

# Global Migration, Citizenship and Catholic Social Teaching

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*As prepared.*

The idyllic and affluent island of Martha’s Vineyard lies just seven miles off the coast of Cape Cod—in the Commonwealth of Massachusetts where I have resided for more than a decade. On Wednesday, September 4, two planes landed in sleepy West Tisbury, one of just six Vineyard towns, and unloaded their human cargo—nearly 50 migrants, predominantly Venezuelans, who had previously been housed in migrant centers in Texas. The White House called it a “political stunt,” while governors from Florida, Texas and Arizona viewed it as a way to highlight the Biden administration’s failed immigration policy and distribute the burden of caring for immigrants from border states to sanctuary regions across the United States.

Lost entirely in the political maneuverings were the immigrants themselves. What had they been told? Were they promised jobs, housing, and assistance with the immigration process? Are they pawns in a pervasive political game, or humans seeking a God-given right to pursue their place in a just society?

Today, I will explore how law, religion, and democratic pluralism continue to impact the issue of global migration—encompassing a number of related issues that are often collapsed under the term “immigration.” I will demonstrate how religious ideas can be used to strengthen our democratic commitment to universal human rights. Both Catholic social teaching and various strains of liberal political theory point to similar paths out of dilemmas over the admission and status of migrants in democratic societies. Moreover, both reveal new ways these societies might reform notions of citizenship and membership in ways that offer equality of esteem to all human beings.

And, lastly, I will offer a way forward.

## I. THREE MAJOR THEMES

My talk is organized around three major themes. First, I explore the ways in which Catholic social teaching addresses human dignity, the plight

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of the poor, and the promotion of global justice. I argue that this theme provides an important bridge between secular and religious conceptions of human rights.

Second, I argue that pluralism, particularly that which results from religious diversity and multi-ethnic, diasporic identities, is now a fundamental part of political and cultural life in the wealthy democracies of Europe and North America. The diversity within these societies is both a cause and a product of their wealth, as well as a response to their strong commitments to democratic principles, particularly human equality.

Third, I consider how liberal political theory offers a secular understanding of human dignity that has much in common with Catholic social teaching; and I conclude by arguing that Catholic social teaching supports a human right to membership and that the goal of a well-functioning liberal democracy should be to transform strangers into citizens.

## II. INTRODUCTION: TWENTY YEARS OF U.S. IMMIGRATION LEADERSHIP

In nations that have constructed their identities around waves of settlers or migrants, places such as the United States, Canada, Australia, and New Zealand, immigration involves the formal reception of foreigners into the host country as potential new citizens.<sup>1</sup> Yet migration also encompasses emigration, asylum, economic migration, and undocumented or irregular immigration. This larger collection of human movements presents new challenges to democratic nations in a global environment in which most have explicitly committed themselves to certain fundamental, democratic values and human rights norms.

Global migration demonstrates the difficult choices a firm commitment to these values presents to even the most advanced democracies. On U.S. immigration policy, Kristin Heyer writes:

Whereas its immigrant nation's celebratory narrative underscores ideas like hospitality, liberty, and democracy (reflecting Emma Lazarus' welcome to huddled masses yearning to breathe free), U.S. legislative debates about immigration have historically centered around issues of national security, economic instrumentalism and social costs rather than human rights. These operative lenses shaping its immigration debate can mask realities and become surrogates for other cultural and political concerns. Actual encounters with reluctant or desperate migrants alert us to

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1. Will Kymlicka calls these the "countries of immigration," which "legally admit immigrants as permanent residents and future citizens." WILL KYMLICKA, *MULTICULTURAL ODYSSEYS* 73 (2007).

significant dissonance between dominant political assumptions and the inhumane impact of many policies and practices.<sup>2</sup>

Indeed, our nation's so-called immigration reform over the past two decades has vacillated widely as administrations have changed—and with contradictory and uneven results. The Bush administration planned to initiate a large guest worker program and legalize undocumented noncitizens (matching initiatives that had succeeded in Texas), but introduced the Patriot Act shortly after the September 11 attacks thus reducing immigrant rights and vastly expanding federal powers of deportation.<sup>3</sup>

