

## **“The Common Good and the Plight of Immigrants”**

**by Donald Kerwin**

I want to thank the Diocese of Knoxville for this opportunity to speak about immigrants and the common good. I am honored to participate in this gathering with Archbishop Migliore, Archbishop Kurtz, and all of you.

When I speak to Catholic groups, I can see that most are doing their best to understand and embrace Catholic teaching. Many devote their lives to it. But Church teaching in this area also generates great controversy. I spoke this year to an assembly of Catholic foundations and one of the foundation officers said that whenever the immigration issue arose his bishop resorted to “old Catholic gobbleygook.” I had heard Catholic teaching called the Church’s best kept secret, but I had never heard it called gobbleygook.

My agency recently sent a fundraising appeal to Catholic attorneys who belong to Thomas Moore societies. One of our prospects wrote back: “I cannot begin to express the disdain I hold for your agency and for the work you do.” Needless to say, apart from his opinions, he did not contribute to us. I am hoping that Thomas Moore wouldn’t have agreed with him.

In our Justice for Immigrants campaign, we send out action alerts, asking supporters to visit our web-site and send personalized versions of advocacy letters to their Members of Congress. A little known fact is that we can see the letters that are sent. We have found letters doctored by priests to oppose us on this issue – not at all what we hoped when we asked them to personalize their letters.

I spoke in a seminary last year, and a seminarian said afterwards that he appreciated my talk, but still disagreed with my point-of-view. We often hear a variation of this statement in the public policy realm as well. Catholic politicians say that their positions on immigration are a matter of prudential judgment. Archbishop Migliore earlier defined “prudence” as the virtue by which individuals can discern the good in a particular circumstance and chose the means for achieving it. But saying that your conscience has led you to make a “prudential judgment” does not immunize your judgment from moral criticism.

Given the controversy around this issue, let me start my talk on the “common good” with some “common ground” from the Gospel of Luke. Our faith teaches that we obtain eternal life by loving God and our neighbor. But who is our neighbor? This is the very question that a lawyer asked Jesus. Jesus did not answer the question directly. Instead, he told a story of a traveler who was stripped, beaten and left half-dead by the side of the road.

His parable assumes that the neighbor is the man suffering by the side of the road. But the issue is not so much about recognizing one’s neighbor, as about being a neighbor. The priest and the Levite who stepped out of the injured man’s path do not act like neighbors. Instead, upsetting all

of our assumptions, it was a despised foreigner, a Samaritan who bound the man's wounds, took him to an inn, and paid for his care. He proved to be the neighbor. He is our model of Christian compassion and charity.

## **Catholic Teaching**

How does the Church view migration? Fr. Richard Ryscavage, S.J. has called migration the central narrative of our faith. This is a startling claim, but consider the Exodus, the Exile, the Holy Family's flight to Egypt, Jesus's public ministry in which he had nowhere to lay his head, the disciples on the road to Emmaus, the way that the Good News spread, the Church's missionary tradition. Consider that the earliest Christians referred to themselves by the Greek word "paroikoi" which means sojourner. This term had a spiritual meaning for them, but the fact was that the early Christians in Rome, Corinth and Asia Minor *were* mostly migrants, without full rights, subject to discrimination and persecution. The word "parokoi" is the root of our modern word "parish." Thus, a parish is a place where migrants gather to worship. Not surprisingly, theologians have begun to identify a distinct spirituality of migrants. Physical uprooting and migration has always led us to our spiritual grounding. Migration has played such a key role in our tradition that you might call it a mystery in plain view. It has always been the way that we have encountered God.

Immigration has played a decisive role in the growth of the Church in the United States. By 1920, 75 percent of U.S. Catholics had been born outside the country. To meet their needs, the Church created or expanded all of its characteristic institutions, including parishes, schools, hospitals, charities, religious communities, mutual aid groups, and social groups. We face a similar challenge today. Will we welcome our immigrant brothers and sisters, as the Church of a century ago welcomed our ancestors? As one scholar has written: "For today's Catholics to have forgotten that history is akin to the prophets claims about Israel's historical amnesia regarding exodus or exile."

