

The Obligations and Limitations of Solidarity: The Role of the State in Migration Ethics*

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In the face of the European refugee crisis since fall 2015, the Vatican, the United Nations (UN), the European Union (EU), and the German government have all rightly appealed to the principle of solidarity. However, this article argues that they have all failed to account for the obligations that solidarity places upon refugees and migrants, as well as failing to account for the differences between refugees and migrants and the political limitations of host countries. Discussions of the refugee crisis need to avoid moralizing political problems if the principle of solidarity is to be properly and fully observed.

Introduction: The European Refugee Crisis

The fall of 2015: unending streams of refugees coming over the Balkans to central Europe, camps in Greece full of mud, overcrowded trains heading through Macedonia and Serbia for Croatia and Austria, long treks by foot across green borders even in the November fog, police blockades and fences at the Hungarian border, and banners at the Bavarian train stations with “Welcome” on them. The fall of 2015: the decision by Angela Merkel on September 4 to open the German-Austrian border and to allow the refugees to enter without a border check—a decision that ignored the parliamentary reservation that requires governmental decisions affecting the entire community to be made in Parliament.¹ The fall of 2015: the efforts of German communes, parishes, and volunteer organizations to make neighborhoods, personnel, and financial means available so that the refugees could be housed and looked after.

Nearly 1.5 million refugees flowed into Europe in 2015 and 2016. Wherever they reached the borders of the EU, most were on their way to Germany, where 1.2 million applied for asylum. Most came from Syria and Iraq. Thousands came from Afghanistan, Pakistan, Nigeria, Eritrea, South Sudan, Iran, and from Balkan countries that were not members of the EU. Syrians and Iraqis were fleeing the terror of ISIS; Afghans were fleeing the terror of the Taliban; Nigerians were fleeing the terror of Boko Haram; many were fleeing the poverty and hopelessness in Africa, the Balkan countries of Serbia, Kosovo, Albania, and Macedonia, and also in the refugee camps of the Near East—where they at least were safe. Germany was the primary destination not only because of the open border but also because of the well-developed system of legal and material shelter for refugees, with its services for those seeking asylum as well as for the diaspora communities already in Germany, which attracted people from like nations or confessions. About 70 percent of the refugees were Muslims, about 18 percent Christians, and about 5 percent Yazidis. In Iraq the Christians had been nearly entirely driven out.² The overcrowded boats of African refugees attempting to cross the Mediterranean Sea for Italy were also part of this mass migration. Many of the ships that were not seaworthy (which were not uncommon) were abandoned by those hauling them, who were betting on assistance from the ships of the Italian Coast Guard, the European border and coast guard agency Frontex, or volunteer aid organizations. These ships inadvertently became a link in the smuggling chain. For thousands, the Mediterranean became a death trap: The picture from the coast of Turkey, near Bodrum, of the body of a three-year-old Syrian boy who had drowned in the Aegean went out around the world as an urgent appeal.

The EU border regime was not up to the challenges of this new mass migration.³ The Dublin III Regulation, which stipulates that the EU country an asylum seeker first enters is the country responsible for the asylum request, could not withstand the onslaught; nor could the Schengen Agreement, which did away with internal border controls between EU states, leaving only the external borders to be controlled. Because protection failed at the external borders, checks at the internal borders became the logical consequence for several EU states. It took a long time before the German government accepted the failure of this border regime. Angela Merkel was still insisting in October 2015 that the borders could not be closed,⁴ even though in early September 2015 the Federal Ministry of the Interior had plans ready to close the borders.⁵ But unregulated immigration into the EU called into question not only the border regime of Dublin III and Schengen but even the cohesion of the EU itself. This was a fundamental reason why the majority of Brits decided on June 23, 2016, to exit the EU,⁶ as well as why the central European countries of Poland, Hungary, Slovakia, and

Chechnya refused to accept the redistribution of refugees that had been agreed to in Brussels, under pressure from Germany. Unlike the EU Commission and especially the federal government of Germany, the governments of the countries where refugees were arriving (Italy, Greece, Malta, and Spain) saw no obligation of European solidarity.⁷ At the same time, unregulated immigration was the engine for the spread of political parties that were nationalistic and hostile to Europe, which entered the parliaments of numerous countries and are already involved in the Italian government.

