

## POPE JOHN PAUL II AND IMMIGRATION LAW AND POLICY

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### INTRODUCTION

The immigration debate in the United States and in other developed countries has proved vitriolic and divisive, one view espousing limited immigration based on a stringent selection process reflecting the interests of the inhabitants and the other advocating a more open border in which the needs and desires of intending immigrants are considered.<sup>1</sup> The debate is fueled by the unlawful presence of millions of foreigners in the United States, as well as by concerns for security from overseas terrorists.<sup>2</sup> Some also point to the risks of entry by terrorists due to porous borders.<sup>3</sup> Conversely, others favor making immigration easier, and giving those here without status the opportunity to obtain work authorization and eventual citizenship.<sup>4</sup> Both sides tend to view immigrants as objects—either as workers or as welfare recipients or criminals. While one side sees a benefit to their presence, the other views them as a burden. Neither side considers immigrants as subjects, with both rights and responsibilities. The Catholic Church has proposed an alternative solution to migration issues, which addresses the immigrant as a

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1. *Immigration: Debate Meets Reality*, ECONOMIST, May 19, 2007, at 30–32; see also Bruce Moyer, *Immigration Debate Divides Congress and the Country*, FED. LAW., May 2006, at 8.

2. See Tamar Jacoby, *Immigration Nation*, 85 FOREIGN AFFAIRS 50, 50 (2006) (estimating that twelve million illegal immigrants already live and work in the United States).

3. See generally Tophher Greene, *The Importance of Improving U.S. Immigration Law and the Changes Made Since 9-11*, 4 REGENT J. INT'L L. 101 (2006) (providing an account of changes in immigration policy since 9/11).

4. See Jacoby, *supra* note 2, at 50 (claiming that most Americans are proud of our continuing heritage as a “nation of immigrants,” and calling for earned citizenship for illegal immigrants).

subject, through its social teaching, as expressed in encyclical letters,<sup>5</sup> addresses, and other public statements of church leaders. The late Pope John Paul II was a particularly active advocate for this position, calling for respect for the humanity, dignity, and needs of the immigrant, while recognizing the impact on both the community the migrant leaves and the one he enters.

The first secular viewpoint in the immigration debate can be characterized as Communitarian Particularism.<sup>6</sup> As articulated by Michael Walzer, citizens have an absolute right to select who can join them in their nation.<sup>7</sup> This view was first formally espoused in 1889 by the U.S. Supreme Court in the “Chinese Exclusion” cases.<sup>8</sup> The Court held that a nation’s right to exclude noncitizens was unlimited, without regard to binding treaties or due process.<sup>9</sup> In fact, from 1924 until 1965, Congress effectively limited immigration to economically sound applicants from Northern Europe.<sup>10</sup>

Those holding the opposing view, Liberal Egalitarianism, as enunciated by John Rawls<sup>11</sup> and enhanced by Bruce Ackerman,<sup>12</sup>

5. These are letters written by the pope and ordinarily addressed to all bishops and other ordinaries, although they may be directed toward all Catholics or limited to a specific group or region. OUR SUNDAY VISITOR’S CATHOLIC ENCYCLOPEDIA 374 (Rev. Peter M.J. Stravinskias ed., 1998) (“Encyclicals express the mind of the Holy See on matters of greater importance.”). For a discussion of the themes, significance, and timing of social encyclicals, see THOMAS MASSARO, S.J., LIVING JUSTICE: CATHOLIC SOCIAL TEACHING IN ACTION 72–79 (2000).

6. See generally Michael Scaperlanda, *Immigration Justice: A Catholic Christian Perspective*, 1 J. CATH. SOC. THOUGHT 535 (2004) (describing and critiquing both secular viewpoints).

7. See MICHAEL WALZER, SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY 52, 61 (1983).

8. *Chae Chan Ping v. United States*, 130 U.S. 581 (1889).

9. *Id.* at 603–04. The Court stated:

That the government of the United States, through the action of the legislative department, can exclude aliens from its territory is a proposition which we do not think open to controversy. Jurisdiction over its own territory to that extent is an incident of every independent nation. It is a part of its independence. If it could not exclude aliens it would be to that extent subject to the control of another power.

*Id.*

10. See E.P. HUTCHINSON, LEGISLATIVE HISTORY OF AMERICAN IMMIGRATION POLICY 1798–1965, at 185–210, 214–311, 314–79 (1981) (describing the immigration restrictions imposed during that time period).

11. See JOHN RAWLS, A THEORY OF JUSTICE 538 (1971) (describing egalitarianism as the doctrine that all social primary goods are to be distributed evenly among individuals, including liberty and wealth).

12. See BRUCE A. ACKERMAN, SOCIAL JUSTICE IN THE LIBERAL STATE 93 (1980) (asserting that citizens and non-citizens alike should have the opportunity to avail themselves of the advantages of the “ideal liberal state”).

would open national borders for all to enter absent a specific reason for exclusion. As Ackerman wrote, "The liberal state is not a private club . . . . I cannot justify my power to exclude you without destroying my own claim to membership in an ideal liberal state."<sup>13</sup>

The political results of these contrasting views can be seen in the conflicting, recently drafted legislative initiatives in the U.S. Congress: one group seeking to build a fence<sup>14</sup> and criminalize unlawful presence,<sup>15</sup> and the other espousing a guest-worker program and even amnesty.<sup>16</sup>

The Catholic Church, through its presentation of social doctrine, has been resolute in examining the plight of migrants<sup>17</sup> and suggesting responses to the underlying causes of migration. While John Paul II generally based his views on prior Catholic social teaching, the strenuousness of his efforts and the pointed vehemence of his comments leave little doubt that he spoke with sincerity and particular conviction on these matters.

This Article begins with suggested reasons for John Paul II's deep commitment to migration issues, followed by a discussion of those key principles of Catholic social doctrine that provide a foundation for the Catholic approach to migration policy. The Pope's views on migration policy are then examined. I conclude with an analysis of the lasting impact of John Paul II's efforts on the current immigration debate, in the United States and internationally.

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13. *Id.*

14. The legislation sponsored by those holding this view was passed in Congress and was signed into law by President Bush on October 26, 2006. Secure Fence Act of 2006, Pub. L. No. 109-367, 120 Stat. 2638.

15. *See, e.g.*, The Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, H.R. 4437, 109th Cong. §§ 109-345, 603 (2005). This bill was passed by the House of Representatives on December 15, 2005, but died in the Senate.

16. President Bush and the U.S. Senate have repeatedly endorsed the establishment of a "guest-worker" visa program that would provide aliens with eventual rights to permanent residence and citizenship. *See* Gebe Martinez, *Guest Worker Program Clears Key Senate Panel*, HOUS. CHRON., Mar. 28, 2006, at A1.

17. Pope John Paul II has stated that, "[O]f all the human tragedies of our day, perhaps the greatest is that of refugees." Pope John Paul II, *Ad exsules et profugos in loco «Morong» commemorantes habita* [Address to Refugees in Exile at Morong] ¶ 3 (Feb. 21, 1981), in 73 ACTA APOSTOLICAE SEDIS 388, 390 (1981). The United Nations High Commission on Refugees estimates that by the end of 2006 there were 32.9 million refugees, asylum seekers, and others of concern, globally. UNITED NATIONS HIGH COMM'R FOR REFUGEES, 2006 GLOBAL REFUGEE TRENDS 2 (2007), available at <http://www.unhcr.org/statistics/STATISTICS/4676a71d4.pdf>.

## I. BASES FOR POPE JOHN PAUL II'S VIEWS

Before John Paul II was pope,<sup>18</sup> he was a bishop in a repressive communist country.<sup>19</sup> Before he was a bishop, he was a philosopher, and before he was a philosopher, he was a poet,<sup>20</sup> a playwright,<sup>21</sup> and a laborer in a stone quarry.

