Catholic Social Teaching and Global Migration: Bridging the Paradox of Universal Human Rights and Territorial Self-Determination

Vincent D. Rougeau†

I. INTRODUCTION

In this essay, I will consider how law, religion, and democratic pluralism revolve around a particular issue: global migration. I use the term “global migration” to encompass a number of related issues that are often collapsed under the term “immigration.” In nations that have constructed their identities around waves of settlers or migrants—places like the United States, Canada, Australia, and New Zealand—immigration involves the formal reception of foreigners into the host country as potential new citizens.† This is just one part of the migration of peoples around the globe. 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. Furthermore, these same values relate closely to core notions of Christianity. Catholic social teaching is a tradition within Christianity that emphasizes the dignity of the human person and, as such, complements and supports key liberal values essential to democracy and modern human rights discourse.

Global migration demonstrates the difficult choices a firm commitment to these values presents to even the most advanced democracies. In the United States, undocumented migration from Mexico and Central America has caused a great deal of political and social turmoil; has ex-

† Associate Professor, Notre Dame Law School. This Essay grows out of my presentation at the Seattle University School of Law’s March 7, 2008 Symposium, Pluralism, Religion & the Law.

1. Will Kymlicka calls these the “countries of immigration,” which “legally admit immigrants as permanent residents and future citizens.” WILL KYM LI CK A, MULTICULTURAL ODYSSEYS 73 (2007).
posed ugly, nativist tendencies in American culture; and has exacerbated class tensions, calling into question the American commitment to an open society that welcomes the poor and persecuted.  

Nevertheless, the American debate over undocumented immigration and immigration reform offers an excellent way to frame progressive and creative ideas about the relationship between Catholic social thought and democratic pluralism. In this essay, 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.

My essay is organized around three major themes. First, I explore the ways in which Catholic social teaching addresses human dignity, the plight 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. As an example, I consider Seyla Benhabib’s argument that the global migration of peoples demands a vision of justice that recognizes a right to membership.

Finally, I conclude by arguing that Catholic social teaching supports Benhabib’s concept of a human right to membership and that the goal of a well-functioning liberal democracy should be to transform strangers into citizens.

II. CATHOLIC SOCIAL TEACHING, MIGRATION, AND HUMAN DIGNITY

Catholic social teaching has long argued that the rights to emigrate and migrate are fundamental to human persons. In their pastoral letter,

Strangers No Longer, the bishops of the United States and Mexico summarized the current 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.

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. For the purposes of this essay, I will highlight four principles: 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 men and women as created in God’s image and likeness. This concept, known as the imago Dei, means that human beings have a unique 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 ne-

---

cessity of joining together in certain instances.4 This foundational assumption of the autonomous individual creates an environment in which claims of community are seen as negative intrusions on human dignity. 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.5 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.6 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.7 In 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.8 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.”9

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


5. “[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. CONFERENCE OF CATHOLIC BISHOPS, ECONOMIC JUSTICE FOR ALL 45 (10th anniversary ed. 1997) [hereinafter ECONOMIC JUSTICE FOR ALL].

6. Id.


9. Id. at 195.
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."

In other words, it seeks to situate
justice for individuals within the context of the common good.

Third, distributive justice "is, in turn, concerned with the way the
members of society share in the goods that their life together makes pos-
sible. It deals with the allocation of the common good in a way that
leads to the welfare or well-being of members."

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. Serious attention to the common good,
human dignity, and the social nature of the human person makes the pre-
ferential option for the poor a logical outgrowth of those principles. 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.

"Preferential" is not preference in the sense that the poor are "bet-
ter" 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 com-

munity, and 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 them-
selves and who are more often than not in the worst position to bear sac-

crifices 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.

---

10. Id. at 196.
11. 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 5.
12. The concept grew out of discussions of the Latin American bishops that began at Medallin,
Columbia, in 1968 and thereafter developed by the theologian Gustavo Gutierrez. See generally
GUSTAVO GUTIÉRREZ, A THEOLOGY OF LIBERATION: HISTORY, POLITICS, AND SALVATION (Sister
13. See, e.g., Pope John Paul II, Encyclical Letter, Centesimus Annus ¶ 57 (May 1, 1991),
available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01
051991_centesimus-annus_en.html.
III. 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.