Solidarity and Love of One's Neighbor

What does solidarity demand, looking at the new mass migration? An admission of guilt that Europe shares responsibility for the violent conditions that are causing the migration,⁸ and that it is now paying up on “a historic reckoning” for exploiting its colonies?⁹ Opening the borders and admitting anyone who wants to enter? Accepting distribution quotas for the refugees who have arrived? Sending ships into the Mediterranean to bring the rescued refugees to Europe? Is the strategy of the four imperatives (“Welcoming, Protecting, Promoting, and Integrating”), which have defined the Holy See’s Twenty Action Points (hereafter “TAP”) for the UN Global Compacts on Migrants and on Refugees, Pope Francis’s message on the World Day of Peace 2018, and his speech in a Caritas center for stranded immigrants in the capital of Morocco, Rabat, on March 30, 2019,¹⁰ a demand imposed by solidarity and thus a logical consequence of Catholic social doctrine? Is limiting refugees’ entry into the EU and checking migrants at the borders a walling-off of the EU that violates the principle of solidarity? Is the answer given in the Bible, as insinuated by a theologian who criticized the Hungarian bishop Laszlo Kiss-Rigo for having shared Hungarian Prime Minister Viktor Orban’s position on refugee policy rather than that of Pope Francis?¹¹

What is solidarity? It is an awareness of a mutual being-connected with and being-obligated to one another. The term comes from the Latin *solidare* and means “to strengthen, solidify, merge together.” In political philosophy and social ethics, the term expresses the fact that people depend on each other—not just in families and communities but also in society, state, and international relations. This being-dependent-on-each-other should not be understood just negatively, as if people only depended on each other because that is the only way to balance out their own weaknesses and shortcomings. Looking at it positively, they are also dependent on each other in order to bring their talents and abilities into their social relationships and enrich each other. Every person is not only a “deficient being”¹² or beggar but also a patron, dependent on help but also “made for gift.”¹³

Like subsidiarity, solidarity is a central condition for making the common good a possibility. John Paul II wrote in his 1987 encyclical *Sollicitudo rei socialis*, “This then is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and persevering determination to commit oneself to the common good.”¹⁴ The common good is the entirety of the political and social conditions that make possible the personal development of human life. Solidarity is not the same as love of one’s neighbor. It “tends toward being utilitarian.... Solidarity expects solidarity; love of one’s neighbor does not have expectations.”¹⁵ This “expecting” solidarity is documented in all the health-, accident-, and age-insurance programs of the German social state. Such insurance systems also tend to occupy mathematicians rather than theologians or philosophers. That is why solidarity strives for adherence to rules and a condition of lawfulness. Even the legal regulations of migration or the “solidarity surcharges” in personal and corporate income tax, which were intended to deal with the problems of Germany’s reunification, are based on this expecting solidarity.

Solidarity is both a virtue and a principle for structuring state order. It is the ability and readiness of the individual to recognize the dignity and rights of his or her fellow human beings, and then to express this recognition in how one conducts one’s life and in one’s actions—including how one lives and acts toward refugees and migrants, as well as how immigrants should relate to the society of the country that has accepted them.¹⁶ At the same time, solidarity is a principle that orders society and the state in the service of bringing about social justice. This is why the legal and constitutional order of a state must provide for structures and institutions that are suited to bring about solidarity apart from the free decisions a citizen makes every day. The institutions of social security are not the only logical consequence of the principle of solidarity: numerous other institutions are too, from educational institutes and compulsory schooling, to the military, to the tax authorities. The state, as the largest organization created to offer solidarity, is itself an expression of solidarity. It is constituted by a people, a territory with borders, and a constitution at whose foundation is a common idea of freedom, justice, and a political method for creating policy, as well as an authority that is able both to make and to implement decisions. The state is just as much a prerequisite as a result of a functioning legal and constitutional order. The refugees in the fall of 2015 fled from states that were not fulfilling their function to produce order in states with a functioning legal and constitutional order that was able to offer them protection. “Refugees do not just overcome ... borders; a border is precisely what they flee behind when they seek protection from persecution, because only a sovereign power whose territory has borders