Based on our experience, we see migration not as a cause for division – not as something that necessarily pits one group against another – but as an opportunity to build the "human family." We see migrants as our "brothers and sisters," as "us" not "them." We know this timeless phenomenon so intimately that migration is our metaphor for the faithful and for the faith. In St. Augustine's formulation, we are pilgrims on a journey home to the City of God. St. Teresa of Avila taught that "life is like a night spent in an uncomfortable inn." Pope Benedict XVI has said that for Christians every foreign nation is a homeland and every homeland is a foreign nation. Migration is our natural condition.

## **Human Dignity and the Common Good**

The Church strongly defends the dignity of all persons, particularly those in great need like

migrants and newcomers. In a pluralistic world, it uses the language of rights to mediate its values. However, it conceives of rights in a distinctive way. First, in its view, rights derive from the God-given dignity of each human person. States exist to protect rights, but ultimately they come from God, not from membership in a state or from a particular immigration status. Second the Church defines rights expansively to include political, civic, social, and economic rights. Rights safeguard all that is necessary to live a truly human life. Third, the Church views persons as social beings, and the family as the fundamental social unit. Family occupies a privileged place in the Catholic view of rights, and serves as the primary impetus for migration to the United States. Most immigrants migrate to support their families and often as part of a strategy to preserve their families. Fourth, rights invariably entail duties. Persons who need to leave their countries to support their families have a duty to do so. States have an obligation to accept and to integrate these immigrants, but immigrants have a duty to act as good citizens in their new communities. Like the Good Samaritan, they have a duty to contribute. Fifth, respecting rights does not undermine the “common good” but advances it.

The Church defines the “common good” as the “sum total of social conditions which allow people, either as groups or individuals, to reach their fulfillment.” In other words, the “common good” allows people to flourish and to realize their God-given dignity. This understanding closely tracks the Church’s view of rights. Respect for rights allows people to flourish. In fact, the Church uses the rhetoric of “rights” to help outline its vision of the “common good.”

The responsibility to honor the common good by protecting rights extends across borders. The sense of a “universal” or border-less common good can be found in Pope John Paul II’s definition of solidarity as a “firm and persevering determination to commit oneself to the common good; that is to say, to the good of all and of each individual because we are all really responsible for all.”

In 2002, the U.S. and Mexican bishops recognized that a sovereign state has the duty to control its borders in order to advance the common good. However, the bishops concluded that the “common good” could never be served by violating human rights, either by preventing those who are exercising their rights from coming or by forcing newcomers to live as second-class non-citizens. The bishops went on to recognize a presumption in favor of the need to migrate, given the widespread poverty and persecution in migrant-sending countries. Rights language helps to mediate Church teaching in a pluralistic world. Ultimately, the Church calls us to honor the values that underlie rights like love, charity, justice and compassion. As Paul Simoneau recently put it, the citizenship we seek requires a particular visa stamp and you get this stamp only if you welcome the stranger.

## **Justice for Immigrants**

Where does the teaching lead us in the public policy arena? The U.S. bishops’ Justice for Immigrants (JFI) campaign is based on two principles. First, we need to address the conditions

that force people to migrate. People should be able to live fully human lives in their home countries. They have the right not to have to migrate. This is why the bishops link the JFI campaign to the Catholic Campaign Against Global Poverty which advocates on foreign aid, trade, and debt relief policies. Catholic Relief Services, a key sponsor of the JFI campaign, offers development programs in immigrant-source communities that allow people to stay at home. I learned recently about a micro-credit program in Nogales, Sonora that has provided \$800,000 in loans, most in \$200 to \$700 increments, for start-up businesses. The program has a 93 percent repayment rate. It is more effective at keeping people at home than the Border Patrol could ever be. Think if we spent just a fraction of our immigration control monies on development projects in immigrant sending communities. The root causes of migration include trade agreements that ease the flow of goods and services, but do not remove restrictions on the movement of people who are displaced by these agreements.