In 1939, Nazi occupiers arrested all of the professors at the Jagelonian University, where Karol Wojtyła, who would become Pope John Paul II, was a student.<sup>22</sup> Wojtyła himself was forced to work as a laborer for four years in a quarry and later at a chemical plant. This

18. Karol Wojtyła was elected in the conclave held on October 16, 1978, where he took the name of John Paul II. He inaugurated his ministry as the 263rd successor to St. Peter on October 22, 1978. His pontificate was one of the longest in church history, lasting twenty-seven years, ending with his death at the age of eighty-four on April 2, 2005. Holy See Press Office, His Holiness John Paul II: Short Biography, [http://www.vatican.va/news\\_services/press/documentazione/documents/santopadre\\_biografie/giovanni\\_paolo\\_ii\\_biografia\\_breve\\_en.html](http://www.vatican.va/news_services/press/documentazione/documents/santopadre_biografie/giovanni_paolo_ii_biografia_breve_en.html) (last visited Oct. 26, 2007). See generally JAROSLAW KUPCZAK, O.P., DESTINED FOR LIBERTY: THE HUMAN PERSON IN THE PHILOSOPHY OF KAROL WOJTYŁA/JOHN PAUL II (2000) (depicting a timeline of Pope John Paul II's life).

19. Before becoming Pope John Paul II, Father Karol Wojtyła was named an auxiliary bishop of Krakow on July 4, 1958 by Pope Pius XII. As a bishop, Karol Wojtyła played an active role in the Second Vatican Council, published books, poems, and plays, and engaged the communist authorities in Poland in religious diplomacy. He was made a cardinal by Pope Paul VI on June 28, 1967. As a cardinal, in addition to the tasks he took on as bishop, he participated in various church synods and engaged in extensive international travel. See GEORGE WEIGEL, WITNESS TO HOPE: THE BIOGRAPHY OF POPE JOHN PAUL II 145–234 (1999).

20. Karol Wojtyła began writing poems when he was a child. He completed his first volume of poetry, *Renaissance Psalter* (unpublished) in 1939. *Id.* at 16. Later, as a priest, he began publishing his poetry pseudonymously, beginning with his poem cycle *Song of the Brightness of Water* in the Polish paper *Tygodnik Powszechny*. *Id.* at 88. While a bishop, he wrote the poems *The Church* in 1963 and *Holy Places* in 1965, both of which were published in *Znak*, a monthly newsletter. *Id.* at 145–46. After becoming Pope John Paul II, many of his previously unpublished poems were released in collections. See, e.g., KAROL WOJTYŁA, COLLECTED POEMS (Jerzy Peterkiewicz trans., 1982) [hereinafter COLLECTED POEMS]. Additionally, he continued writing poetry long after becoming pope, and these later poems can be found in collected volumes. See, e.g., THE POETRY OF POPE JOHN PAUL II: ROMAN TRIPTYCH MEDITATIONS (Jerzy Peterkiewicz trans., 1st ed. 2003).

21. Karol Wojtyła began acting in and directing plays during his high school years. See TAD SZULC, POPE JOHN PAUL II: THE BIOGRAPHY 62, 72 (1995); WEIGEL, *supra* note 19, at 16. He continued his acting career at the Jagiellonian University in Krakow and in an underground theatrical organization called “The Rhapsodic Theater” during the Nazi occupation of Poland. JOHN WHALE ET AL., THE MAN WHO LEADS THE CHURCH 15 (John Whale ed., 1980). During this time, he wrote the plays *David* (which is now lost), *Job*, and *Jeremiah*. SZULC, *supra*, at 109–10. After becoming a priest, Father Wojtyła completed the play *Our God's Brother* in 1950, and later, in 1960, he penned his most famous play, *The Jeweler's Shop*. See WEIGEL, *supra* note 19, at 88, 112–17. *The Jeweler's Shop* and *Our God's Brother* were both later made into films. *Id.* at 874 n.101, 875 n.105.

22. See WHALE, *supra* note 21, at 15.

was dangerous, brutal work.<sup>23</sup> Later, as pope, John Paul II repeatedly spoke of his veneration of work, including hard physical labor.<sup>24</sup> It was one of the bases for his continued insistence on the right of men and women to migrate so that they could find meaningful work.<sup>25</sup>

In addition to his experiences as a quarryman, several other experiences in his youth may have guided John Paul II to take a special interest in the rights of migrants and the causes of migration.<sup>26</sup> Karol grew up in a house owned and occupied by a Jewish family and played on a Jewish soccer team.<sup>27</sup> Throughout his life, Karol Wojtyła showed uncharacteristic concern for those of different faiths and backgrounds.<sup>28</sup> His humanistic education and artistic activities

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23. Karol Wojtyła worked as a manual laborer for the Solvay chemical company from 1940 to 1944. WEIGEL, *supra* note 19, at 55. He spent one year working in the Zakrzówek quarry and the remaining three working in the chemical factory in Borak Fałęcki. *Id.* at 55–56. He spent his time in a quarry shoveling limestone into miniature railway cars at the bottom of the quarry pit; each worker was required to break up limestone and fill a rail car with it each day—with only one fifteen-minute break. *Id.* at 56. At the factory, he hauled buckets of lime back and forth from the factory’s water purification unit, but the working conditions were much better than at the quarry. *Id.* at 56. According to Weigel, through his manual labor Wojtyła developed a deeper understanding of the meaning of work and of the urban manual laborers who did such work with an “innate dignity.” *Id.* at 57. “The built-in tensions of work, Wojtyła suggests, find their resolution in the transcendent dignity of the worker, who can never be reduced to a mere unit of production.” *Id.* at 58.

24. In one of his poems, *The Quarry*, Wojtyła wrote about the transcendence of work:

Work starts within, outside it takes such space  
that it soon seizes hands, then the limits of breath.  
Look—your will strikes a deep bell in stone,  
thought strikes certainty, a peak  
both for heart and for hand.

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With work then it begins: the growing in the heart and the mind,  
great events, a multitude of men are drawn in.  
Listen to love that ripens in hammers, in even sounds.  
Children will carry them in to the future, singing:  
“In our fathers’ hearts  
work knew no bounds.”

Karol Wojtyła, *The Quarry*, translated in COLLECTED POEMS, *supra* note 20, at 63, 66.

25. See, e.g., Pope John Paul II, *The Church and Illegal Immigrants: Message for World Migration Day (July 25, 1995)*, in 41 POPE SPEAKS 8, 8–11 (1996) [hereinafter 1995 World Migration Day Message].

26. See JO RENEE FORMICOLA, POPE JOHN PAUL II: PROPHETIC POLITICIAN 212–13 (2002). Formicola argues, “Everything in his life has been a prologue to his papacy, and everything about his papacy reflects the values of his family, his nationality, and his religion.” *Id.* at 13.

27. See SZULC, *supra* note 21, at 60, 67–68.

28. See, e.g., DARCY O’BRIEN, THE HIDDEN POPE 379–87 (1998) (discussing John Paul II’s efforts to curb anti-semitism). John Paul II was the first pope to formally address a Muslim

deepened his interest in the details of the real world and sharpened his visual acuity of life's processes.

When the Nazis invaded Poland, it became evident that they would occupy Krakow, where Wojtyła was living with his father.<sup>29</sup> The two of them became refugees along with tens of thousands of other Poles and headed east to avoid the Nazi occupation.<sup>30</sup> They traveled more than ninety miles before they turned back because his father could not handle the journey.<sup>31</sup> Having temporarily been a refugee himself, it is easy to see why John Paul II had a special sympathy for immigrants and refugees.

While Karol Wojtyła's youthful experiences may have influenced his views, one cannot overstate the innate strength of his feeling of self-giving love for others, which manifested itself in his respect for others regardless of their position in life. According to Derek Jeffreys, in his biography of the Pope, John Paul II exhibited a profound self-giving love in his words and in his actions.<sup>32</sup> In one of his writings as Bishop, Wojtyła stated that the gift of self is essential to promoting the universal common good. He wrote that such love can be "a force which joins and unites, of its very nature inimical to division and isolation."<sup>33</sup> This deeply felt altruism gave him special sympathy for the disadvantaged, and specifically for European refugees following World War II and during the Soviet takeover of Eastern Europe.