can make a realistic promise of protection.”¹⁷ The reply to the widely held view that “borders that do not let all people through are in fact passé and at any rate inhumane” is that there can be no state without borders and a border regime, and that legal security can only be guaranteed by institutions “that are responsible for a defined region.”¹⁸ Controlling a state’s borders is thus a *conditio sine qua non* for handling a new mass migration.

The Positions of the Church on the New Mass Migration

In the church’s positions on the new mass migration, however, the necessity of border control remains a blind spot. They lack a social-ethical perspective with a focus on the institutional conditions of opportunity afforded by a protective border and by a democratic state, ruled by law, that secures its borders.¹⁹ This is just as true of the German Bishops’ Conference’s guiding principles on engagement with refugees as it is of Pope Francis’s positions and the *TAP* with which the Holy See tried to influence both United Nations global compacts on refugees and migrants (adopted in Morocco at a conference of heads of state and government in December 2018). The moral perspective that Pope Francis expressed in the four imperatives already mentioned—“Welcoming, Protecting, Promoting, Integrating”—dominated. According to Francis,

“Welcoming” calls for expanding legal pathways for entry and no longer pushing migrants and displaced people towards countries where they face persecution and violence.... “Protecting” has to do with our duty to recognize and defend the inviolable dignity of those who flee real dangers in search of asylum and security, and to prevent their being exploited.... “Promoting” entails supporting the integral human development of migrants and refugees ... [and] access to all levels of education.... “Integrating” ... means allowing refugees and migrants to participate fully in the life of the society that welcomes them.²⁰

These four imperatives are not incorrect. They contain obligations, entailed by the principle of solidarity, for managing the new mass migration. But they are incomplete. They lack reflection on the *subject* that must be in the position to welcome, protect, promote, and integrate. This subject is not first of all civil society but rather the state—in the case of the European destination countries of the new mass migration, the democratic legal state. Civil society can be considered only after the state’s function to bring order and its stability have been secured. Only then can the four demands be made to welcome, protect, promote, and integrate refugees.

Securing a state's function to bring order remains a public and thus political task. Yes, Francis speaks of the "concerns about national security" that must be balanced "with concern for fundamental human rights,"²¹ and of "resources, which are always limited."²² But he avoids asking whether this has implications that might qualify the four imperatives. The Holy See's *TAP*, too, avoid discussing the problem posed by a contradiction between securing the state's function to bring order and opening the borders for all refugees and migrants. They do mention the right of every state "to manage and control its borders,"²³ but they leave open the question of whether this can result in a state being able to turn away refugees and migrants. In light of the 68.5 million people who, according to statistics from the UN Refugee Agency, were seeking refuge at the end of 2017,²⁴ and potentially 250 million who are interested in migrating, the question of whether these imperatives should be qualified is unavoidable.

Even if we subtract from the UNHCR's statistic the streams of refugees in Latin America and Asia, the question still demands an answer in light of the millions who are crowding into the EU from Africa as well as the Near and Middle East. Former president of Germany Joachim Gauck answered as frankly as the Green Party head mayor of Tübingen, Boris Palmer. In Mainz on September 27, 2015, Gauck said, "Our hearts are wide, but our options are finite," and "Our capacity to take in [refugees] is limited." Palmer wrote a book entitled *We Can't Help Everyone: A Member of the Green Party Discusses Integration and the Limits on Capacity* (Munich, 2017).