President Barack Obama created the promising Deferred Action for Childhood Arrivals program (DACA), which granted a two-year work permit and a reprieve from deportation to those who met the bipartisan DREAM Act requirements, yet deported more undocumented noncitizens than any other administration.<sup>4</sup>

While presidents Clinton, Bush, and Obama attempted to work with the legislative branch of government to reform immigration policy, the Trump Administration viewed immigration as an executive burden—and responded accordingly. Bolter, Israel and Pierce write:

Over the course of four years, the Trump administration set an unprecedented pace for executive action on immigration, enacting 472 administrative changes that dismantled and reconstructed many elements of the U.S. immigration system. . . . All of this was accomplished nearly exclusively by the executive branch, with sweeping presidential proclamations and executive orders, departmental policy guidance, and hundreds of small, technical adjustments.<sup>5</sup>

Faced with these holdover entanglements, the Biden Administration nonetheless secured a Supreme Court victory that ended the Trump-era “Remain in Mexico” policy that had forced asylum seekers to remain in Mexico until their hearings before U.S. immigration judges. He’ll now likely engage in a battle to save DACA—the aforementioned Obama-era program that

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2. Kristin E. Heyer, *Resisting a Politics of Inclusion: Catholic Social Thought's Counternarrative*, CTR. FOR CATH. SOC. THOUGHT & PRAC. (June 16, 2016), <https://ccstp.org.uk/articles/2016/6/13/resisting-a-politics-of-exclusion-catholic-social-thoughts-counternarrative>.

3. Andrew M. Baxter & Alex Nowrasteh, *A Brief History of U.S. Immigration Policy from the Colonial Period to the Present Day*, POL'Y ANALYSIS NO. 919, CATO INST. (2021).

4. *Id.*

5. Jessica Bolter et al., *Four Years of Profound Change: Immigration Policy During the Trump Presidency*, MIGRATION POL'Y INST. 1 (2022), <https://www.migrationpolicy.org/sites/default/files/publications/mpi-trump-at-4-report-final.pdf>.

provides a pathway to citizenship for the more than 800,000 immigrants brought to the U.S. as children.<sup>6</sup> With Republicans gaining control over the House of Representatives, the goal is precarious.<sup>7</sup>

### III. CATHOLIC SOCIAL TEACHING, MIGRATION AND HUMAN DIGNITY

The plight of the DACA program, and the children it intends to protect, segues well into our next section. Catholic social teaching has long argued that the rights to emigrate and migrate are fundamental to human persons. In their 2003 pastoral letter, the bishops of the United States and Mexico summarized the state of Catholic teaching:

The Church recognizes the right of a sovereign state to control its borders in furtherance of the common good. It also recognizes the right of human persons to migrate so that they can realize their God-given rights. These teachings complement each other. While the sovereign state may impose reasonable limits on immigration, the common good is not served when the basic human rights of the individual are violated. In the current condition of the world, in which global poverty and persecution are rampant, the presumption is that persons must migrate in order to support and protect themselves and that nations who are able to receive them should do so whenever possible.<sup>8</sup>

This general statement draws on a number of key principles of Catholic social teaching that, although sensitive to the needs of the nation-state to promote the common good of its citizen-members, ultimately give priority to the needs of immigrants and migrants in most situations. Let me highlight four: the dignity of the human person, the person in community, the common good, and the preferential option for the poor.

The dignity of the human person in Catholic social teaching is based on an understanding of people as created in God's image and likeness. This concept, known as the *imago Dei*, means that human beings have a unique

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6. See Cecelia Esterline & Jeanne Batalova, *Frequently Requested Statistics on Immigrants and Immigration in the U.S.*, MIGRATION POL'Y INST. (Mar. 17, 2022), <https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states#immigrants-labor-force>.

7. Emily Brooks, *Republicans Win Control of the House*, THE HILL (Nov. 16, 2022, 06:32 PM), <https://thehill.com/homenews/house/3723506-republicans-win-control-of-the-house/>; Sabrina Rodriguez & Alex Thompson, *Biden's Quiet, Tenuous, Immigration Win*, POLITICO (Aug. 12, 2022, 06:25 PM), <https://www.politico.com/newsletters/west-wing-playbook/2022/08/12/bidens-quiet-tenuous-immigration-win-00051445>.