[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 marginalised, and with the powerless.14

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 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.

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. Take, for example, the issue of abortion in the United States. Although most Americans believe abortion should be illegal in some cases,15 there is widespread disagreement when a fetus


15. See, for example, a recent Quinnipiac University poll from July 2008 in which only 19% of survey respondents thought abortion should be “legal in all cases,” as opposed to 14% who thought it should be “illegal in all cases.” Press Release, Quinnipiac Univ. Polling Inst., American Voters
reaches a stage of development in which it should be treated as a human being.\textsuperscript{16} This disagreement extends within and across religious traditions, as well as between religious believers and non-believers.

Furthermore, even when specific applications of these principles are not at issue, differences of opinion often exist as to why a particular principle deserves support or what types of behavior the principle encompasses. For example, despite general agreement in French and British civil society on the basic equality principle, is equality of esteem advanced or undermined when Muslim women in France wear headscarves in public schools? Should Muslim women fully covered in the \textit{chador} be allowed to present themselves to vote in British elections without revealing their faces? Even in a state where Islam is the dominant religion, like Turkey, these questions have caused extraordinary controversy when considered in light of the core values of a secular, democratic state. One fairly straightforward application of the principle of equality is respect for individual conscience. As Martha Nussbaum noted,

\begin{quote}
[T]he argument for religious liberty and equality in the [American constitutional] tradition begins from a special respect for the faculty in human beings with which they search for life’s ultimate meaning. This faculty was held to be present in all human beings in such a way as to make human beings equal: anyone who has it (and all humans do) is worthy of boundless respect, and that respect should be equally given to high and low, male and female, to members of the religions one likes and also to members of religions one hates.\textsuperscript{17}
\end{quote}

Thus, democratic citizenship does not necessarily demand shared agreement on the first principles underlying the constitutional or basic law of the state; yet, accession to and respect for the core values and principles of the basic law are necessary if the society is to have stability and cohesion. This means the concept of a nation as coterminous with a core ethnic, racial, or religious homogeneity is increasingly unsustainable if our commitments to human rights, like freedom of conscience, freedom of religion, and freedom from ethnic and religious discrimination, are to flourish in democratic settings.\textsuperscript{18} This does, however, raise the

\footnotesize

Oppose Same-Sex Marriage Quinnipiac University National Poll Finds, But They Don’t Want Government to Ban It (July 17, 2008), http://www.quinnipiac.edu/s1295.xml?Release ID=1194.


18. For a contrary view, see SAMUEL P. HUNTINGTON, \textit{WHO ARE WE?: THE CHALLENGES TO AMERICA’S NATIONAL IDENTITY} (2004). I consider and reject Huntington’s view and offer an alter-
question of whether democratic states can be organized around the idea of giving priority of place to certain cultural attributes of a dominant group of citizens, like language in Quebec or Judaism in Israel.19

Forcing immigrants and migrants to completely abandon their previous identities and commitments in order to enter in full relationship with the members of their new, host societies seems inconsistent with the values of democratic pluralism. The old assimilation models that coerced immigrants to become more ethnically French, English, or American—whatever that meant—are no longer acceptable in many Western democracies.20 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 shape their new societies.

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. In some countries, like the Philippines, men and women with professional qualifications find that, while no suitable employment is available in their home countries, their skills are in demand in other places around the world. Add to this the never-ending cycle of war, famine, and political repression that victimizes millions, as well as the ethically burdened relationships many developed nations have both with their former colonies and with nations whose puppet-regimes long did their bidding. All of these issues contribute to the “push” and “pull” factors that encourage all types of global migration.