Refugees and Migrants

What were the reasons against opening the border for mass migration? What were, and continue to be, the reasons against indiscriminately welcoming, protecting, promoting, and integrating refugees—and therefore in favor of border controls and making distinctions among them? The first reason is the need to distinguish between victims of persecution, war refugees, and migrants. When it comes to addressing mass migration, making distinctions is the prerequisite for doing justice both to the refugees' dire situation as well as to every state's right and obligation to control its borders (and thus to the common good of the destination country). But the *TAP* wanted nothing of this. On the contrary, they stipulated that "the drafting and negotiating strive for the greatest possible harmony between the two Global Compacts," because it often can be difficult "to maintain a clear-cut distinction between migrants and refugees."²⁵

To this we reply that the difficulties involved in distinguishing between refugees and migrants are not a reason not to do so. Anyone who is persecuted on

the grounds of tribe, clan, race, sex, or religion has the right to asylum as long as the persecution continues; however, a right to having one's family reunited cannot be derived from a right to asylum. Neither article 16a of the German Constitution nor the 1951 Refugee Convention of Geneva mentions such a right. Reuniting families is regulated in Germany by the asylum law and the Residence Act, which would have to be amended if such reunions caused the number of refugees to increase from 1.5 million to 4 or 5 million. This is why the Holy See's demand that families be reunited, "including grandparents, siblings and grandchildren," not only is unrealistic but also makes welcoming refugees more complicated.²⁶ Someone fleeing from war has the right to refuge as long as the war continues, and the obligation to return once the war is over. This obligation does not depend on the extent of destruction or restoration in the refugee's home country, or on the degree of integration into the country to which the refugee has fled. This proved to be a reliable principle in the Balkan wars after the collapse of Yugoslavia in the early 1990s.

Poverty, economic distress, or the repercussions from crises and wars are just as ineffective "for successfully appealing to the right of asylum as is fleeing political instability."²⁷ A person who has fled from the war in Syria and Iraq to a refugee camp in Turkey, Lebanon, or Jordan has already found protection there. Someone who has moved on to Europe from such a refugee camp "mutates from a civil-war refugee to an economic refugee." No one can blame him: His behavior is "rational and entirely legitimate. But it is just as legitimate for potential host countries to treat refugees differently, whether they are seeking protection from persecution and [civil] war, or whether they are migrating because of poverty and in search of employment." It is legitimate for the countries to, say, grant only temporary residence permits, to set waiting periods before work permits can be obtained, and not to seek integration. Placing time and opportunity limits on the protection not only serves the interest of the host country to protect itself; it also provides protection for the refugee him- or herself.²⁸ The demand of the Holy See's *TAP* that migrants, asylum seekers, and refugees be guaranteed the right to freely choose their place of residence as well as the right to work,²⁹ is neither realistic nor covered by Catholic social doctrine, which does not mention a right to work that can be enforced against the state.³⁰ This demand harms the protection of refugees.

Every country in the EU thus must give an account for how it "is going to see its responsibility in the time of the collapse of 'Schengen' and 'Dublin.' Only then will it be able to continually meet its humanitarian demands. Because in the end, even the extent to which refugees can be effectively protected is a function of the state's power."³¹ The Geneva Refugee Convention does not acknowledge a

subjective right to migrate or a claim to entry.³² In his January 8, 2016, report on the refugee crisis, Udo di Fabio stated that a universally guaranteed and unlimited obligation to protect all refugees would “break the institution of democratic self-determination and, in the end, the system of international law, whose ability to secure peace depends on states that can have territorially defined borders and the power to act.”³³ And in his report for the 72nd Conference of German Jurists in 2018 in Leipzig, Winfried Kluth called limits on immigration “an indispensable condition for successful integration and for guaranteeing a lasting acceptance of humanitarian protection in society”; he said that no obligation toward unlimited solidarity is to be found in either constitutional or international law.³⁴

Protecting the host country’s power to act demands that the four imperatives, “Welcome, Protect, Promote, and Integrate,” be qualified. This is true not just for those migrating because of poverty or in search of employment, in whose case every state has the right to ask whether they are bringing qualifications that the employment market is looking for, and whether they are ready and able to integrate into the employment market or to successfully complete specific training programs; it is true also for people who are seeking refuge from persecution and war. In their case too, the host country must “keep in mind real-world capacities such as practical consequences” if it is to effectively respect and protect human dignity.³⁵ The attempt to solve capacity problems in the host countries with redistribution quotas determined in Brussels fails not only because the central European countries refuse to take in refugees but also simply because the refugees do not want to go to Hungary, Croatia, Bulgaria, or Romania; they want to go to Germany, Austria, Sweden, or Great Britain, and in its *TAP*, the Holy See grants them the free choice of where to live.