The Pope's views on migration were also clarified through application of his philosophical viewpoint, which developed his feelings of unity with others, especially the oppressed, and his passion for this world. Using the tools and methods of philosophy, he believed he could create a unified structure for explaining and defending his views.<sup>34</sup> His philosophical training began in secret in

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audience at the invitation of a Muslim leader, speaking to 80,000 young people in Casablanca, Morocco in 1985. See WEIGEL, *supra* note 19, at 498–99.

29. See SZULC, *supra* note 21, at 100.

30. *Id.*

31. *Id.* at 100–01.

32. See DEREK S. JEFFREYS, DEFENDING HUMAN DIGNITY: JOHN PAUL II AND POLITICAL REALISM 51–54 (2004). Jeffreys concludes: "This capacity to enter into a communion of persons constitutes for John Paul II the true mark of human dignity and value." *Id.* at 54.

33. KAROL WOJTYŁA, LOVE AND RESPONSIBILITY 85 (H.T. Willetts trans., Ignatius Press 1993) (1960).

34. See WHALE, *supra* note 21, at 53–56.

an underground seminary in Krakow during the Nazi occupation.<sup>35</sup> As he related:

My literary training, centered around humanities, had not prepared me at all for the scholastic theses and formulas . . . . I had to cut a path through a thick undergrowth of concepts, analyses and axioms without even being able to identify the ground over which I was moving. After two months of hacking through this vegetation I came to a clearing, to the discovery of the deep reasons for what until then I had only lived and felt.<sup>36</sup>

Pope John Paul II's brand of philosophy classified him as a phenomenologist.<sup>37</sup> Biographer Jaroslaw Kupczak commented in his treatise that the Pope trusted experience more than words and liked to reflect on the whole of things.<sup>38</sup> Based on the work of Edmund Husserl, John Paul II used the methods of phenomenology to link Christian ethics to the real world.<sup>39</sup> This strong interest in exploring the phenomena of existence encouraged him to examine social issues and human activities for their deeper meaning, rather than concentrate solely on more abstract theological and philosophical issues. The challenges facing migrants and the causes of forced migration were among the phenomena he contemplated. Biographer Samuel Gregg concurs that John Paul II directed Catholic social thought by stressing the "moral-anthropological dimension," which focuses upon "man as a free and creative subject capable of self-realization as that which he ought to be."<sup>40</sup>

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35. MIECYSLAW MALINSKI, POPE JOHN PAUL II: THE LIFE OF KAROL WOJTYLA 47 (P.S. Falla trans., 1981).

36. KUPCZAK, *supra* note 18, at 49.

37. "[P]henomenology is a sustained effort to bring back into philosophy everyday things, concrete wholes, the basic experiences of life as they come to us." Michael Novak, *Introduction* to KUPCZAK, *supra* note 18, at xiii.

38. KUPCZAK, *supra* note 18, at 58–66. Kupczak notes that Wojtyła had early experiences that "prepared him for a fruitful exchange with phenomenology by concentrating his attention on the epistemological importance of human experience." *Id.* at 58. Wojtyła further came to believe that ethics must take into account "the whole content of the human experience." *Id.* at 60.

39. ROCCO BUTTIGLIONE, KAROL WOJTYLA: THE THOUGHT OF THE MAN WHO BECAME POPE JOHN PAUL II 54, 270 (Paulo Guietti & Francesca Murphy trans., 1997).

40. SAMUEL GREGG, CHALLENGING THE MODERN WORLD: KAROL WOJTYLA/JOHN PAUL II AND THE DEVELOPMENT OF CATHOLIC SOCIAL TEACHING 7 (1999) (emphasis omitted).

John Paul II's experiences as Pope also strengthened his interest in migration issues. A remarkably energetic man,<sup>41</sup> he traveled more than any other pope, to more than one hundred countries; he was seen by more people than anyone else in history; and he was able to greet people in more than one hundred languages.<sup>42</sup> His exposure to so many different cultures must have instilled in him a sense of both the unity of man and the struggles that inefficient or corrupt societies place on the ability of individuals and families to realize and to maintain their innate human dignity.

Thus, we can find reasons for John Paul II's advocacy for migrants in his childhood friendships with those of other religions, in his life under Nazi and Soviet occupation, in his philosophical training, and in his experience as a leader in the Catholic Church. It is misleading and demeaning, however, to see the Pope as merely reacting to exterior forces in zealously advocating for migrants. He synthesized his experience, his education, and his training to create a powerful and detailed argument for welcoming the stranger.

## II. UNDERLYING PRINCIPLES OF CATHOLIC SOCIAL DOCTRINE

One cannot neglect crediting the traditions and mission of the Catholic Church in providing a firm foundation for Pope John Paul II's views on social issues, including the right to migrate. He was not the first pope to concern himself with the plight of migrants. Pope Leo XIII (1810–1903) inaugurated the practice of publishing encyclicals that present solutions to social issues from a Catholic perspective.<sup>43</sup> While the Bible makes frequent mention of the duty to welcome strangers and give protection to sojourners,<sup>44</sup> Leo XIII and

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41. Pope John Paul II exercised vigorously, well into his later years, continuing to enjoy downhill skiing into his seventies. See SZULC, *supra* note 21, at 421.

42. For his 2004 *Urbi et Orbi* message, Pope John Paul II "delivered Christmas greetings in 62 different languages, including Turkish, Indonesian, Chinese, Tamil, and Esperanto." See *74 Countries to See Pope's Christmas Mass Televised*, CWNEWS.COM, Dec. 23, 2005, <http://www.cwnews.com/news/viewstory.cfm?recnum=41424>.

43. The foundations of Catholic social teaching are laid out in Pope Leo XIII, *Rerum Novarum* [*Encyclical Letter on the Condition of the Working Classes*] (1891) [hereinafter *Rerum Novarum*]. The cornerstone of this teaching is in the sanctity of human life and the inherent dignity of the human person. See *id.* ¶ 31. Pope Leo XIII also enunciated a hierarchy of values, indicating that human life has far greater value than material goods. See *id.* ¶¶ 30–32.

44. See, e.g., *Exodus* 22:21 ("You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt."); *Leviticus* 19:34 ("The stranger who sojourns with you shall be to you as the native among you, and you shall love him as yourself; for you were strangers in the land of Egypt."); *Deuteronomy* 10:18 ("He executes justice for the fatherless and the widow,

subsequent popes richly developed the Catholic Church's position with numerous references to migration, the rights of migrants, and the need for greater social justice to counteract the causes of forced migration.<sup>45</sup>

Before discussing the substance of John Paul II's views on migration, it is useful to briefly present relevant core principles, several of which are distinctive of Catholicism, that serve as the basis for Catholic social doctrine. These core principles include: concern for the sacred nature of the human person, solidarity, subsidiarity, and concern for the universal common good. Each of these explicitly influenced John Paul II's views on migration and, taken together, formed a powerful base for his views.

#### A. *Sacred Dignity of the Person*

In Catholic social doctrine, concern for the person must transcend any interest for society generally.<sup>46</sup> Because God made man in His own image and likeness,<sup>47</sup> human beings have a unique dignity, which cannot be infringed upon.<sup>48</sup> The person, according to Catholic thought, must always be seen as a subjective entity.<sup>49</sup> Human rights are, therefore, based on the dignity that belongs to each person.

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and loves the sojourner, giving him food and clothing."); *Job* 31:32 ("The sojourner has not lodged in the street; I have opened my doors to the wayfarer.").