8. *Pastoral Letter Concerning Migration from the Catholic Bishops of Mexico and the United States*, CONF. OF CATH. BISHOPS (Jan. 22, 2003), <https://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/strangers-no-longer-together-on-the-journey-of-hope>.

relationship with the divine, a relationship rooted in the idea of the Incarnation—God taking human form. Human dignity is not negotiable or earned. It is not dependent on our attributes or our behavior. It is an inseparable part of our humanity and it is the driving force behind the Christian notion that human life is sacred. To promote and protect the dignity of human life, Catholic social teaching sees human beings as inherently social beings whose personalities can be fully realized only in relationships with others.

The person in community is another core principle of Catholic social teaching. This is one principle in which Catholic teaching and tradition part with social contract theories of liberalism. Social contract theories typically proceed from an understanding of a “state of nature” in which human beings were lone rights-bearers who eventually had to cede individual rights to the community or the state in recognition of the necessity of joining together in certain instances.<sup>9</sup> This foundational assumption of the autonomous individual creates an environment in which claims of community are seen as negative intrusions on human dignity.<sup>10</sup> These claims serve a need so critical that the intrusion they cause to individual autonomy or self-ownership can reasonably be seen as a lesser evil.

On the other hand, Catholic social teaching views community as an essential part of human existence, inseparable from any meaningful understanding of what is required to pursue a life of dignity. The life of an individual is not diminished when certain aspects of one’s autonomy are sacrificed to strengthen community but enhanced. The emphasis of Catholic social teaching on the social dimension of the person has meant that Catholic thinking typically sees an essential role for states in the enhancement of the well-being of both citizens and the community.

Promotion of the common good is a third core principle of Catholic social teaching. Unlike those whose perspectives are rooted in social contract theory, Catholic social teaching does not see the common good as the sum of the good of individuals—an empty space in which individuals have as much freedom as possible to maximize their own vision of the good.<sup>11</sup> The common good in Catholic teaching exists separate and apart from the good of individuals, and it is something that grows out of life in community.<sup>12</sup> In

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9. See MARTHA NUSSBAUM, *FRONTIERS OF JUSTICE: DISABILITY, NATIONALITY, SPECIES MEMBERSHIP* 9–14 (2006), for an excellent discussion of the social contract theory as exemplified by the philosophical work of John Rawls.

10. “[H]uman dignity can only be realized and protected in solidarity with others. In Catholic social thought, therefore, respect for human rights and a strong sense of both personal and community responsibility are linked, not opposed.” U.S. CONF. OF CATH. BISHOPS, *ECONOMIC JUSTICE FOR ALL 45* (10th anniversary ed. 1997) [hereinafter *Economic Justice for All*].

11. *Id.*

12. JACQUES MARITAIN, *THE PERSON AND THE COMMON GOOD* 49–50 (John J. Fitzgerald trans., 1947).

this respect, it is intimately linked to Catholic notions of justice, which are evaluated on three levels.

First, commutative justice requires reciprocity in exchanges between individuals and seeks equivalence in what is gained and lost on both sides of an exchange.<sup>13</sup> But this understanding of justice as a *quid pro quo* is incomplete. A full conception of justice attempts to assess the broader social context in which exchanges take place. “The power relations operative in the social context of an exchange must be considered before determining that the agreement is just.”<sup>14</sup>

Second, contributive, or social, justice requires that the various allocations of goods, income, and power in a society be evaluated in light of the effects those arrangements have on those whose basic needs are unmet. “Contributive justice requires that citizens be active members of the community, using their agency not only for their own good but for the good of the community as well.”<sup>15</sup> In other words, it seeks to situate justice for individuals within the context of the common good.

Third, “[d]istributive justice is, in turn, concerned with the way the members of society share in the goods that their life together makes possible. It deals with the allocation of the common good in a way that leads to the welfare or well-being of members.”<sup>16</sup>

The preferential option for the poor, a fourth concept of Catholic social teaching, arises when these visions of justice are considered in tandem with the common good.<sup>17</sup> Serious attention to the common good, human dignity, and the social nature of the human person makes the preferential option for the poor a logical outgrowth of those principles.<sup>18</sup> Both the Hebrew Scriptures and the Gospels are heavily imbued with admonitions to the faithful to direct their attention to the needs of the poor.