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. We see increasingly that the models of assimilation and homogenization of nation-state cultures are falling out of favor:

native view in my recent book, 


A wide range of justifications have been offered historically for this pursuit of national homogeneity. In some contexts, it was argued that the state needed to be more unified in order to effectively defend itself against external or internal enemies . . . . But these sorts of justifications were also typically buttressed by racist and ethnocentric ideologies which asserted that the language and culture of minority groups and indigenous peoples were backward and inferior, if not barbaric, unworthy of respect or protection. \(^{21}\)

This recognition has led to the development of the idea of liberal, multicultural states. In such an environment, it becomes difficult to insist that immigrants abandon their previous identities and commitments in order to become members of their host societies. Furthermore, given the important questions of global injustice that have caused much of the movement of peoples around the world, it is inappropriate to see migrants and immigrants as supplicants who are lucky to be admitted. If notions of justice and responsibility are taken seriously, immigrants and migrants have certain entitlements of entry and rights to shape their host society going forward. Relationship and dialogue that respect human dignity assume that both parties have the right to define the terms of the association and to influence the outcome of the discussion.

**IV. THE GLOBAL COMMON GOOD**

Over the last fifty years, these principles have been given global applicability. 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.\textsuperscript{22} Catholic social teaching is directed to a 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. The Catholic values, which assume the dignity of the migrant, recognize the dramatic imbalance of wealth and power in the global order and grant a preferential option towards migrants. These values should be a necessary part of any solution that can legitimately claim to be just.

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 Westphalian 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.

Historically, European and North American nations were able to integrate diverse peoples into their "empires" through a political and economic system that depended heavily upon their ability to dominate weaker nations and force certain cultural standards on subject peoples. By imposing economic relations and cultural values on those societies and their populations, these subordinate nations were brought into a global system on terms designed to favor the dominant world powers. 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?\textsuperscript{23} 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 the Balkans and the Caucuses have shown the growing incompatibility between democratic values and the notion of ethnically homogenous nation-states. 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.

At least six variations of state sovereignty are offered by Simon Caney in *Justice Beyond Borders*.24 One particular variation worth noting, due in part to its strong relationship to the idea of subsidiarity in Catholic social thought, is a political framework in which nation-states lack comprehensiveness. “Under such an arrangement . . . small units have authority for issues x, y, and z, but other larger institutions have authority for other matters. Neither class of institutions would be conventionally classified as a state.”25

In Catholic social teaching, subsidiarity is a principle that seeks to empower individuals and groups at every level of society. On the one hand, subsidiarity limits the intervention of the state to matters that are best addressed by those most intimately affected by them. This is often understood as a negative aspect of solidarity in that it restricts the actions of the state in the lives of individuals and communities. On the other hand, a positive aspect of subsidiarity recognizes that larger groups and higher structures in society, like the state, are often in the best position to take on certain tasks to promote the common good, and in so doing, it allows the lower or smaller groups to accomplish their tasks more effectively.26

Caney’s political model of a less comprehensive state recognizes that power is distributed based on different needs and competencies at different levels. It is an interesting and creative actualization of the subsidiarity idea. In Great Britain, for instance, there is increasing pressure for devolution of power to its constituent entities, particularly Scotland. An important rationale for this is that the interests and needs of the people of Scotland are different enough from those in England that more decisions need to be made at a political level closer to the people—in Edinburgh rather than in London. Yet, a quasi-independent or autonomous Scotland would still submit to a host of restrictions on its sovereign power through its participation in the European Union, including those involving human rights protections. Thus, an “independent” Scotland

25. Id. at 151.
remains tethered to the European community of nations and the global community in ways that leave many major aspects of sovereign power to higher level institutions. After exploring a number of variations and considering historical examples, Caney concludes,

[W]e should not treat the predominately statist character of the world system for the last three centuries as a fixed feature of the way the world is. To do so is to ignore the rich variety of earlier political systems. . . . These points remind us of the important but often neglected fact that there could be, and have been, alternatives to a statist framework.\(^{27}\)

Catholic teaching sees the nation-state as a means for advancing human dignity through its promotion of the common good. At different places and times in history, other means have been better suited to this task. The 21st century may well be a transitional era in this regard. Indeed, Yasemin Soysal argues that “the emergence of universal personhood is rapidly eroding the territorially bounded nation-state. . . . [U]niversal entitlements are still basically delivered by the nation-state but are no longer limited by formal citizenship. The furthest-going expression of the trend is the transnational citizenship laid down by the EU.\(^{28}\)

Given the longstanding support in modern Catholic thinking for the development of global institutions—respecting, of course, the concept of subsidiarity—and its modern resistance to any direct support for particular geo-political arrangements, there is nothing in the current move away from the nation-state model that would be inconsistent with the Catholic emphasis on the dignity of the human person. 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.