45. Although the popes' views on migration are not directly founded on magisterial documents, their positions, particularly Pope John Paul II's, are viewed as consistent with the Church's "body of authoritative documents and, thereby, [they] adequately represent[] the formal position of the Church on this matter even if this remains a matter of prudential judgment." ANDREW M. YUENGERT, *INHABITING THE LAND* 5 n.4 (2003).

46. "Human Society is therefore the object of the social teaching of the Church since she is neither outside nor over and above socially united men, but exists exclusively in them and, therefore, for them." CONGREGATION FOR CATHOLIC EDUC., *GUIDELINES FOR THE STUDY AND TEACHING OF THE CHURCH'S SOCIAL DOCTRINE IN THE FOUNDATION OF PRIESTS* 39 (1988).

47. *Genesis* 1:26–27.

48. See NAT'L CONFERENCE OF CATHOLIC BISHOPS, *THE CHALLENGE OF PEACE: GOD'S PROMISE AND OUR RESPONSE* ¶ 15 (1983).

At the center of all Catholic social teaching are the transcendence of God and the dignity of the human person. The human person is the clearest reflection of God's presence in the world; all of the Church's work in pursuit of both justice and peace is designed to protect and promote the dignity of every person. For each person not only reflects God, but is the expression of God's creative work and the meaning of Christ's redemptive ministry.

*Id.*

49. PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH* ¶ 131 (2004) [hereinafter *COMPENDIUM OF SOCIAL DOCTRINE*]. The Council stated:

## B. *Solidarity—The Social Nature of Man*

This emphasis on dignity is not founded simply in personal values,<sup>50</sup> but in the relationship between man and God. As such, these human rights must be accorded to everyone, whether near or far, whether of the same faith or not.<sup>51</sup> The sense of solidarity with others cannot rest merely as a weak sense of empathy.<sup>52</sup> In an address to the United Nations, Pope John Paul II eloquently explained solidarity:

From bitter experience, then, we know that the fear of “difference,” especially when it expresses itself in a narrow and exclusive nationalism which denies any rights to “the other,” can lead to a true

Man exists as a unique and unrepeatable being, he exists as an “I” capable of self-understanding, self-possession and self-determination. . . .

The human person, must always be understood in his unrepeatable and inviolable uniqueness. In fact, man exists above all as a *subjective entity*, as a centre of consciousness and freedom, whose unique life experiences, comparable to those of no one else, underlie the inadmissibility of any attempt to reduce his status by forcing him into preconceived categories or power systems, whether ideological or otherwise.

*Id.* (emphasis omitted).

50. For a probing discussion of the gulf between a declarative human rights framework and that underlying Catholic social doctrine, see generally William Joseph Wagner, *Universal Human Rights, the United Nations, and the Telos of Human Dignity*, 3 AVE MARIA L. REV. 197 (2005).

51. Second Vatican Council, *Gaudium et Spes* [*Pastoral Constitution on the Church in the Modern World*] ¶ 58 (1965), reprinted in THE SIXTEEN DOCUMENTS OF VATICAN II 513, 574–75 (Nat’l Catholic Welfare Conference trans., 1967) [hereinafter *Gaudium et Spes*] (affirming that the Church is not bound to any particular race, religion, or way of life). The Council specifically stated:

Coming down to practical and particularly urgent consequences, this council lays stress on reverence for man; everyone must consider his every neighbor without exception as another self, taking into account first of all His life and the means necessary to living it with dignity, so as not to imitate the rich man who had no concern for the poor man Lazarus.

In our times a special obligation binds us to make ourselves the neighbor of every person without exception, and of actively helping him when he comes across our path, whether he be an old person abandoned by all, a foreign laborer unjustly looked down upon, a refugee, a child born of an unlawful union and wrongly suffering for a sin he did not commit, or a hungry person who disturbs our conscience by recalling the voice of the Lord, “As long as you did it for one of these the least of my brethren, you did it for me.”

*Id.* ¶ 27 (footnotes omitted) (quoting *Matthew* 25:40).

52. “[Solidarity] is not a feeling of vague compassion or shallow distress . . . . On the contrary, it is a firm and persevering determination to commit oneself to the common good . . . .” Pope John Paul II, *Sollicitudo Rei Socialis* [*Encyclical Letter on Social Concern*] ¶ 38 (1987) (emphasis omitted) [hereinafter *Sollicitudo Rei Socialis*].

nightmare of violence and terror. And yet if we make the effort to look at matters objectively, we can see that, transcending all the differences which distinguish individuals and peoples, there is a fundamental commonality. For different cultures are but different ways of facing the question of the meaning of personal existence.<sup>53</sup>

### C. *Subsidiarity*

First formulated by Pope Pius XI,<sup>54</sup> the principle of subsidiarity was developed to apply in a multitude of situations, from Pope Leo XIII's defense of worker's rights,<sup>55</sup> to the rise of totalitarian governments in the late 1920s.<sup>56</sup> This standard seeks to empower lower-level institutions, such as the family and the local community, to meet the needs of persons and fulfill their pursuit of human rights without interference from higher-level institutions. Pius XI wrote:

Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them.<sup>57</sup>

### D. *Universal Common Good*

Because of the primacy of the dignity of all individuals, it is incumbent on all persons and institutions to assist in the fulfillment of

53. Pope John Paul II, Address to the Fiftieth General Assembly of the United Nations Organization (Oct. 5, 1995), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/1995/october/documents/hf\\_jp-ii\\_spe\\_05101995\\_address-to-uno\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/1995/october/documents/hf_jp-ii_spe_05101995_address-to-uno_en.html) [hereinafter 1995 Address to the United Nations].

54. See Pope Pius XI, *Quadragesimo Anno* [Encyclical Letter on Reconstruction of the Social Order] ¶¶ 79–80 (1931), reprinted in CLAUDIA CARLEN, I.H.M., THE PAPAL ENCYCLICALS 1903–1939, at 415, 428 (1990) [hereinafter *Quadragesimo Anno*].

55. See generally *Rerum Novarum*, *supra* note 43 (discussing the condition of the working class).

56. COMPENDIUM OF SOCIAL DOCTRINE, *supra* note 49, ¶ 91 (citing *Quadragesimo Anno*, *supra* note 54).

57. *Quadragesimo Anno*, *supra* note 54, ¶ 79; see also Pope John XXIII, *Mater et Magistra* [Encyclical Letter on Christianity and Social Progress] ¶ 53 (1961), reprinted in CLAUDIA CARLEN, I.H.M., THE PAPAL ENCYCLICALS 1958–1981, at 59, 65 (1990) [hereinafter *Mater et Magistra*].

human rights, regardless of proximity or similarities.<sup>58</sup> This principle minimizes the value of personal, local, or even national benefit, favoring policies that promote the dignity of all individuals.

These four principles—the sacred dignity of the human person, solidarity, subsidiarity, and the goal of universal common good—have great potential for application to the immigration debate. And, as is discussed below, Pope John Paul II applied them to the question of migration, relying on his own experiences and his rigorous philosophical grounding, to create a powerful and cohesive model for balancing the rights of migrants with those of the sponsoring and the hosting countries.

### III. THE VIEWS OF POPE JOHN PAUL II ON MIGRATION

Pope John Paul II spoke and wrote repeatedly about the causes of migration, the rights and responsibilities of migrants, and the duties of the communities the migrants leave and of the communities to which the migrants move. His attitudes and prescriptions can best be understood by reference to the principles described in the preceding section of this Article. As is established in the following discussion, the Pope himself referred frequently to those principles to justify his position on migration policy.

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58. *Gaudium et Spes*, *supra* note 51, ¶ 28 (“Respect and love ought to be extended also to those who think or act differently than we do in social, political and even religious matters.”); *see also* CATECHISM OF THE CATHOLIC CHURCH, ¶¶ 1905–12 (2d ed. 1997). Pope John Paul II spoke forcefully about the universal common good in his 2005 World Day of Peace address, shortly before his death. Pope John Paul II, *Overcoming Evil With Good Is the Key to World Peace: Message for the Celebration of the World Day of Peace* ¶ 5 (Jan. 1, 2005), *in* 50 POPE SPEAKS 130, 132–33 (2005). Pope John Paul II had a similar message in 2000:

We cannot of course foresee the future. But we can set forth one certain principle: *there will be peace only to the extent that humanity as a whole rediscovers its fundamental calling to be one family*, a family in which the dignity and rights of individuals—whatever their status, race or religion—are accepted as prior and superior to any kind of difference or distinction.