If we ask about the practical results of the unchecked immigration of 1.5 million refugees, there are a number of broader aspects to consider: the refugees’ readiness and ability to integrate, to respect the constitutional and legal system and local practices; the religion, culture, health, age, and, not least, the life experiences of the refugees. All of these aspects are interconnected. They are relevant for the common good and have consequences for the host country. A country that does away with any controls on immigration harms itself and the refugees.

Readiness and Ability to Integrate

When about 70 percent of the refugees are Muslims, the question of Islam’s ability to integrate cannot be brushed off with a reference to the secular state, which treats all religions equally and respects the freedom of religion. Of course, people whose lives are in danger must be given refuge as long as the threat per-

sists, regardless of their religion or culture. But once the threat to their lives has passed, it is necessary to examine the refugees' ability and readiness to integrate. Help in times of mortal danger does not entail the right to stay. It has been known that the ability and readiness of Muslims to integrate is a problem, ever since Turkish guest workers were recruited in the early 1960s. Around 900,000 came to Germany until recruitment stopped in 1973. It turned out to be a false assumption that they would leave the country again once their labor was no longer needed and their employment contracts had ended. About 40 percent stayed. Many integrated, but many did not, even to the second and third generation; they do not speak German, and they tend to form parallel societies.³⁶ This is in sharp contrast to the Korean guest workers who were recruited at the same time, as well as to the Vietnamese refugees from the 1970s, who also were unable to return to their Communist homeland after the war and have integrated very well.

The more strictly Islam is interpreted and lived, the more difficult integration becomes. In spite of many claims made by German Muslim organizations, Sharia law is not compatible with Germany's Constitution. In the Cairo Declaration on Human Rights in Islam of 1990—which in many ways resembles the human rights declarations of the UN and the European Council—Sharia law takes precedence over human rights. Article 24 states that “all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari’ah,” and article 25 states, “The Islamic Shari’ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.”³⁷ This, then, nullifies everything that had been so eloquently promised. In contrast to the governments of central European states, the German federal government had difficulty acknowledging this.

If someone advocates for culturally distinct immigration laws in migration policy, so that the social cohesion of society and the right it grants to live and practice as one wills can be protected (as the British economist Paul Collier did),³⁸ they do not then deserve to be accused of contradicting Christian social ethics.³⁹ Thomas Aquinas was already using distinctions to answer the question of how to welcome strangers into civic community, making reference to Aristotle's *Politics*, and he believed that limits were appropriate, depending on cultural proximity and compatibility with the public good.⁴⁰ And he answered yes to the question of whether love of one's neighbor can be distinguished, making reference to Augustine: Those “most closely united” are to be loved more than those who are more at a distance.⁴¹ One of the practical consequences of unchecked immigration is also the problem, long ignored in politics, of ongoing tensions between Muslims and Christians in the refugee camps—more specifically, Muslims bullying Christians. After all, not only victims of war but also

perpetrators were among the fugitives. For a long time, special protection for Christians in the centers was not considered necessary, and New Year's Eve 2015 in Cologne (when immigrant men committed a large number of sexual assaults against German women) hit the authorities and police unprepared. It was realized only too late that respect for the rule of law and for how things are done in the host country are the obligations that solidarity places on refugees. In his speech at the Caritas center for stranded immigrants in Rabat, Pope Francis, too, insisted that immigrants' sense of responsibility to the society of their host country must be advanced "as they learn to respect its people, social structures, laws, and cultures." But he qualified his demand by claiming that integration means "entering into a process that emphasizes both the cultural heritage that the host country holds in common as well as that of the immigrants, thereby giving rise to an intercultural and open society."⁴²