People also migrate to flee human rights abuses, as we know from the 900,000 refugees that the Church has resettled in the U.S. since the fall of Saigon and from the Iraqi Christians on their way as we speak. In our experience, people do not leave their homes for trivial reasons. U.S.-Mexico border crossers say that they would rather die trying to cross than to die slowly at home. Border Patrol officers say that, if they were in the migrants' shoes, they would make the same decision. Law enforcement officers do not typically sympathize with "criminals," but these agents see migration as an understandable human phenomenon. They know that most migrants come to fulfill their responsibility to support their families. The substantial monies they send home – \$45 billion a year – embody their sacrifices. In addition, it takes little in the way of wages (or hope) to keep them at home. Assembly plants on the border in Mexico employ hundreds of thousands of Mexican nationals, paying about \$1 an hour. These workers do not leave. So the Justice for Immigration campaign would first address root causes.

Its second principle recognizes the need to integrate the vast majority of immigrants into our nation's life. The "good" of our country will depend on the successful incorporation of its 37 million foreign-born persons. We do not want to create a large population of second-class non-citizens without security, prospects, or rights. The Church does not support illegal migration. But few believe it would be feasible or even desirable to deport our nation's 12 million undocumented residents. One study concludes that it would cost \$216 billion over five years.

In the absence of federal legislation, many states and localities are trying to force people to leave by denying them the ability to rent housing, to work, to drive, to obtain basic information from the government, and simply to subsist. These deportation-by-attrition measures do not serve the common good because they violate human rights and they prevent immigrants from accessing institutions – like police, hospitals, schools – that serve the common good. They divide families. Particularly at risk are the 6.6 million U.S. families – with 14.6 million people and 3.1 million U.S. citizen children – headed by undocumented persons. Overall the undocumented account for 5 percent of the U.S. workforce, and far higher percentages in many sectors. It would eviscerate entire industries to lose these workers. If we need immigrant laborers, why are so many without status? The primary reason is that U.S. law provides only 5,000 unskilled work visas each year,

but more than 500,000 undocumented persons are entering yearly, the vast majority of them finding jobs.

Thus, the Justice for Immigrants campaign supports a “comprehensive” approach to immigration reform that would:

- address root causes.
- increase family-based immigration to prevent family separation.
- provide a path to legal status for agricultural laborers and undocumented children raised in the United States.
- allow certain undocumented persons to “earn” legal status through their labor, demonstration of good character, payment of a fine, and learning English.
- offer future workers a way to enter legally if their labor is needed, they are treated fairly, and they do not hurt U.S. workers.
- enforce our immigration laws in humane way.

### **How We Answer the Tough Questions**

JFI proposes a humane and realistic solution to our nation’s immigration challenge. Let me respond to six arguments frequently used against us.

#### **“We need an immigration system that honors the rule of law.”**

This is true; we do need such a system. Our laws deserve respect. Mary Ann Glendon has pointed out that our civic culture places a primacy on adherence to the law. This makes our nation attractive to immigrants. However, the term “rule of law” does not mean “law and order.” It does not refer to the full enforcement of all the laws on the books or the creation of more unenforceable laws. It speaks primarily to the need to curb abuses of government power and to make leaders accountable to the laws.

The “rule of law” describes a legal system with prospective law that are coherent, stable enough to be followed, predictable, and consistently administered. Anybody who has encountered our immigration system knows that the rules can be arbitrary, they change constantly, they are inconsistently administered, they do not correspond to the written law and many are retroactive. The “rule of law” demands respect for rights, but our immigration system undermines the right to family unity by requiring people approved for family-based visas to wait for years until they receive them.

For the Church, the fact that a person has violated our immigration laws triggers key questions. We ask why they came. Were they exercising their God-given rights (and duties) to support themselves and their families? Were they fleeing danger or persecution? We ask what they have been doing here. Have they been contributing to the good of our nation with their labor, their

faith, their commitment to family and to their community? We consider the severity of their offense. Was it like a murder or a breaking and entering, or more like the crime of the hungry person who steals food for his family or the homeless person who sleeps in a park? Finally, we ask if actual or constructive deportation fits the crime. Or should certain immigrants be able to atone for their offenses in some other way? Can our nation of immigrants find room for these hard-working, pro-family people who, like our own ancestors, have revitalized our nation and Church? We hope they can.

None of these factors matter to our opponents. “What don’t you get about the illegal in illegal alien?” they sneer. The Church does not “get” either the “illegal” or the “alien.” It does not believe that human beings can be illegal; people can break the law, but they cannot *be* illegal. We are all God’s children, and God doesn’t act illegally. To see the problem, try using these terms instead: “illegal person” or “illegitimate child.” People cannot be illegal or illegitimate, and immigrants are people. The term “alien” is also “alien” to our tradition. Immigrants are our brothers and sisters, our near and far neighbors, they are us.