This recognition can give the world as it is today—marked by the process of globalization—a soul, a meaning and a direction. Globalization, for all its risks, also offers exceptional and promising opportunities, precisely with a view to enabling humanity to become a single family, built on the values of justice, equity and solidarity.

Pope John Paul II, “Peace on Earth to Those Whom God Loves!”: Message for the Celebration of the World Day of Peace ¶ 5 (Jan. 1, 2000), *available at* [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/peace/documents/hf\\_jp-ii\\_mes\\_08121999\\_xxxiii-world-day-for-peace\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_08121999_xxxiii-world-day-for-peace_en.html) [hereinafter “Peace on Earth to Those Whom God Loves!”].

First, John Paul II maintained that migrants should not be seen as objects, whether as sought-after workers or as economic burdens.<sup>59</sup> The Pope based his views of people on a personalistic norm that viewed all persons as unique and would therefore proscribe using persons merely as a means.<sup>60</sup> Because of his adherence to the principle of protecting the sacred dignity of all persons, he placed human rights above property rights and concluded that a right to migrate exists, one that is broader than that found in the international legal protections for the right to emigrate,<sup>61</sup> or in the limited rights of refugees fleeing persecution.<sup>62</sup>

The Pope identified a collection of rights and duties possessed by migrants and founded all of them on the right to have their human dignity respected, that right from which all other inalienable rights

59. See Pope John Paul II, Message for the World Migration Day 2000 ¶ 5 (Nov. 21, 1999), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/migration/documents/hf\\_jp-ii\\_mes\\_21111999\\_world-migration-day-2000\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/migration/documents/hf_jp-ii_mes_21111999_world-migration-day-2000_en.html).

Aware of the dramas but also of the opportunities inherent in the migration phenomenon and “contemplating the mystery of the Incarnation of the Son of God, the Church prepares to cross the threshold of the third millennium.” In the Incarnation the Church recognizes God’s initiative in making “known to us in all wisdom and insight the mystery of his will, according to his purpose which he set forth in Christ as a plan for the fullness of time, to unite all things in him, things in heaven and things on earth.” Christian commitment draws strength from Christ’s love, which is Good News for all human beings.

In the light of this Revelation, the Church, Mother and Teacher, works so that every person’s dignity is respected, the immigrant is welcomed as a brother or sister, and all humanity forms a united family which knows how to appreciate with discernment the different cultures which comprise it.

*Id.* (citations omitted).

60. POPE JOHN PAUL II, GIFT AND MYSTERY 93–94 (1996).

61. In his 1995 address on World Migration Day, Pope John Paul II stated: “[The Catholic Church] asks what the right to emigrate is worth without the corresponding right to immigrate.” 1995 World Migration Day Message, *supra* note 25, at 9.

62. The United Nations defines a refugee as any person who:

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of *race, religion, nationality, membership of a particular social group or political opinion*, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

United Nations Convention Relating to the Status of Refugees art. 1, *opened for accession* Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267 (emphasis added). Although many persons migrate for reasons other than the five enumerated in the Convention, they are not eligible for international protection as refugees. *Id.*

and duties flow.<sup>63</sup> He enumerated the following rights in his 2001 World Migration Day Address and frequently spoke about them thereafter: the right to have one's own country; the right to live freely in one's own country; the right to live together with one's family; the right to have access to the goods necessary for a dignified life; the right to preserve and develop one's ethnic, cultural, and linguistic heritage; the right to publicly profess one's religion; and the right to be recognized and treated in all circumstances according to one's dignity as a human being.<sup>64</sup>

These rights and duties, according to John Paul II, extend even to illegal immigrants.<sup>65</sup> He believed that those enumerated rights were meant to benefit every person, and were dictated by the concept of a universal common good, extending beyond the interests of communities or even nations.<sup>66</sup>

The Pope did not share the view of the liberal egalitarianists that no limits should be placed on immigration. He recognized that a person's departure from a community injured that community and, thus, could affect the universal common good.<sup>67</sup> Nonetheless, he

63. Pope John Paul II further stated:

The proclamation of the Gospel is directed towards the integral salvation of the human person, his authentic and effective liberation, through the achievement of conditions of life suitable to his dignity. The comprehension of the human being, that the Church acquired in Christ, urges her to proclaim the fundamental human rights and to speak out when they are trampled upon. Thus, she does not grow tired of affirming and defending the dignity of the human person, highlighting the inalienable rights that originate from it.

Pope John Paul II, *The Pastoral Care of Migrants, a Way of Accomplishing the Mission of the Church Today: Message for the 87th World Day of Migration* ¶ 3 (Feb. 2, 2001), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/migration/documents/hf\\_jp-ii\\_mes\\_20010213\\_world-migration-day-2001\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/migration/documents/hf_jp-ii_mes_20010213_world-migration-day-2001_en.html) [hereinafter 2001 World Migration Day Message].

64. *Id.*

65. "Today the phenomenon of illegal migrants . . . cannot allow the migrant to lose his dignity, since he is endowed with inalienable rights, which can neither be violated nor ignored." Pope John Paul II, *Undocumented Migrants: Message for World Migration Day* ¶ 2 (Jan. 1, 1996), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/migration/documents/hf\\_jp-ii\\_mes\\_25071995\\_undocumented\\_migrants\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/migration/documents/hf_jp-ii_mes_25071995_undocumented_migrants_en.html) [hereinafter *Undocumented Migrants*].

66. 2001 World Migration Day Message, *supra* note 63, ¶ 3.

67. *Id.* Pope John Paul II, in fact, believed that it was certain that immigration should be regulated, stating:

The Church recognizes this right in every human person, in its dual aspect of the possibility to leave one's country and the possibility to enter another country to look for better conditions of life. Certainly, the exercise of such a right is to be regulated, because practicing it indiscriminately may do harm and be detrimental to the

recognized that emigration was appropriate and even imperative if a person, despite best efforts, was unable to realize his human rights in his own community. In those cases, destination communities cannot rightfully base exclusion of migrants solely on the desire to protect their own material prosperity.<sup>68</sup>

John Paul II repeatedly applied the principle of solidarity to concern for migrants. In his annual addresses, he defined solidarity as the “means for taking responsibility for those in trouble.”<sup>69</sup> He believed that, because of the principle of solidarity, the residents of destination countries, and particularly affluent residents, have a compelling duty to assist migrants.<sup>70</sup>

### A. *The Right to Migrate*

Pope John XXIII had earlier claimed that persons have a qualified right to migrate.<sup>71</sup> This concept was expanded upon by Pope John

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common good of the community that receives the migrant. Before the manifold interests that are interwoven side by side with the laws of the individual countries, it is necessary to have international norms that are capable of regulating everyone’s rights, so as to prevent unilateral decisions that are harmful to the weakest.

*Id.*

68. *Id.*

69. 1995 World Migration Day Message, *supra* note 25, at 10. He went on to state:

For Christians, the migrant is not merely an individual to be respected in accordance with the norms established by law, but a person whose presence challenges them and whose needs become an obligation for their responsibility. “What have you done to your brother?” The answer should not be limited to what is imposed by law, but should be made in the manner of solidarity.

*Id.* (citation omitted) (quoting *Genesis* 4:9).

70. *See id.* at 9–10.

The Church considers the problem of illegal migrants from the standpoint of Christ, who died to gather together the dispersed children of God, to rehabilitate the marginalized and to bring close those who are distant, in order to integrate all within a communion that is not based on ethnic, cultural or social membership, but on the common desire to accept God’s word and to seek justice. “God shows no partiality, but in every nation any one who fears him and does what is right is acceptable to him.”

