing out that the pastoral reflections and recommendations envisioned in the instruction are to be applied to both categories. The two exclusive references to refugees state the historical increase of refugees and the need for a specific pastoral care for refugees and exiles.

Under the pontificate of Benedict XVI, in 2013, the Pontifical Council for the Pastoral Care of Migrants and Itinerant People and the Pontifical Council

Cor Unum (2013) issued the pastoral guidelines titled 'Welcoming Christ in Refugees and Forcibly Displaced People.' The document is the result of a theological and pastoral research and is intended to serve as an update of the 1992 document 'Refugees, A Challenge to Solidarity' for all pastoral workers and all men and women of good will.

From 2013, in words and deeds, Pope Francis repeatedly shows his deep compassion for refugees. Witness his encounters with asylum seekers and refugees on the Islands of Lampedusa and Lesbos and his many appeals in favour of forced migrants.

According to the pastoral understanding of the Holy Father, there are three timeframes which the activities of the pastoral care of refugees should be set in. The first timeframe includes a series of short-term actions designed to save the lives of asylum seekers and refugees. The second timeframe comprises medium-term objectives and those activities intended to formulate asylum policies and programmes that acknowledge the centrality of the human person and its integral human development. The last timeframe features long-term activities and expresses the Church's commitment to eradicate the underlying causes of forced migration.

On two occasions the Holy Father introduced the life jacket as a tangible sign of the activities that the Church is called to carry out in order to safeguard the lives of millions of asylum seekers and refugees. Such protection arises from a call for mutual responsibility, which is the responsibility of all. The first life jacket is sincere and fervent prayer that works miracles and can conquer our disbelief. The second short-term action consists in reporting the violations and abuses of which many migrants and refugees are victims (Francis, 2014a). The third short-term action is rescuing asylum seekers and refugees and protecting their dignity.

The Church's medium-term strategy has been admirably summarised by Pope Francis in four verbs: to welcome, to protect, to promote and to integrate. They stand for the four pillars of a coordinated and effective action

in response to the challenges of present-day forced migration, an action that the Church must develop in collaboration with all political and social stakeholders, in order to bring about a forward-looking governance of migratory flows that will benefit everyone.

With the first verb, *to welcome*, Pope Francis wishes to highlight the need to prefer fraternity to rejection, thus generously welcoming those who flee suffering and conflict. The Holy Father also recommends to establish legal and safe migratory corridors and provide asylum seekers with accommodation in adequate and decent spaces.

The second verb, *to protect*, refers to the actions needed to protect asylum seekers and refugees from the violence, abuse, and exploitation that they often fall victim to, because of their extreme vulnerability.

The verb *to promote* summarises all the actions that have as their main goal the integral human development of asylum seekers and refugees, as well as that of the communities that welcome them.

Understanding *integration* as a reciprocal process involving both refugees and local communities in an enriching cultural exchange, Pope Francis explains that integration entails the reciprocal explicit commitment of both parties.

The timeframe of actions with long-term effects focuses on the underlying causes of forced migrations: armed conflicts, natural disasters, oppressive regimes and dictatorships, climate crisis, economic disparities among the various regions of the world, unequal distribution of wealth, inadequate and still incomplete decolonization processes, the long-lasting plundering of natural resources in less developed countries, extreme poverty and inhuman living conditions suffered by millions of people, and corruption.

Main concerns

The recent documents of the Universal Magisterium underline that in the third millennium the unfavourable conditions generating forced migration have increased. The contemporary picture is more and more characterized

by 'mixed flows,' where it is difficult to distinguish economic migrants from asylum seekers and refugees. The growing trend by which industrialized countries tend to constrain the recognition of refugee status has provided more "clients" to people smugglers and traffickers. The debate on asylum seekers and refugees is often used for political purposes, and it increases hostile attitudes within local populations towards foreigners. The association of asylum and terrorism, instilled by media reports, contributes to spreading suspicion and xenophobia in receiving societies.

The same documents insist on the necessity of addressing the root causes of forced migration. The magisterial documents remind the international community of their responsibilities, namely the prevention of conflicts through respectful monitoring, formulation of political responses aiming at fostering sustainable local development, and post-war social reconstruction through the promotion of a true reconciliation process engaging the opposite parties and providing long-term financial support.