### **“Immigration threatens our nation’s security.”**

In many ways, immigration strengthens our security. Look at the composition of the U.S. military, or the high-tech industry, or the workforce in so many sectors of our economy. National security should not be limited to “defense.” It speaks more broadly to the sources of our nation’s our strength, including its economic power and its commitment to its values.

The undocumented do not threaten our security. After all, these are the people who we entrust to nurture our children, to care for our elderly, to build and clean our homes, to pick our crops, and to serve our food. Moreover, terrorists like to recruit “clean operatives,” people who will not otherwise come to the attention of authorities. This means U.S. citizens and legal immigrants without criminal records.

We need an immigration system that can run identity and security checks on those seeking to enter, and can stop from entering those very, very few people who threaten us. How to obtain such a system? The only feasible way is to expand the legal avenues for admission and to offer those here a way to earn status. In a recent survey of 100 national security experts, 70 percent said that we needed to improve port and cargo security, but only 6 percent favored building a fence between the U.S. and Mexico. Expanded legal immigration would make us safer. Here is how one expert puts it:

If we legalize those who are here and are coming for valid purposes, we can concentrate law enforcement resources on the few bad actors. As it stands, it is not the rule-breakers who create the security risk; instead it is unenforceable laws ... We need to ‘drain the swamp from the fish.’

Most importantly, human rights must be central to any security strategy, particularly in a nation

devoted to the protection of rights that is trying to win hearts and minds. Archbishop Migliore made this point in testimony to the UN General Assembly:

Effective counterterrorism measures and the protection of human rights are not conflicting goals. Indeed, the former must serve the latter, because the protection of human rights is the primary objective of any counterterrorism strategy. The absolute unacceptability of terrorism lies precisely in the fact that it uses innocent people as a means to obtain its ends, thus showing contempt and utter disregard for human life and dignity.

**“We need to control the borders first; only then can we liberalize our standards for legal status and admission.”**

Our experience teaches us that “enforcement only” will not work; this is part of the reason that we favor a comprehensive approach to immigration reform. Between 1993 and 2006, Border Patrol funding more than quadrupled, from \$362 million to \$1.8 billion. During the same years, the undocumented population surged to 12 million and apprehension costs per migrant soared. More than one migrant dies each day trying to cross the U.S.-Mexico border. Not statistics, but people with families who love them, God’s children, trying to support themselves and their families.

**“Immigrants take the jobs of Americans.”**

They create jobs. The record wave of immigration has coincided with record rates of employment. Full employment used to be 94 percent; we now have 96 percent employment. Immigrants represent 16 percent of all U.S. workers, but just 12 of the population. In general, they bring skills that complement those of U.S. workers, both at the lower and upper ends of the job market. In the future, we will need immigrant laborers even more. A comprehensive study by the Pew Research Center concluded that historically high levels of immigration did not negatively affect employment of native-born workers. According to the Federal Reserve Chairman, the U.S. economy will require 3.5 million more workers annually to replace our aging workforce.

We need to be concerned about the impact of immigrant labor on wages and working conditions, particularly for lower-wage workers. So why not strengthen and enforce our labor and workplace protection laws? This would benefit both immigrant- and native-born workers. It might also curb illegal migration. More importantly, we need to educate and prepare the native-born better for the job market. We need to invest in human capital.

**“Legalization of the undocumented would be deeply unfair to those who have played by the rules and waited in line.”**

All the main immigration reform bills would first legalize backlogged immigrants. More to the point, these backlogs have created a situation in which millions of immigrants who have been approved for visas opt to live illegally in the United States, rather than to wait for years abroad apart from their loved ones. These people are not jumping ahead in line; they are the line. We

want to change the laws that put so many immigrants in this quandary.