....

In the Church no one is a stranger, and the Church is not foreign to anyone, anywhere. As a sacrament of unity and thus a sign and a binding force for the whole human race, the Church is the place where illegal immigrants are also recognized and accepted as brothers and sisters.

*Id.* (citations omitted) (quoting *Acts* 10:34–35).

71. *See* Pope John XXIII, *Pacem in Terris* [*Encyclical Letter on Establishing Universal Peace in Truth, Justice, Charity and Liberty*] ¶ 25 (1963) (observing that there exists both the right to

Paul II in the 1981 encyclical letter *Laborem Exercens*.<sup>72</sup> It was a theme that he returned to annually in his World Migration Day addresses.<sup>73</sup> In particular, he exhorted the United States to “be a vigilant advocate, defending against any unjust restriction on the natural right of individual persons to move freely within their own nation and from one nation to another.”<sup>74</sup> This right is not generally recognized today by the United States and most other developed nations; rather, the nation maintains an absolute right to exclude, with no relative right of the immigrant to enter.<sup>75</sup>

### B. *The Right to One’s Own Culture*

Pope John Paul II believed that people have an inalienable right to preserve and enjoy their cultural heritage and customs. Likely strengthened by his own interest in Polish culture and in the creative arts, as well as by the attempts of the Nazis and then the Communists to stifle Polish culture, he championed the right of migrants to retain their cultural heritage and rejected the common call for assimilation.<sup>76</sup>

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stay in one’s own country and the right to emigrate, but the latter only when there “are just reasons for it”).

72. See Pope John Paul II, *Laborem Exercens* [Encyclical Letter on Human Work] ¶ 23 (1981) [hereinafter *Laborem Exercens*], stating:

Finally, we must say at least a few words on the subject of emigration in search of work. This is an age-old phenomenon which nevertheless continues to be repeated and is still today very widespread as a result of the complexities of modern life. Man has the right to leave his native land for various motives—and also the right to return—in order to seek better conditions of life in another country. This fact is certainly not without difficulties of various kinds. Above all it generally constitutes a loss for the country which is left behind. It is the departure of a person who is also a member of a great community united by history, tradition and culture; and that person must begin life in the midst of another society united by a different culture and very often by a different language. In this case, it is the loss of a subject of work, whose efforts of mind and body could contribute to the common good of his own country, but these efforts, this contribution, are instead offered to another society which in a sense has less right to them than the person’s country of origin.

*Id.* (emphasis omitted).

73. See, e.g., *supra* notes 61, 63–70 (discussing some of the Pope’s annual speeches on migration).

74. Pope John Paul II, *Ecclesia in America* [Apostolic Exhortation on the Encounter with the Living Jesus Christ] ¶ 65 (1999), in 91 ACTA APOSTOLICAE SEDIS 737, 800 (1999) [hereinafter *Ecclesia in America*].

75. See, e.g., 8 U.S.C. § 1182(a)(7) (2000) (setting documentation requirements for application for admission).

76. See 2001 World Migration Day Message, *supra* note 63.

### C. *The Right of Economic Initiative*

Pope John Paul II was sensitive to the plight of the poor, and thought much about their rights. In an interview in 1993, he said:

Having lived in a country which had to struggle for its freedom, in a country vulnerable to the aggression and dictates of its neighbors, I have been led to sympathize with the plight of the countries of the Third World, which are also subject to another type of dependence, the economic one.<sup>77</sup>

Immigrants' poverty and misfortune particularly invite and demand our generous aid, according to John Paul II.<sup>78</sup> He proclaimed that, while "the right of economic initiative is often suppressed," it is important:

Yet it is a right which is important not only for the individual but also for the common good. Experience shows us that the denial of this right, or its limitation in the name of an alleged "equality" of everyone in society, diminishes, or in practice absolutely destroys the spirit of initiative, that is to say the creative subjectivity of the citizen.<sup>79</sup>

The Pope also based the right of economic initiative on the role of work in the "self-realization" of the person, and claimed that the effort expresses and increases the worker's dignity.<sup>80</sup> He attacked the modern materialistic view of "economism," which raises the value of capital above labor.<sup>81</sup> He praised the act of work, seeing it not as a punishment but as an opportunity.<sup>82</sup> With this viewpoint, it is

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Mobility always implies an uprooting from the original environment, often translated into an experience of marked solitude accompanied by the risk of fading into anonymity. This situation may lead to a rejection of the new environment, but also to accepting it acritically, in contrast to the preceding experience. At times, there could even be a willingness to undergo a passive modernization, which could easily be the source of cultural and social alienation.

*Id.* ¶ 2.

77. See GREGG, *supra* note 40, at 185.

78. Undocumented Migrants, *supra* note 65, ¶ 4.

79. *Sollicitudo Rei Socialis*, *supra* note 58, ¶ 14 (emphasis omitted).

80. *Laborem Exercens*, *supra* note 72, ¶¶ 6, 9.

81. *Id.* ¶ 13; see also DEREK S. JEFFREYS, *supra* note 32, at 64.

82. *Laborem Exercens*, *supra* note 72, ¶ 9.

possible to understand the meaning of the virtue of industriousness, and to understand why industriousness is a virtue.<sup>83</sup>

#### D. *Right of Family Unity and Means of Support*

Pope Leo XIII, the founder of modern Catholic social teaching, wrote of this right in his first major letter, *Rerum Novarum*:

It is a most sacred law of nature that the father of a family see that his offspring are provided with all the necessities of life . . . [I]nasmuch as domestic living together is prior both in thought and in fact to uniting into a polity, it follows that [the family's] rights and duties are also prior and more in conformity with nature.<sup>84</sup>

This view was repeated by Pope Paul VI in his pronouncements<sup>85</sup> and by Pope John XXIII in the encyclical letter *Mater et Magistra*.<sup>86</sup> Pope John Paul II furthered this position, holding that the family, based on the principle of subsidiarity and the sacredness of human dignity, has priority over the state. As such, the state does not have the right to curtail a family's right to sustenance, nor to unity with other family members.<sup>87</sup>

And yet, in spite of all this toil—perhaps, in a sense, because of it—work is a good thing for man. Even though it bears the mark of a *bonum arduum* [something providing a benefit which is quite difficult], . . . this does not take away the fact that, as such, it is a good thing for man. It is not only good in the sense that it is useful or something to enjoy; it is also good as being something worthy, that is to say, something that corresponds to man's dignity, that expresses this dignity and increases it. If one wishes to define more clearly the ethical meaning of work, it is this truth that one must particularly keep in mind. Work is a good thing for man—a good thing for his humanity—because through work man not only transforms nature, adapting it to his own needs, but he also achieves fulfillment as a human being and indeed, in a sense, becomes “more a human being.”

*Id.* (emphasis omitted).

83. *Id.*; see also GEORGE WEIGEL, *supra* note 19, at 419–21 (further discussing Pope John Paul II's “gospel of work”).

84. *Rerum Novarum*, *supra* note 43, ¶ 20.

85. See, e.g., Pope Paul VI, *Populorum Progressio* [Encyclical Letter on the Development of Peoples] ¶ 36 (1967), reprinted in CLAUDIA CARLEN, I.H.M., THE PAPAL ENCYCLICALS 1958–1981, at 183, 189–90 [hereinafter *Populorum Progressio*].

86. See *Mater et Magistra*, *supra* note 57, ¶ 45.

87. See Undocumented Migrants, *supra* note 65, ¶ 4 (“It is necessary to avoid recourse to the use of administrative regulations, meant to restrict the criterion of family membership which result in unjustifiably forcing into an illegal situation people whose right to live with their family cannot be denied by any law.”).