---

27. CANEY, supra note 24, at 151–52.
28. CASTLES & DAVIDSON, supra note 23, at 18 (citing YASEMIN SOYSAL, LIMITS OF CITIZENSHIP (1994)).
V. A COSMOPOLITAN VISION OF HUMAN RIGHTS
IN THE AMERICAN CONTEXT

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. As preliminary background to frame her argument, Benhabib has offered a compelling description of the current global situation as it relates to migration from the developing to the developed world:

Transformations in patterns of migration are leading more and more individuals to retain ties with their home countries and not to undertake total immersion in their new countries. The ease provided by globalized networks of transportation, communication, electronic media, banking, and financial services is producing guest workers, seasonal workers, dual nationals, and diasporic communities. . . . Migrations thus lead to a pluralization of allegiances and commitments and to the growing complexity of nationals who, more often than not in today’s world, are also ex-, post-, and neo-colonials. We are witnessing the increasing migration from periphery to center, encouraged by wide differentials in standards of living between regions of the world, and facilitated by the large presence of family and kin already at the center of what was once the Empire.

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. In a democracy, citizenship grants the right of participation that not only gives an individual a role in conferring authority upon the sovereign, but also bestows upon the individual rights, privileges, and protections that are recognized by the national community through its basic or constitutional law.

Increasingly, however, these rights, privileges, and protections have been encompassed within human rights norms that are seen as belonging to all persons qua persons. 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

---

30. Seyla Benhabib, Democracy, Demography, and Sovereignty, 2 LAW & ETHICS OF HUM.
Rts. (Iss. 1) art. 2, at 10 (2008).
31. GEARTY, supra note 14, at 5–6.
political community in which an individual finds himself; but, as a theoretical matter, the rights belong to all human beings. In this environment, the concept of citizenship becomes somewhat overburdened:

The discourse of liberal democracies is necessarily caught in this tension created by the context- and community-transcending validity dimension of human rights on the one hand, and the historically formed, culturally generated, and socially shaped specificities of existing juridico-civil communities on the other. The point is not to deny this tension by embracing only one or another of these moral alternatives, but to negotiate their interdependence, by resituating or reiterating the universal in concrete contexts.  

Immigration and migration in the wealthy democracies of the world provide an ideal “concrete context” in which to examine this interdependence, and Benhabib offers a proposal for negotiating the conflicting claims of universal human rights and nation-specific citizenship.

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.

A right to membership means that once a foreigner is admitted into a democratic community, he or she must be offered reasonable opportunities to become a member-citizen. Democracies cannot tolerate permanent strangers or second-class, pseudo-citizens. The long-term existence of these non-members calls into question the community’s commitment to the concept of equality of esteem for all human beings. Michael Walzer noted this in the early 1980s when he considered the status of guest workers in Europe. He also noted,

One might insist, as I shall ultimately do . . . that every immigrant and every resident is a citizen, too—or, at least, a potential citizen. That is why territorial admission is so serious a matter. The members must be prepared to accept, as their own equals in a world of shared obligations, the men and women they admit; the immigrants must be prepared to share the obligations.

---

32. BENHABIB, supra note 29, at 133–34.
33. Id. at 135.
35. Id. at 52.
Both Benhabib’s and Walzer’s observations raise important questions about the status of undocumented workers in the United States. Benhabib’s vision of just membership would call for reasonable paths to citizenship for those legally admitted, 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. For those who have entered legally, the right to membership entails a right for a foreigner to know how the conditions of naturalization can be fulfilled, and the system in place must be transparent: “One must not criminalize the immigrant and the foreigner; one must safeguard their right to due process, to representation in one’s language, and the right to independent counsel.”