The same documents denounces the frequent violation of forced migrants' rights. And the first right to be disrespected – though not included in the UN declaration - is the right 'not to have to migrate,' which means that every human being has the right to live peacefully and decently in his/her own home country. When the conditions for a peaceful and decent life are not assured, people have the right to migrate elsewhere. And when such movement is marked by coercion, official protection should be secured, even in the case of stateless people, IDPs and victims of human trafficking. Other rights of migrants include the right of the refugee family to stay together; this is often neglected, and the situation has worsened in recent years. Catholic teaching underlines that the right not to migrate translates into the duty of the countries of origin to generate the necessary conditions to guarantee equitable access to the common good for all citizens. The increase of "mixed flows" does not release states from their duty of offering protection to all people who reach their borders to seek asylum because of a reasonable fear of persecution. The principle of *non refoulement* should also

be respected in the case of people rescued at sea. The magisterial documents direct all states to guarantee to forced migrants and their family members the same rights of a citizen - or at least of a resident foreigner -, including the right to freedom of religion. They should also enact specific laws and programs aiming at protecting IDPs, stateless people and human trafficking victims.

The magisterial documents also express particular concern for the confinement of asylum seekers and stateless people in jails, detention camps or transit areas in airports, where personal freedom is considerably limited. The universal magisterium states that, considering the particular conditions of asylum seekers and the negative effects produced by confinement, detention is not the appropriate administrative measure. States should develop alternatives to detention such as monitored community programs, control and information mechanisms, support groups and 'open houses' for families with children. Unaccompanied minors and migrant children should never experience detention.

Connected with the above, there is also the humanitarian challenge of the refugee camps. Millions of refugees are compelled to live permanently in temporary structures, which are often located together in the same geographical region with limited economic resources. Life conditions in refugee camps are often inadequate, leading to frequent internal tensions and conflicts. The situation is even worse when funds and goods are not dispensed regularly and the most vulnerable people suffer the consequences. Sometimes international organizations and media are not allowed to enter the camps where they might witness and denounce disservices and abuses. The magisterial documents remind all governments that refugee camps are meant to be a temporary response to the plight of forced displacement. The international community cannot accept them as a permanent solution. Valid alternatives should be offered to refugees and the members of their families in the short term. Moreover greater international

solidarity should be shown to the developing countries, which are responsible for the majority of refugee camps.

Another concern expressed in the Magisterial documents refers to voluntary repatriation, which is strongly promoted when the conditions for international protection decay. If not properly assisted, such remigration might merely return refugees to a miserable life in the country of origin. Church teaching calls on the international community to re-examine voluntary repatriation programs. Personal safety and dignity and positive social and economic conditions should be guaranteed before proceeding to repatriation. It is essential to effectively link humanitarian relief and sustainable development, assuring the restoration of infrastructure, health, education, agriculture, employment and priority access to food.

According to the Magisterial document, the phenomenon of 'urban refugees' deserves special attention. Protecting refugees, who, with or without authorization, have left the camps to settle in urban areas, is especially complicated since in most of the cases there is no specific program for them. The magisterial documents remind national and local governments of their responsibilities in upholding the protection and rights of all refugees and members of their families, assuring the registration of refugees' children at birth to avoid statelessness, employment possibilities, access to education and legal residence. UNHCR might be of great help through the release of personal documents stating their status.

Recommendations for Action

The Catholic Church is called to provide a comprehensive and coordinated pastoral response to the challenges posed by asylum seekers and refugees today. Such a response should consider three different areas of action: advocacy, assistance and mission.

Catholics are called to engage in a resolute exercise of advocacy aimed at improving legislation, policies and programmes addressing asylum seekers and refugees, to bring about greater protection and promotion of all people

involved. This advocacy work, grounded in the social teachings of the Catholic Church, should also seek the enhancement of legal pathways and quotas for refugees.

In continuity with her long-standing charitable tradition, the Catholic Church is called to cater to the basic needs of asylum seekers and refugees, offering well-chosen assistance and services to achieve their integral human development. Most of the time, it would be enough to include them in the services that Catholic communities and centres are already offering to disadvantaged brothers and sisters. Special services, to be developed ad hoc, can take inspiration from the countless best practices of the Catholic Church all over the world.

From a missionary perspective, as Pope Francis stated, the presence of asylum seekers and refugees of other religions «can be seen as a new ‘frontier’ for mission, a privileged opportunity to proclaim Jesus Christ and the Gospel message at home, and to bear concrete witness to the Christian faith in a spirit of charity and profound esteem for other religious communities».