The opening of the German border in the fall of 2015 ended up exerting a strong pull on the people in the war-torn and disaster areas of the Near and Middle East and Africa. Hans-Peter Schwarz said that the German federal government was "well-meaning but entirely careless and partly to blame for" the mass migration of 2015.⁴³ In June 2018 Ghanaian Cardinal Peter Turkson, who directs the Vatican Dicastery for Promoting Integral Human Development, founded in 2017—of which the Migrants and Refugees Section is a part and operates rather independently, under the direction of Pope Francis himself—warned of open-door politics. It would rob the African nations of their most important asset: their young people. Europe would do better to help there, locally, to prevent the migration. In April 2019 Robert Sarah, the cardinal from Guinea and prefect of the Vatican's Congregation for Divine Worship and the Discipline of the Sacraments, argued that mass migration was not justified by the Bible. He claimed that it was a new form of slavery and that helping people flourish in their own cultures would be much better.⁴⁴

The pull exerted by opening the border was strengthened by the reaction to the accidents involving refugee ships in the Mediterranean Sea, by the deployment of public and private ships to rescue the refugees and to transfer them to the European mainland. These ships inadvertently became an important link in a trafficking chain.⁴⁵ A number of things would have been more effective for tackling the new mass migration and for fighting the trafficking gangs: controlling the refugees at the north African coast; controlling the coast itself; transferring rescued refugees back to the countries they left (provided that they are not failed states like Libya); supporting the UN Food Program for the camps in Turkey, Lebanon, and Jordan; and, above all, assisting locally to contain the migration, as the African bishops had been calling for. The countries where the

refugees come from, too, are to be reminded of their obligations to involve their citizens in building up the common good, in order to stave off their emigration. According to Winfried Kluth's report, attention to what is in the developmental interest of the countries of origin should be put into the programmatic regulation of section 1, paragraph 1 of the German Residence Act, because only a "management of migration that considers trade-offs [will find] lasting assent in an open democratic society."⁴⁶

But the debate on migration in Germany (not to mention in the churches) is still far from discussing trade-offs. The political debate is being conducted as a moral debate, which allows those who think differently to be excommunicated. "Open borders as a moral imperative: that is of course just one way to refuse to be drawn into a political discussion on the challenge of migration. Immigration as an apocalypse: that is the other, opposite way."⁴⁷ In the UN compact on migration adopted on December 10, 2018, this reinterpretation of a political question as a moral one is mirrored in the assertion that migration in the globalized world is "a source of prosperity, innovation and sustainable development."⁴⁸ The problems of migration for the countries of arrival, and even more for the countries of origin, are obscured. What is more, the states commit themselves to inform their citizens of the benefits and challenges of migration "with a view to dispelling misleading narratives that generate perceptions of migrants."⁴⁹ This is just a commitment to indoctrination, especially since the states also commit themselves to "sensitiz[e] and educat[e] media professionals on migration-related issues and terminology" and to threaten to stop "allocation of public funding or material support" if they "promote ... discrimination towards migrants."⁵⁰

The mass migration in the fall of 2015 has displayed clearly the obligations, as well as the limits, of solidarity. It became a challenge not only for politics and justice but also for political science, public and constitutional law, and social ethics. Whereas the perspectives of institutional ethics are still rare in social ethics, the new mass migration has led both to a rediscovery in political science of "the democratically legitimized state's function in bringing order and its obligation to provide refuge" and also to reflection on the "nation's well-being" and the "preservation of the national way of life."⁵¹ Public and constitutional jurists are again asking about "the modern state's contribution to civilization even under the conditions of the universality of human rights."⁵² In light of the massive stream of refugees and those migrating because of poverty or in search of employment, it is urgent that we ask about what natural-law function remains for a state. It is just as urgent to ask about the refugees' and migrants' responsibility for their action not only in the country where they arrive but already in their country of origin and while fleeing. If we see the refugees primarily as victims of societal

conditions, we will blind ourselves to this question. Yet it is also urgent that the governments and citizens of the countries of arrival continue to ask anew what obligations solidarity places on them, both to refugees and immigrants and also to their own society.