But what about those who have entered sovereign territory in violation of 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. Given the willingness of large segments of American society to take advantage of the economic benefits made possible by the availability of inexpensive, undocumented labor, I argue that the “illegality” of many of these territorial admissions should represent no more than a hurdle to citizenship for these resident aliens. When distributive and contributive justice are taken into account, barring them permanently from citizenship is morally unjustifiable. It demeans the American commitment to democracy and human rights. Furthermore, rounding up undocumented migrants for deportation smacks of ethnic cleansing, population exchanges, and other attempts to “purify” national politics; and all of these, in the end, degrade the humanity of everyone involved.

In the case of undocumented migrants to the United States, a huge portion of these admissions were actively sought by certain Americans, or were acquiesced in by others. They were the result of what can be reasonably seen as an immigration policy that illegitimately restricts unskilled labor from the developing world, despite the pressing need for these workers in numerous sectors of the American economy. 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.

36. BENHABIB, supra note 29, at 140.
VI. CONCLUSION: COSMOPOLITAN NORMS, DISAGGREGATED CITIZENSHIP, AND CATHOLIC SOCIAL THOUGHT

If we truly believe that core democratic and human rights values are universal in their scope and application, we must be willing to think more seriously about a world order based on cosmopolitan norms and federal structures encompassing nation-states within these norms. As Caney has argued, these structures may take any number of forms. The regional model of the European Union offers one hopeful example, but it does not have to be the only one. Both Benhabib and Caney suggest that political identities do not have to be understood in state-centric terms. Both suggest that devolutionary developments around the world exemplify the use of the principle of subsidiarity as a way to improve democratic participation under a more general, cosmopolitan framework of human rights, political and economic rights, and rich justice norms, as understood in the Catholic social tradition. We are still in the early days of the development of these alternative structures, and I am not arguing that the nation-state is no longer relevant. Nevertheless, the phenomenon of global migration, the growth of world cities, and the expansion of diasporic cultures around the globe (including a Mexican-American one here in the United States) all suggest that the time has come to reconsider our understanding of the nation-state.

Domestically, more and more States are being confronted with the need to operate under multi-cultural political models. We should encourage this development as part of a richer understanding of how democracies go about the business of respecting human rights and nurturing human dignity. The ugliness and evil that often result from conflating ethnicity with democracy are never far away. In recent months, Radovan Karadzic has been captured and brought to trial at The Hague for leading a murderous rampage of ethnic cleansing through the Balkans. His capture, however, has done nothing to stop the Russians from moving into Georgia and unleashing attacks against ethnic Georgians within Russian territory. The tribal mentality of us versus them is no doubt a part of human nature, but both the traditions of democratic liberalism and Catholic humanism have offered alternatives that are just as deeply rooted in our spiritual and intellectual patrimony.

Fencing the world out is a morally unacceptable choice. 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.

Democratic pluralism requires compromise in the public sphere. As the ethnic and religious make-up of our nations change, we cannot impose a static understanding of what is acceptable based solely on the prejudices of previously dominant ethno-cultural groups, particularly if it creates impossible tensions with our commitments to democratic principles and widely held human rights norms. 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 both person-centered and cosmopolitan. It does not unduly elevate the sovereignty of the nation-state, but draws a parallel between the individual in the domestic community and the nation-state within the international community, emphasizing rights and corresponding duties that limit unfettered action of both the individual and the nation-state.

Finally, Benhabib’s right to membership links core values of Catholic social teaching and Catholic understanding of justice to important modern currents of liberal political theory. Everyone has the right to belong to communities in which they can exercise the full range of activities that bring dignity to their lives. If this kind of membership and participation cannot be achieved in one place, how can we justify preventing human beings from realizing these opportunities elsewhere, particularly when places exist that can accommodate them? Every person has a right to dignified participation in the lives of communities of which he or she is a part, regardless of legal status. Most importantly, everyone has a right to be a person fully endowed with rights and duties—a someone, somewhere.