E. *Right of Nations*

In contrast to the liberal theorists, Pope John Paul II insisted that nations do have rights over immigration.<sup>88</sup> Nevertheless, he distinguished between “states,” which are political constructs, and “nations,” which he regarded as large communities of those sharing ethnic or cultural similarities.<sup>89</sup> In 1995, the Pope addressed the United Nations General Assembly, requesting that it consider defining and pledging protection for nations’ rights, as had been done for human rights.<sup>90</sup> He stated that, by human nature, people are bound more intensely to particular human groups, beginning with the family, up to the whole of their ethnic and cultural group, which the Pope identified as their nation.<sup>91</sup>

John Paul II held that the impetus for much migration around the world was due to the improper abrogation of nations’ rights by political states, often based on earlier colonial decisions that broke apart or improperly joined together nations into disharmonious states.<sup>92</sup> He therefore urged the United Nations to evaluate the rights of nations as a way to end the motivation for forced migration. The United Nations, however, did not respond to the Pope’s challenge.

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88. See “Peace on Earth to Those Whom God Loves!,” *supra* note 58, ¶ 13.

89. See 1995 Address to the United Nations, *supra* note 53, ¶ 8 (1995).

Upon this anthropological foundation there also rest the “rights of nations”, which are nothing but “human rights” fostered at the specific level of community life. A study of these rights is certainly not easy, if we consider the difficulty of defining the very concept of “nation”, which cannot be identified a priori and necessarily with the State. Such a study must nonetheless be made, if we wish to avoid the errors of the past and ensure a just world order.

A presupposition of a nation’s rights is certainly its right to exist: therefore no one—neither a State nor another nation, nor an international organization—is ever justified in asserting that an individual nation is not worthy of existence.

*Id.*

90. See *id.* ¶ 6.

91. *Id.* ¶ 7.

92. See, e.g., Pope John Paul II, *Centesimus Annus* [Encyclical Letter on the Hundredth Anniversary of Rerum Novarum] ¶ 23 (1991) [hereinafter *Centesimus Annus*] (showing his strong antipathy for the Yalta Agreements, which redrew the boundaries of European nations following World War II).

F. *The Duty of Receiving Nations to Act in Regard to the Principles of Subsidiarity, Solidarity, and the Universal Common Good*

Whether a person is entering a nation or a state, the receiving institution's rights must be balanced with the rights of individuals in light of the universal common good. The Catholic Church seeks to maximize the universal common good, and thus is concerned with the rights of the immigrant, the citizens of the host country, and the receiving nation.<sup>93</sup> Thus, benefits to the migrant must be balanced with the burden of migration.

Pope John Paul II held that, as part of its responsibility, the receiving state "must ensure wage levels adequate for the maintenance of the [immigrant] worker and his family, including a certain amount for savings."<sup>94</sup> He believed, as well, that the state should contribute to the achievement of these goals, both directly and indirectly.<sup>95</sup> The Pope held developed states to a higher standard, and called upon the wealthy countries to accept responsibility for ending the imbalance in economic circumstances that, in many cases, fuels immigration.<sup>96</sup> He held the United States to the highest standard of

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93. See 2001 World Migration Day Message, *supra* note 63, ¶ 3. Pope John Paul II wrote:

In her pastoral activity, the Church tries to take these serious problems constantly into consideration. The proclamation of the Gospel is directed towards the integral salvation of the human person, his authentic and effective liberation, through the achievement of conditions of life suitable to his dignity. The comprehension of the human being, that the Church acquired in Christ, urges her to proclaim the fundamental human rights and to speak out when they are trampled upon. Thus, she does not grow tired of affirming and defending the dignity of the human person, highlighting the inalienable rights that originate from it. Specifically, these are the right to have one's own country, to live freely in one's own country, to live together with one's family, to have access to the goods necessary for a dignified life, to preserve and develop one's ethnic, cultural and linguistic heritage, to publicly profess one's religion, to be recognized and treated in all circumstances according to one's dignity as a human being.

These rights are concretely employed in the concept of universal common good, which includes the whole family of peoples, beyond every nationalistic egoism. The right to emigrate must be considered in this context. The Church recognizes this right in every human person, in its dual aspect of the possibility to leave one's country and the possibility to enter another country to look for better conditions of life. Certainly, the exercise of such a right is to be regulated, because practicing it indiscriminately may do harm and be detrimental to the common good of the community that receives the migrant.

*Id.*

94. *Centesimus Annus*, *supra* note 92, ¶ 15.

95. *Id.*

96. For example, Pope John Paul II wrote:

all, based both on the country's own culture and history of immigration and on its preeminent economic position.<sup>97</sup>

### G. *The Duty of Receiving Persons*

Not only governments, but also individuals have responsibilities to immigrants, according to Pope John Paul II. His predecessor, Pope Paul VI, in the 1967 encyclical *Populorum Progressio*, stressed the obligation of Christian charity to migrants.<sup>98</sup> These views were echoed by John Paul II, who held that, in addition to helping the immigrant, the act of charity promotes love of neighbor through a dialogue between cultures.<sup>99</sup> This dialogue, according to John Paul II, "leads to a recognition of diversity and opens the mind to the mutual acceptance and genuine collaboration demanded by the human

The most appropriate choice, which will yield consistent and long-lasting results is that of international cooperation which aims to foster political stability and to eliminate underdevelopment. The present economic and social imbalance, which to a large extent encourages the migratory flow, should not be seen as something inevitable, but as a challenge to the human race's sense of responsibility.

1995 World Migration Day Message, *supra* note 25, ¶ 2.

97. Pope John Paul II, Address on Arrival in Newark ¶ 4 (Oct. 4, 1995), *in* 25 ORIGINS 300, 301 (1995).

From its beginning until now, the United States has been a haven for generation after generation of new arrivals. . . .

. . . It would indeed be sad if the United States were to turn away from that enterprising spirit which has always sought the most practical and responsible ways of continuing to share with others the blessings God has richly bestowed here.

*Id.*

98. According to Pope Paul VI:

We cannot insist too much on the duty of giving foreigners a hospitable reception. It is a duty imposed by human solidarity and by Christian charity, and it is incumbent upon families and educational institutions in the host nations.

. . . In short, they should be welcomed in the spirit of brotherly love, so that the concrete example of wholesome living may give them a high opinion of authentic Christian charity and of spiritual values.

*Populorum Progressio*, *supra* note 85, ¶ 67.

99. He wrote:

In the Old Testament, the Torah teaches that strangers and the homeless in general, inasmuch as they are exposed to all sorts of dangers, deserve special concern from the believer. Indeed, God clearly and repeatedly recommends hospitality and generosity toward the stranger, reminding Israel of how precarious its own existence had once been.

Pope John Paul II, Message for Lent ¶ 3 (1997) (citations omitted).

family's basic vocation to unity."<sup>100</sup> Thus, in addition to seeing assistance to migrants as an obligation of solidarity and a liturgical and religious duty, the Pope also saw the efforts of host countries to assist immigrants as an opportunity to love; to love not only the migrant, but to embrace every level of humanity and divinity.<sup>101</sup>

John Paul II constructed a coherent approach to migration policy based on these duties and rights of migrants and nations. As described above, he held that all persons have a qualified right to migrate to safeguard the human dignity of their families and themselves.<sup>102</sup> This right is limited by their duty to strengthen their own community, and only to look elsewhere for employment and religious and cultural fulfillment if their community is unable or unwilling to provide such opportunities.<sup>103</sup> More successful communities have a duty to welcome and support such migrants, limited only to the extent that such accommodation threatens the human dignity and welfare of their own citizens.<sup>104</sup>

#### IV. POPE JOHN PAUL II'S LEGACY

Pope John Paul II cared deeply for the plight of migrants and sought to champion their human dignity through his writings, his speeches, his private meetings with world leaders, and his prayers.<sup>105</sup> Because he was concerned with the real world, he approached problems and suggested solutions in ways that were instructive and even inspiring to the secular listener.<sup>106</sup> This is manifested by the

100. Pope John Paul II, Dialogue Between Cultures for a Civilization of Love and Peace: Message for the Celebration of World Day of Peace ¶ 10 (Jan. 1, 2001), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/messages/peace/documents/hf\\_jp-ii\\_mes\\_20001208\\_xxxiv-world-day-for-peace\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20001208_xxxiv-world-day-for-peace_en.html).