The preferential option takes this scriptural tradition, and the tradition of Catholic social teaching, and draws from them an understanding that Christians are obliged to be specially concerned with the poor.

Now, “Preferential” is not preference in the sense that the poor are “better” than other people or more loved by God. Preferential means that a Christian’s attention must first be directed to the weak, the outcast, and the marginalized. Thus, when we consider human dignity, life in community, and

13. DAVID HOLLENBACH, S.J., *THE COMMON GOOD AND CHRISTIAN ETHICS* 193 (2002).

14. *Id.* at 195.

15. *Id.* at 196.

16. *Id.* at 197. Another useful description of the various forms of justice in the Catholic social tradition can be found in *Economic Justice for All*, *supra* note 10.

17. The concept grew out of discussions of the Latin American bishops that began at Medellín, Colombia in 1968 and thereafter developed by the theologian Gustavo Gutierrez. See generally GUSTAVO GUTIERREZ, *A THEOLOGY OF LIBERATION: HISTORY, POLITICS, AND SALVATION* (Sister Caridad Ina & John Eagleson ed. & trans., Orbis Books rev. ed. 1988).

18. See, e.g., Pope John Paul II, *Encyclical Letter, Centesimus Annus*, ¶ 57, VATICAN (May 1, 1991), [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_01051991\\_centesimus-annus.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus.html).

the common good, we must be particularly aware of the needs of the least powerful among us.

How do our economic, political, and legal decisions affect those who are least able to speak for themselves and who are more often than not in the worst position to bear sacrifices that might be necessary for the common good? The preferential option is about making decisions after first considering how the least amongst us will fare and, in this way, is a particularization of the broader notions of contributive and distributive justice.

#### IV. THE PLURALIST REALITY OF MODERN DEMOCRACY

The current condition of most Western democracies is one in which people from numerous ethnic, religious, and racial backgrounds find themselves living together, sharing public space, and struggling to forge community out of diversity. Within these democracies, there is widespread agreement on the acceptability of certain constitutional or basic law norms. One of these principles is that all human beings should enjoy equality of esteem. Conor Gearty writes:

[E]ach of us counts, ... we are each equally worthy of esteem. This esteem is not on account of what we do, or how we look, or how bright we are, or what colour we are, or where we come from, or our ethnic group: it is simply on account of the fact that we are. . . . What esteem requires of us is that we see individuals . . . as first and foremost particular persons, just like us. Human rights is in this sense a visibility project: its driving focus is to get us to see the people around us, particularly those whom we might otherwise . . . not see at all, or those whom we would try to ignore if we did catch a glimpse of them. It follows that, at its core, human rights is a subject that is concerned with the outsider, with the marginalized, and with the powerless....<sup>19</sup>

Further, Pope Francis, in an address to the Pontifical Academy of Social Sciences in 2019, said: “the way in which a nation welcomes migrants reveals its vision of human dignity and of its relationship with humanity. Every human person is a member of humanity and has the same dignity.”<sup>20</sup>

The concept of the equal dignity of all human persons finds expression in different ways in different systems, but it is something that all legitimate democracies embrace, as is evidenced in numerous international agreements

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19. CONOR GEARTY, CAN HUMAN RIGHTS SURVIVE? 4–5 (2006).

20. See, e.g., Pope Francis, *Address of Holiness Pope Francis to Participants in the Plenary Session of the Pontifical Academy of Social Sciences*, VATICAN (May 2, 2019), [https://www.vatican.va/content/francesco/en/speeches/2019/may/documents/papa-francesco\\_20190502\\_plenaria-scienze-sociali.html](https://www.vatican.va/content/francesco/en/speeches/2019/may/documents/papa-francesco_20190502_plenaria-scienze-sociali.html).

such as the Universal Declaration of Human Rights. Indeed, the principle finds widespread support around the world, and it forms the basis of international human rights. Although many nations pay only lip service to this idea, most nations feel obliged to justify their actions based on the shared global understanding of the centrality of this equality norm.<sup>21</sup>

