

ADDRESS TO THE PAX CHRISTI PRIZE CEREMONY – 2019

Good evening everyone. I thank you for your presence and for the privilege I have of addressing you as we present the Pax Christi International Peace Prize 2019 to European Lawyers in Lesvos. In response to the news of being awarded the Peace Prize, the Managing Director Mr. Philip Worthington stated: “We are grateful that our work to uphold the rule of law, protect human rights and ensure meaningful access to justice for refugees on Lesvos has been recognized in this way.....”

Last week on 20 June, World Refugee Day was commemorated in various ways around the world. Statistics were varied, but revealed that there were between 68.5 and 70 million displaced people in the world fleeing from persecution, conflict, war and deprivation. Of these, 24.5 million were classed as refugees. Interestingly, 85% of these refugees are housed in developing countries, not in the developed “north” of the world.

The question which I have been reflecting on is the following: Wherever there is an influx of refugees into countries from situations of war and violence and misery, is there a moral obligation or imperative to welcome and care for these refugees by affected nations?

This is, of course, a complex issue. The refugee crisis is one of huge proportions around the world, and it poses questions and challenges for Governments, nations and citizens alike. In response, political leadership will grapple with a variety of suggested policies and measures to deal with the crisis at the macro and micro level in their countries.

Perhaps in the context we are considering this evening, there is a perception or even a conviction that European nations indeed have a “moral obligation” to welcome refugees at the very least for humanitarian reasons. Spiritual leaders like Pope Francis respond out of values like compassion and solidarity with the vulnerable in the world. “We have a duty toward our brothers and sisters who, for various reasons, have been forced to leave their homeland: a duty of justice, of civility and of solidarity”, Pope Francis said last February at the 6th International Forum on Migration and Peace.

In recent times we have seen a strong push back against the notion that nations, like those in Europe, have some sort of “obligation” to open their borders to refugees and migrants. Among other issues, the debate around this often does not take sufficient cognizance of political decision-making in the past and even recent past. Sometimes foreign policy objectives of certain countries and their interventions in other countries have resulted in

political anarchy, which precisely caused a refugee crisis with so much misery for those who were forced to flee the resultant war, violence and misery.

Therefore, the concern about preserving so-called “human security” in affected or receiving nations will not stem the flow of refugees if our Western powers do not stop contributing to social and political destabilization in other countries through their interventions or foreign policy initiatives. For example, the ongoing arms trade, causing untold suffering in places like Yemen and elsewhere. In this regard, the UK, Europe and the USA in particular need to accept that they have a shared responsibility for the violence and tragedies in Northern sectors of Africa, and in the Middle East. As a consequence, they do indeed have a responsibility for the lives and well-being of the people who suffer so much, or try to flee the resultant chaos and violence.

What peace and just activists need to advocate for consistently is that nations such as those in Europe and the USA must articulate and implement a foreign policy which promotes stability, security and development in the countries where the refugee crisis originates. Part of this involves respecting the right of all nations to self-determination and sovereignty, not intervening militarily as a first option when, for example, there may be human rights violations in these nations, not seeking regime change as if this is the only solution, but rather seeking the way of peace and justice through nonviolent strategies and working in collaborative partnerships with all stakeholders to ensure political and social stability, and economic and social development.

But in crisis situations, political leadership in potential receiving countries has to do everything possible to rescue and care for those who face the threat of losing their lives, or the misery of surviving in transit areas or camps. Therefore, the focus or concern for me this evening is the immediacy of the humanitarian crisis faced by thousands of refugees striving to get into Europe and elsewhere.

But, by extension, NGOs, organizations, communities and people in Europe need to face the same question in a personal way, as our European Lawyers in Lesvos have done: Is there a moral obligation on all to welcome and care for refugees?

For me, this obligation is rooted in the concept of the fundamental dignity of every human being. All people, whatever their worldview or whatever motivates their choices or decisions, whether it be spiritual values or basic human values on which most people could agree, most

if not all people should sense some resonance at hearing the term “human dignity”. If we were asked: what is human dignity? we would all probably give various answers based on experiences of what we would feel if *our dignity* was infringed, or if our dignity and human rights were not respected.

For example, in my country South Africa the black, oppressed people had their dignity as a human being profoundly crushed by the apartheid system, which we are still trying to heal and transform. And it is surely the same for the millions of refugees whose many forms of suffering and rejection are a direct assault on their dignity. In reality, any attack on human dignity, anything which takes away in some way the dignity of a human being, is a form of violence.