Notes

- * Earlier, shorter versions of this article were previously published in German in *Frankfurter Allgemeine Zeitung* and *Die Neue Ordnung*. A Polish translation will be published in *Teologia Polityczna*, and an Italian translation in *Veritas et Jus: Semestriale interdisciplinare di Lugano*. The full text in German will be published in Stefan Mückl, ed., *Migration und Solidarität* (Berlin: Duncker und Humblot, 2019), 37–50.
1. Dietrich Murswiek, “Nationalstaatlichkeit, Staatsvolk und Einwanderung,” in *Der Staat in der Flüchtlingskrise: Zwischen gutem Willen und geltendem Recht*, ed. Otto Depenheuer and Christoph Grabenwarter (Paderborn: Ferdinand Schöningh, 2016), 136–37. Cf. Hans-Detlef Horn, “Grenzschutz im Migrationsrecht. Es geht nicht nur um innere Sicherheit,” in Depenheuer and Grabenwarter, ed., *Der Staat in der Flüchtlingskrise*, 150: “The opening of borders and border control are the estate of Parliament, not of the executive branch.”
 2. Kirche in Not, ed., *Christen in großer Bedrängnis: Diskriminierung und Unterdrückung, Dokumentation 2016* (Munich: Kirche in Not, 2016), 71ff.
 3. Michael Tetzlaff, “Rechtspolitischer Kommentar: Zukunftsperspektiven der Rechtsentwicklung. Die Vorstellungen von Bundesregierung und Europäischer Kommission zur weiteren Ausgestaltung des Ausländer- und Asylrechts,” in *Migration und Integration. Die Migrationskrise als Herausforderung des Rechts*, ed. Arnd Uhle (Berlin: Duncker & Humblot, 2017), 77.
 4. In an interview with Gerd Appenzeller, Rupert Scholz contradicted Merkel: “Da liegt die Bundeskanzlerin falsch,” *Der Tagesspiegel*, October 15, 2015; as did Otto Schily in *Die Welt am Sonntag*, December 30, 2017.
 5. Cf. the meticulously prepared record of the opening of the borders in *Die Zeit*, August 18, 2016. Cf. also Robin Alexander, *Die Getriebenen. Merkel und die Flüchtlingspolitik: Report aus dem Inneren der Macht* (Munich: Siedler Verlag, 2017).
 6. According to Anthony Glee, Germany was behaving like “a ‘hippie state,’ driven by feelings alone. In Great Britain, the impression was that the Germans had lost their minds” (cf. Walter Krämer, “Dem Willkommensrausch folgt der Kater,” *Frankfurter Allgemeine Zeitung*, September 21, 2015, 18).