Yet, even in mature and flourishing democracies, difficulties with the idea of equality often arise. Religious or ethical differences may produce conflicts in which citizens may agree on a value, like equality of esteem writ large, but disagree on its application in particular cases. Such disagreement creates very difficult conditions for the formation of coherent law and policy.<sup>22</sup>

Increasingly, migrants and immigrants do not see themselves primarily as the recipients of acts of beneficence or charity in which they take on the posture of grateful supplicants willing to do whatever it takes to “fit in.” Today, respect for cultural diversity, human rights, and global justice in democratic societies suggests that immigrants may have certain entitlements to entry, as well as a right to participate in shaping their new societies. This increasingly presents a challenge to settled arrangements forged by previous generations on issues as diverse as language, accommodations of religious beliefs, and even standards of public behavior. These conflicts are hardly new, nor is the strengthening nativist backlash we are seeing in response.<sup>23</sup>

## V. THE GLOBAL ECONOMY

The global economy and global inequality demand a more complex understanding of why people migrate. Lack of economic opportunity around the world has made it impossible for many people to achieve a basic standard of living for themselves, much less raise their standards of living in ways that would allow them to form families and raise healthy children. The World Bank states:

The rich have many assets; the poor have only one—their labor. Because good jobs are slow to come to the poor, the poor must move to find productive employment. Migration is, therefore, the most effective way to reduce poverty and share prosperity. . . . Not surprisingly, all

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21. MARTHA NUSSBAUM, *LIBERTY OF CONSCIENCE: IN DEFENSE OF AMERICA’S TRADITION OF RELIGIOUS EQUALITY* 19 (2007).

22. For a contrary view, see SAMUEL P. HUNTINGTON, *WHO ARE WE? THE CHALLENGES TO AMERICA’S NATIONAL IDENTITY* (2004). I consider and reject Huntington’s view and offer an alternative view in my book: VINCENT D. ROUGEAU, *CHRISTIANS IN THE AMERICAN EMPIRE: FAITH AND CITIZENSHIP IN THE NEW WORLD ORDER* (2008).

23. Will Kymlicka & Keith Banting, *Immigration, Multiculturalism, and the Welfare State*, 20 *ETHICS & INT’L AFFAIRS* 281, 288 (2006).



development experiences and growth episodes in history have involved a reallocation of labor across space and sectors within countries.

Some of the biggest gains, however, come from the movement of people between countries. Migrants' incomes increase three to six times when they move from lower- to higher-income countries. The average income gain for a young unskilled worker moving to the United States is estimated to be about \$14,000 per year. If we were to double the number of immigrants in high-income countries by moving 100 million young people from developing countries, the annual income gain would be \$1.4 trillion. This global welfare gain dwarfs the gains from the removal of all restrictions on international flows of goods and capital.<sup>24</sup>

These gains for immigrants do not hinder progress in destination countries. The World Bank continues:

Farmers in destinations from New Zealand to New Mexico thrive thanks to the hard work of immigrant workers. Institutions at the technology frontier—from CERN (the European Organization for Nuclear Research) in Geneva to Silicon Valley in California—innovate thanks to the ingenuity of immigrants. Native-born workers (those who were born in the destination country) also gain on average, either because they gravitate away from the occupations that immigrants are willing to perform, because they benefit from the complementary skills that immigrants bring, or because they are consumers of the products and services immigrants provide.<sup>25</sup>

While nearly every empirical study reflects that labor mobility positively impacts immigrants and destination countries alike, this creates an unexpected quandary: how to rectify compelling evidence of the economic gains provided by immigration with political opposition to it? Once migrants arrive in wealthy, pluralist democracies, new questions arise concerning the migrants' place in the social and the political fabric of their host nations.<sup>26</sup> Political phenomena like Brexit, the MAGA movement in the United States, and the rise to power of authoritarian, right-wing political parties in places like Hungary, Sweden, and Italy, all drew power from anti-immigrant backlash.

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24. *Moving for Prosperity: Global Migration and Labor Markets (Overview)*, WORLD BANK (2018), <https://openknowledge.worldbank.org/bitstream/handle/10986/29806/211281ov.pdf>.