The Constitutional Court of South Africa has referred to dignity as "a notoriously difficult concept ... it needs precision and elaboration". In one of its many judgements over the past years, the Court stated:

[w]e are emerging from a period in our history during which the humanity of the majority of our inhabitants of this country was denied. They were treated as not having inherent worth; as objects whose identities could be arbitrarily defined by those in power rather than as persons of infinite worth. In short, they were denied recognition of their inherent dignity.

So firstly, the concept of human dignity seems to be fairly new in international and domestic constitutional law. Dignity is protected as a value or a right, or both, in international law and in the way law is interpreted in different countries. But human dignity as a concept or value was not defined in the first international document which recognized human dignity as something *inherent* in us, as something *essential* to us as a human being, and that it has to therefore be *protected*. This was the *Universal Declaration of Human Rights* in 1948 at the United Nations, and many international and national documents followed on this.

However, after World War II, as far as constitutional law judgements are concerned in different countries, dignity seems to comprise three elements or aspects. Firstly, that every human being has equal inherent human dignity that cannot be set aside or diminished by anyone or any institution. Secondly, that if human dignity is inherent to the individual person, it has to be affirmed and respected. Thirdly, as a result of this call for recognition and respect,

states have an obligation to progressively realise human dignity through the protection of human rights, particularly through the implementation of socio-economic rights for the individual, like the basic rights to housing, education, healthcare and so forth – so often lacking in the reality faced by refugees struggling to find a home in Europe, the USA, Africa, or indeed anywhere in the world.

The preamble of the *Universal Declaration of Human Rights* (1948), and the article 1(1) of the German *Basic Law*, and section 10 of the *Constitution of the Republic of South Africa*, 1996, express the three elements I have referred to.....and can therefore be used as a sort of basic definition of human dignity.

The preamble of the *Universal Declaration*, specifically the first and fifth paragraphs, states: “Whereas *recognition of the inherent dignity* and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.....”

And.....”Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, *in the dignity and worth of the human person* and in *the equal rights of men and women* and have determined to promote social progress and better standards of life in larger freedom.....”

So, the first principle guiding any discussion is this: *Every human being has inherent human dignity and worth.*

In other words, the worth of a person has no price, admits of no substitute, cannot be traded off for anything in the world. In addition, human dignity has no nationality. It is inherent in all people, citizens and non-citizens alike – simply because they are human.

The second element: the issue of human rights based on human dignity. The UN General Assembly determined in 1986 that new human rights instruments should "derive from the inherent dignity and worth of the human person". Consequently, inherent dignity was enacted in the major conventions on the *Rights of Children* (1989), the *Rights of Migrant Workers* (1990), *Protection against Forced Disappearance*, and the *Rights of Disabled Persons* (2007), and so forth.

In 1993, delegates from 170 governments who convened at the Vienna Second World Conference chose inherent dignity as central to the protection and development of human rights.

Even though we may affirm this inherent dignity in every person, we also have to recognise and accept that there is *diversity* in any given society, there are differences in human beings and especially in cultures. The social, political and cultural context in any country, therefore, can contribute to a broader understanding of human dignity and human rights, and what it requires of all Governments, Institutions of the State like the Courts, communities and individuals.

The goal of achieving equal or at least adequate human dignity for people will only happen if *minimum* living conditions are provided, namely the provision of socio-economic rights as far as these can be done with the resources that are available in the country – which is, of course, a major challenge for developing nations in particular. Justice Chaskalson of the South African Constitutional Court explained that socio-economic rights are

“rooted in respect for human dignity, for how can there be dignity in a life lived without access to housing, health care, food, water or, in the case of people unable to look after themselves, without appropriate assistance?” – a succinct description of what so many refugees experience which deprives them of the minimum conditions of life so that they can live in dignity and develop their human potential. Therefore, I submit that in addition to caring for its own citizens, welcoming and caring for refugees is indeed a moral imperative for States and non-State actors alike.

With these reflections, I congratulate and affirm European Lawyers in Lesvos for the inspiration they have given to all of us in Pax Christi International and elsewhere, and above all for their commitment to upholding the rule of law, the protection of human rights and meaningful access to justice for the refugees on Lesvos.

Thank you.

Kevin Dowling

Co-President Pax Christ International