101. "This is love for people—it desires every true good for each individual and for every human community, every family, every nation, every social group, for young people, adults, parents, the elderly—a love for everyone, without exception." Pope John Paul II, *Dives in Misericordia* [Encyclical Letter on the Mercy of God] ¶ 15 (1980) [hereinafter *Dives in Misericordia*].

102. See *supra* Parts III.A, III.D.

103. See *supra* notes 69–75 and accompanying text.

104. See "Peace on Earth to Those Whom God Loves!," *supra* note 58, ¶ 13.

105. See, e.g., 1995 Address to the United Nations, *supra* note 53; Undocumented Migrants, *supra* note 65; *Ecclesia in America*, *supra* note 74; *Centesimus Annus*, *supra* note 92.

106. United States President Ronald Reagan credited Pope John Paul II for his crucial role in ending Communist domination in Eastern Europe. BERNARD J. O'CONNOR, PAPAL DIPLOMACY: JOHN PAUL II AND THE CULTURE OF PEACE 327 app. (2005); see also CARL BURNSTEIN & MARCO POLITI, HIS HOLINESS: JOHN PAUL II AND THE HIDDEN HISTORY OF OUR TIME 286–91 (1996) (discussing the six or seven meetings that CIA Director William Casey had with Pope John Paul

wide-ranging impact of his views: his words continue to be quoted not only in religious tracts, but by politicians and policy makers.<sup>107</sup> His comments are cited in law review articles,<sup>108</sup> and have influenced the immigration debate in the United States. This is evidenced directly by the continued legislative advocacy of the United States Conference of Catholic Bishops, which, through writings and speeches, continues to espouse the rights and duties of migrants as detailed by John Paul II.<sup>109</sup>

Another strong indication of the enduring influence of John Paul II's exhortations on respecting immigrant rights can be seen in the speeches of President George W. Bush, which include many of the Pope's themes and arguments for viewing immigrants not as objects of economic advantage or burden, but as subjects with inalienable human dignity.<sup>110</sup> One author claims that Bush's chief speechwriter,

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II to obtain guidance in, among other things, shaping American policy toward the Polish communist government).

107. See, e.g., President Ronald Reagan, Commencement Address at the University of Notre Dame (May 17, 1981) (quoting Pope John Paul II's encyclical on Mercy and Justice in justifying the President's administration's opposition to totalitarianism).

108. See, e.g., Michael M. Hethmon, *Diversity, Mass Immigration, and National Security After 9/11—An Immigration Reform Movement Perspective*, 66 ALB. L. REV. 387, 398 (2003).

109. See, e.g., *Whether the Attempted Implementation of the Reid-Kennedy Immigration Bill Will Result in an Administrative and National Security Nightmare: Hearing Before the Subcomm. on Immigration, Border Security, and Claims of the H.R. Comm. on the Judiciary*, 109th Cong. 65, 67 (2006) (testimony and prepared statement of Nicholas DiMarzio, Bishop of Brooklyn, Chairman of the Catholic Legal Immigration Network, Consultant to the United States Conference of Catholic Bishops); Statement, Gerald Barnes, United States Conference of Catholic Bishops, *Comprehensive Immigration Reform Passed by the U.S. Senate* (May 25, 2006), available at [http://www.orlandodiocese.org/whats\\_new/journeytojustice/compimmreformpassedbyussenate.pdf](http://www.orlandodiocese.org/whats_new/journeytojustice/compimmreformpassedbyussenate.pdf); Statement, Cal. Catholic Conference of Bishops, *Statement on Immigration Reform* (Mar. 21, 2006), available at <http://www.cacatholic.org/docs/ImmigrationStatement.pdf>; Pastoral Letter from Wilton D. Gregory, Archbishop of Atlanta, & J. Kevin Boland, Bishop of Savannah, *Regarding Immigration Reform* (Mar. 1, 2006), available at [http://www.archatl.com/archbishops/gregory/writings/2006/03.01.06\\_Pastoral\\_Letter\\_on\\_Immigration\\_Reform.pdf](http://www.archatl.com/archbishops/gregory/writings/2006/03.01.06_Pastoral_Letter_on_Immigration_Reform.pdf); Statement, Cardinal McCarrick, Archbishop of Washington, *Comprehensive Immigration Reform* (Mar. 1, 2006), available at [http://www.orlandodiocese.org/whats\\_new/journeytojustice/mccarrickoriginal.pdf](http://www.orlandodiocese.org/whats_new/journeytojustice/mccarrickoriginal.pdf); Statement, Cardinal Justin Rigali, *Immigration Reform* (Jan. 5, 2006), available at <http://www.usccb.org/mrs/CardinalRigaliStatement.pdf>.

110. See, e.g., George W. Bush, *Address to the Nation on Immigration Reform* (May 15, 2006), in 42 WKLY. COMPILATION OF PRESIDENTIAL DOCUMENTS 931, 934 (2006) ("We must always remember that real lives will be affected by our debates and decisions, and that every human being has dignity and value, no matter what their citizenship papers say."); George W. Bush, *Remarks at a Cinco de Mayo Celebration* (May 4, 2006), in 42 WKLY. COMPILATION OF PRESIDENTIAL DOCUMENTS 852, 853 (2006) ("A compassionate society rejects a system that treats people as if they're something to be traded, honors human rights and human dignity, helps people out of the shadows of society, treats people in a decent and humane way."); George W.

Michael Gerson, closely studied Pope John Paul II's writings.<sup>111</sup> Some commentators, however, see Bush's statements as a "robbery of Catholic teaching and terminology" for the purpose of furthering a non-Catholic, neo-conservative agenda and for encouraging Catholic and Latino political support.<sup>112</sup>

Regardless of intent, the current administration's use of Pope John Paul II's terminology and ideas moves the debate in a new direction, away from viewing immigrants solely as objects of benefit or burden to the economy and security of the United States, and toward seeing them as subjects of rights and duties, whose welfare must be considered out of a concern for their dignity as persons. Thus, part of John Paul II's rich legacy is a renewed commitment to welcoming the stranger, based on principles of subsidiarity, solidarity, and universal common good. In addition to seeing assistance to migrants as an obligation of solidarity and a liturgical and religious duty, the Pope also saw the efforts of host countries to assist immigrants as an opportunity to love, to love not only the migrant, but to embrace every level of humanity and divinity.<sup>113</sup>

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Bush, Remarks at an INS Ceremony on Ellis Island, New York (July 10, 2001), *in* 37 WKLY. COMPILATION OF PRESIDENTIAL DOCUMENTS 1023, 1025 (2001) ("That future depends on the values of self-government . . . and regard for the common good. We're a diverse country and getting more diverse. And these virtues are what keeps [sic] this great country together. Believing in them and living by them, this great land will always be united.").

111. Gerson himself stated in a C-SPAN interview: "And other kinds of conservatives that I would identify more with, I think, conservatives in my view that have been influenced more by Roman Catholic social thought—I'm not a Roman Catholic—but commitments that have to do with subsidiarity, solidarity, concern for the poor, the promotion of civic institutions. Those are equally conservative approaches, and I want to argue for them." Q&A (Jan. 7, 2007), <http://www.q-and-a.org/Transcript/?ProgramID=1109>.

112. See, e.g., Mark & Louise Zwick, *Slave Wages Condemned by Pope John Paul II*, HOUS. CATH. WORKER, Vol. 25, No. 2, Mar.-Apr. 2005.

113. "This is love for people. It desires every good for every individual and for every human community, every family and every nation, every social group, for young people, adults, parents, the elderly—a love for everyone without exception." *Dives in Misericordia*, *supra* note 101, ¶ 15.