**“Immigrants do not really want to be Americans and high rates of immigration balkanize the nation.”**

The overwhelming majority of immigrants embrace core U.S. civic values and political institutions. They embrace them more fervently than do many Americans, who do not vote, do not educate themselves on issues, and could not pass a citizenship test. Integration takes time. It always has. Ninety percent of the famine Irish spoke only Gaelic. Even my Irish ancestors eventually learned English! In Europe, policy makers struggle with how to integrate the children and grand-children of immigrants, who do not believe that they can truly become French or German or Dutch. In the United States, the immigrant rallying cry is: “We are America!” Most immigrants want what the rest of do – the ability to live in security, to support their families, to contribute to their country, and to practice their faith.

### **What’s the Counter-Vision?**

Immigration is a complex issue and well-intentioned people come out differently on it. However, I am troubled by the view of our nation that underlies one branch of the restrictionist movement. One commentator has put it this way:

Every true nation is the creation of a unique people, separate from all others. Indeed, if America is an ideological nation grounded no deeper than in the sandy soil of abstract ideas, she will not survive the storms of this century.

To the contrary, the United States is a nation comprised of people from different countries who are united by a common commitment to abstract ideas, like freedom, equality, rights and democracy. As Abraham Lincoln put it, our nation is devoted to the proposition that all are equal, to what the Declaration of Independence called “self-evident” rights. The United States is the so-called “creedal” nation, a nation linked by a shared commitment to these ideals.

The competing vision – which some call “ethno-cultural nationalism” – holds that a nation is a group of people connected most deeply by ethnicity, religion, culture, history, race, or other “inherited” or “ascribed” characteristics. This vision runs into difficulty when it tries to articulate exactly what characteristics should define membership. Historically, proponents of this view regarded the Catholic faith, for example, as incompatible with U.S. citizenship.

It should not be surprising that those who want to perpetuate a “unique people” would oppose family-based immigration. The family of certain immigrants presumably lack the preferred characteristics. It is less certain why ethno-cultural nationalists oppose birthright citizenship for the children of undocumented persons. Most of the children born here will never belong to another country. To paraphrase one young immigrant, the anthem they sing is the National

Anthem, the pledge they recite is the Pledge of Allegiance, the language they speak is English, and their history is U.S. history. These children share a common culture and history with other native-born children, yet their citizenship is viewed as an immigration “loop-hole.”

There is an interesting, academic debate on whether a Constitutional amendment would be required to repeal birthright citizenship for the children of undocumented persons. The Fourteenth Amendment, which reversed the infamous *Dred Scott* decision, provides citizenship to those born or naturalized in United States and subject to its jurisdiction. I am less interested in the technical argument for resurrecting *Dred Scott* and applying it to a class of children, than I am troubled about the vision that underlies this thinking.

Political membership and religious faith – citizenship and discipleship -- cannot be equated. As a friend puts it, the bush that drives us should not be the George in Washington, but the burning bush of Hebrew Scripture. Still the ethno-cultural vision seems to me foreign to our religious tradition which is based not on race, nationality, or other attributes, but on our deepest hopes and commitments. As St. Paul described the Christian faith: “There is neither Jew nor Greek, there is neither slave nor free man, there is neither male nor female; for you are all one in Christ Jesus (Gal. 3:28).

An analogous commitment is central to our civic tradition. George Washington described the United States this way in a letter to the Hebrew Congregation of Newport, Rhode Island:

It is now no more that toleration is spoken of as if it were the indulgence of one class of people that enjoyed the exercise of their inherent natural rights, for, happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.

Washington was looking for good citizens. We should be as well.

## **Conclusion**

Let me end with a few more thoughts on the common good. In Catholic teaching, the conditions that allow persons to flourish cannot be those that deny rights to certain classes of people. Since *Pacem in Terris*, the Church has taught that the common good is primarily served by honoring rights. In 1986, the U.S. bishops wrote: “It is against the common good and unacceptable to have a double society, one visible with rights and one invisible without rights – a voiceless underground of undocumented persons.” Archbishop Romero put it this way: “The common good will not be attained by excluding people. We can’t enrich the common good of our country by driving out those we don’t care for.”

The Church teaches us to honor the common good by standing in solidarity with immigrants..

Stand in solidarity because

- you belong to a Church of migrants
- you live in a nation of immigrants
- you are a migrant on a spiritual journey to your final home
- Jesus identified with migrants in an intense and personal way
- as the Good Samaritan taught us, your salvation depends on it.

Thank you.