25. *Id.*

26. KYMLICKA, *supra* note 1, at 54–65.

## VI. THE GLOBAL COMMON GOOD

Although the principles of Catholic social teaching and liberal democracy were developed through the observation of social and political relations within nation-states, the understanding of society in Catholic teaching is no longer limited to the nation-state construct. Since the Second Vatican Council, the “social question” that Catholic social teaching addresses must be considered both within and without the boundaries of nation-states.

For instance, in his 1963 encyclical *Pacem in terris*, Pope John XXIII contributed to the Catholic understanding of the common good by recognizing the inadequacy of the term if applied only within the boundaries of the nation-state. The common good is increasingly a global reality. In *Pacem in terris*, John observed that “the present [international] system of organization and the way its principle of authority operates on a world basis no longer correspond to the objective requirements of the universal common good.”<sup>27</sup>

Pope John XXIII’s words were prescient. In 2020, Pope Francis stated: “In the current situation of globalization not only of the economy but also of technological and cultural exchanges, the nation state is no longer able to procure the common good of its population alone.”

Catholic social teaching is directed to this now global social question. The common good the teachings describe is not only the good produced by life within societies, but also a global common good resulting from the interaction of nation-states. It is in light of these principles and their international ramifications that we should consider the tremendous intellectual support Catholic social teaching can bring to a discussion of how to create a better system to regulate global migration.

When Catholic social teaching is considered in the context of the current global debate around migration, there is a clear nexus between the teaching and international human rights discourse. Catholic social teaching does not recognize nation-state sovereignty as a legitimate bar to migrants’ quests to secure the minimal conditions necessary to dignified human existence. Thus, all nations, within the limits of their ability, have a moral responsibility to accept refugees and asylum seekers. This, however, is a fairly basic requirement. States may well have an obligation to accept immigrants and other migrants because Catholic teaching and modern international law are moving—or perhaps more appropriately, lurching—away from the idea of the nation-state as the only model for the organization of the global order. This obligation may extend even to those who move for reasons beyond basic survival.

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27. Marvin L. Mich, *Commentary on Mater et Magistra (Christianity and Social Progress)*, MOD. CATH. SOC. TEACHING 191, 199 (Kenneth R. Himes, O.F.M. ed. 2005) (quoting Pope John XXIII, *Encyclical Letter, Pacem et Terris*, ¶ 134, VATICAN (Apr. 11, 1963)).

The modern conundrum is: can a global system continue to work if it is premised on the equality of nation-states, rather than on the domination and stigmatization of the weak by the strong?<sup>28</sup>

The dangers of too heavy a reliance on nation-state sovereignty when the needs of human beings are concerned have become readily apparent over the last century. Apart from the obvious examples of the two world wars, more recent crises in Iraq, Syria, Afghanistan, and of course the current war in Ukraine, have shown the fragility of the nation-state as a promoter and protractor of human rights and human dignity in many instances. Clearly, the time has come for a serious discussion of alternative ways of understanding the relationship between the fundamental rights of persons and political authority.

Catholic teaching sees the nation-state as a means for advancing human dignity through its promotion of the common good. When this is combined with Catholic teaching's rich understanding of justice in its commutative, distributive, and contributive forms, Catholic teaching offers strong support for an approach to global migration that places unique obligations on the world's wealthiest nations to offer citizenship to a much larger number of these people than is currently the case.

Just as wealthy citizens have obligations to place the needs of their poorest and weakest fellow citizens at the forefront of discussions of law and public policy, so too must the wealthy nations of the world consider the needs of poorer nations. This is especially true when confronted with global migration rooted in disparities of wealth, inequality in the distribution of global resources, and lack of meaningful social participation for huge numbers of the world's poor.

The Turkish-American philosopher Seyla Benhabib argues that, given the growing consensus around an understanding of liberalism that sees all human persons as bearers of certain fundamental rights, it is time to recognize a fundamental right for temporary residents of democratic societies to seek reasonable opportunities for citizenship in democratic societies.<sup>29</sup>

In this new global reality, Benhabib notes that democracies face a dilemma rooted, on the one hand, in their commitments to values that are assumed to have universal validity and, on the other, to an understanding of democracy as functioning only within bounded geo-political communities with particular national and cultural identities.<sup>30</sup>

Increasingly, however, democratic rights, privileges, and protections have been encompassed within human rights norms that are seen as

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28. STEPHEN CASTLES & ALISTAIR DAVIDSON, *CITIZENSHIP AND MIGRATION: GLOBALIZATION AND THE POLITICS OF BELONGING* 3 (2000).

29. See SEYLA BENHABIB, *THE RIGHTS OF OTHERS: ALIENS, RESIDENTS, AND CITIZENS* (2004).

30. See Seyla Benhabib, *Democracy, Demography, and Sovereignty*, 2 L. & ETHICS OF HUM. RIGHTS 8, 10 (2008).

belonging to all persons as individuals. In other words, the rights do not depend necessarily on membership in a particular nation-state, they are universal. Respect for those rights, or their vindication, may vary based on the political community in which an individual finds himself; but, as a theoretical matter, the rights belong to all human beings.<sup>31</sup>

Given the reality of global migration and the important issues of justice that lie at its root, Benhabib argues that a democratic society cannot deny membership in perpetuity to individuals who have entered its territory. Indeed, the international community has come to regard the arbitrary denationalization of an individual as a violation of basic human rights norms. For Benhabib, this right to citizenship requires recognition of a companion right to membership.<sup>32</sup>

A right to membership means that once a foreigner is admitted into a democratic community, they must be offered reasonable opportunities to become a member-citizen. Democracies cannot tolerate permanent strangers or second-class, pseudo-citizens.

Benhabib's observations also raise important questions about the status of undocumented persons and asylum seekers in the United States. Benhabib's vision of just membership would call for reasonable paths to citizenship for those legally admitted—like those Venezuelans transported to Martha's Vineyard, who have a right recognized at both domestic and international law to seek asylum—and it may go further to suggest that the United States has some obligation to admit a certain number of “economic refugees” who have been displaced by the gross inequalities of the global economic system.<sup>33</sup>

But what about those who have entered sovereign territory in violation of the laws of the community in which they now seek to make their lives? Should they have a right to membership? Although individual circumstances of undocumented migrants vary, many have crossed into the territory of the United States as a predictable result of choices freely made by American political and economic elites, either in active ways domestically that “pull” migrants in, or in active and passive collaboration with the leaders and elites of other nations that create circumstances compelling many migrants to leave their home countries in desperation, or “push” them out. Denying membership to these migrants also ignores the ways in which admission to citizenship could level the playing field for some of the world's least advantaged people.

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31. BENHABIB, *supra* note 29, at 133–34.

32. *Id.* at 35.

33. *Id.* at 140.

## VII. CONCLUSION: A WAY FORWARD

Like Benhabib, historian Mai Ngai believes that migration is the result of an unequal distribution of wealth in the world. To address this inequality, she challenges wealthier nations to view migration as both an obligation and an opportunity. Ngai says:

[In the United States] we give away less than half a million new green cards yearly, and another half million through adjustment of status here or there. They're a student, or they get a job, or they marry somebody, or they're a family member of a citizen, or they're outside the quota. The total is about a million people who become permanent residents. We had about a million people come here annually in the 1910s, and we had a much smaller population.

I think if we understand that immigration restriction is a kind of protectionism for the wealthier nations, then we have to think about what our moral response to that is. Because we are in America not because we are so great, but by the accident of our birth. Why are we superior to somebody who happens to be born in India or Honduras? That's hard for a lot of Americans to swallow — that they have the same moral worth as somebody from Honduras. But I think that should be our starting point.<sup>34</sup>

From a policy standard, Ngai believes in raising the number of immigrants we let into the country, building a system of “self-correction,” and creating a statute of limitations for immigration violations, so that immigrants who work for a certain number of years, have no criminal record, and have established ties to their community are provided a pathway to citizenship.<sup>35</sup> Similar proposals have called for this kind of provisional citizenship, as well as replacing immigration fines with community service credits.<sup>36</sup>

Former German Chancellor Angela Merkel took a humane, albeit controversial, stance toward immigration during the summer of 2015 when hundreds of thousands of asylum seekers fleeing conflicts in Syria and the Middle East migrated west. Merkel famously proclaimed *Wir schaffen das!* (we can manage it!), and opened Germany's doors to the world. She relocated

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34. Peter Costantini, *Manufacturing Illegality: An Interview with Mae Ngai*, FOREIGN POL'Y IN FOCUS (Jan. 16, 2019), <https://fpif.org/manufacturing-illegality-an-interview-with-mae-ngai/>.

35. *Id.*; See Donna R. Gabaccia, *Policy, Politics, and the Remaking of Immigration History*, 57 AM. Q. 533 (2005) (reviewing MAE M. NGAI, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (2004), <http://www.jstor.org/stable/40068279>).

36. Chad Z. Marzen & William Woodyard II, *Catholic Social Teaching, the Right to Immigrate, and the Right to Regulate Borders: A Proposed Solution for Comprehensive Immigration Reform Based Upon Catholic Social Principles*, 53 SAN DIEGO L. REV. 783, 820–822 (2016).

refugees throughout the country to prevent “ghettoization” and enacted language tests to foment assimilation into the workforce and German social structures.<sup>37</sup>

Although her actions were seen as compassionate, Merkel failed to rally leaders of other EU nations to collaborate on the migration crisis. In the spring of 2016, she negotiated with the Turkish government to pay that country to hold refugees from entering the EU. Like the U.S., the EU continues to struggle with comprehensive immigration reform, including an equitable distribution of refugees across states, which of course brings us back to the unfortunate events in Martha’s Vineyard with which I opened this talk.

Fencing the world out is a morally unacceptable choice. So, too, is transporting migrants, unannounced, to far-flung islands or expecting only border states here or abroad to manage the global immigration crisis. The United States and the other democracies of the world have particularly important responsibilities to the global common good, both as the wealthiest members of the community of nations and as believers in, and promoters of, the existence of universal human rights. As citizens of a democracy, we must understand that decisions to migrate are rarely products of individual choices alone, but tend to be the result of complex interactions of personal, domestic, and global forces. We must, therefore, acknowledge our role in the creation or maintenance of some of those forces, and we must also decide what types of legal and policy decisions are consistent with our moral and political commitments.<sup>38</sup> Religious values and the voices of people of faith have a positive role to play in relieving this tension. Catholic social thought offers one perspective that is rooted in a deep and abiding respect for the dignity of human beings.<sup>39</sup>

Let me close with the words of Pope Francis. Last year, on September 25, His Holiness retold the story of Isaiah in his message for the 108th World Day of Migrants and Refugees, saying:

In Isaiah’s prophecy, the arrival of foreigners is presented as a source of enrichment: “The abundance of the sea shall be brought to you, and the wealth of the nations shall come to you” (*Is* 60:5). Indeed, history teaches us that the contribution of migrants and refugees has been fundamental to the social and economic growth of our societies. This continues to be true in our own day. Their work, their youth, their enthusiasm and their willingness to sacrifice enrich the communities that receive them. Yet

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37. Matthias Matthijs & Roger D. Keleman, *The Other Side of Angela Merkel*, FOREIGN POL’Y (July 9, 2021, 06:01 AM), <https://foreignpolicy.com/2021/07/09/angela-merkel-german-chancellor-europe-trade-euro-refugees-crisis/>.

38. See Marzen & Woodyard II, *supra* note 36.

39. Kristin E. Heyer, *Resisting a Politics of Inclusion: Catholic Social Thought’s Counternarrative*, CTR. FOR CATH. SOC. THOUGHT AND PRAC. (June 16, 2016), <https://ccstp.org.uk/articles/2016/6/13/resisting-a-politics-of-exclusion-catholic-social-thoughts-counternarrative>.

this contribution could be all the greater were it optimized and supported by carefully developed programs and initiatives. Enormous potential exists, ready to be harnessed, if only it is given a chance.<sup>40</sup>

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40. Pope Francis, *Message of His Holiness Pope Francis for the 108th World Day of Migrants and Refugees*, VATICAN (Sept. 25, 2022), <https://www.vatican.va/content/francesco/en/messages/migration/documents/20220509-world-migrants-day-2022.html>.