7. According to Jasper von Altenbockum (*Frankfurter Allgemeine Zeitung*, October 19, 2018), “Since its invention in Berlin,” the quota system had been “a stop block on the way to a new European asylum policy. . . . The route Germany took was anything but smart politics: Germany celebrated its culture of welcoming and demanded that its neighbors accept their obligation to take in immigrants. Only Greece, Italy, and Spain—the most important of the countries where immigrants were arriving—could begin to do this. The rest of the EU members must have seen themselves as the subsidiaries of pretentious human charity. Because of this, nothing changed in the EU for three years.”
8. Marianne Heimbach-Steins, *Europa und Migration: Sozialethische Denkanstöße*, Kirche und Gesellschaft 438 (March 2016): 7.
9. Paul M. Zulehner, *Entängstigt euch! Die Flüchtlinge und das christliche Abendland* (Ostfildern: Patmos Verlag, 2016), 126–27.
10. See <http://www.migrants-refugees.va/20-action-points-migrants>. Cf. Pope Francis, “Menschen auf der Suche nach Frieden, Botschaft zum Weltfriedenstag 2018,” in *L’Osservatore Romano* (German version), December 1, 2017, 8–9; and “Rede in einem Caritas-Zentrum für Migranten in Rabat am 30. März 2019,” in *L’Osservatore Romano* (German version), April 5, 2019. The full title of the Vatican’s document is *Responding to Refugees and Migrants: Twenty Action Points for the Global Compacts*. It will be cited hereafter as *TAP* (*Twenty Action Points*).
11. Zulehner, *Entängstigt euch!*, 99. In the debates over upgrading NATO in the 1980s as well, Zulehner claimed that he could defend his pacifist position from the Bible; cf. *Kirche: Gottes Friedensbewegung auf Erden* (Munich: Kösel, 1984), 25.
12. Thus the famous expression of Arnold Gehlen, *Anthropologische Forschung. Zur Selbstbegegnung und Selbstentdeckung des Menschen* (Reinbek: Rowohlt, 1961), 46ff.
13. Benedict XVI, *Caritas in Veritate* (2009), no. 34.
14. John Paul II, *Sollicitudo rei socialis* (1987), no. 38, https://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis.html.
15. Josef Isensee, “Solidarität: sozialethische Substanz eines Blankettbegriffs,” in *Solidarität in Knappheit: Zum Problem der Priorität*, ed. Josef Isensee (Berlin: Duncker & Humboldt, 1998), 103–4.
16. Josef Isensee, “Was wir fordern dürfen,” *Frankfurter Allgemeine Zeitung*, February 4, 2016, p. 8; Richard Schröder, “Was wir Migranten schulden—und was nicht,” *Frankfurter Allgemeine Zeitung*, August 15, 2016, 6.

17. Klaus F. Gärditz, "Die Ordnungsfunktion der Staatsgrenze: Demokratizität, Liberalität und Territorialität im Kontext," in Depenheuer and Grabenwarter, *Der Staat in der Flüchtlingskrise*, 108.
18. Schröder, "Was wir Migranten schulden," 6.
19. Franz-Josef Bormann accuses the religious authorities of "an overemphasis on governmental decisions, due to an ethic of religious conviction" in "Migration und terroristische Angriffe: Ein moraltheologischer Blick auf neue Sicherheitsprobleme," *Die Neue Ordnung* 72 (2018), 7. [Translator's note: "due to an ethic of religious conviction" is translated from *religiös-gesinnungsethisch*, an allusion to sociologist Max Weber's contrast between *Gesinnungsethik*, "ethic of moral conviction," and *Verantwortungsethik*, "ethic of responsibility."]
20. "Message of His Holiness Pope Francis for the Celebration of the 51st World Day of Peace" (January 1, 2018), no. 4, https://w2.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco_20171113_messaggio-51giornatamondiale-pace2018.html, henceforth "Message for the 51st World Day of Peace." In his speech on March 30, 2019, at the Caritas center for migrants in Rabat, Pope Francis again outlined the four imperatives, http://w2.vatican.va/content/francesco/en/speeches/2019/march/documents/papa-francesco_20190330_migranti-marocco.html.
21. "Message for the 51st World Day of Peace," no. 4.
22. "Message for the 51st World Day of Peace," no. 1.
23. *TAP*, 3–4, https://migrants-refugees.va/wp-content/uploads/2019/03/20-Action-Points-for-the-Global-Compacts.EN_.pdf.
24. See "Dramatische Entwicklung setzt sich fort: 68,5 Millionen Menschen auf der Flucht," UNO Flüchtlingshilfe, June 19, 2018 <https://www.uno-fluechtlingshilfe.de/informieren/aktuelles/news/uebersicht/detail/artikel/dramatische-entwicklung-setzt-sich-fort-685-millionen-menschen-auf-der-flucht/>.
25. *TAP*, Introduction.
26. *TAP*, nos. 2, 14.
27. Arnd Uhle, "Preface," in Uhle, ed., *Migration und Integration*, 6. Uhle is referring to a passage in the published decisions of the Federal Constitutional Court: BVerfGE 80, 315 (333ff.).
28. Christian Hillgruber, "Flüchtlingsschutz oder Arbeitsmigration. Über die Notwendigkeit und die Konsequenzen einer Unterscheidung," in Depenheuer and Grabenwarter, ed., *Der Staat in der Flüchtlingskrise*, 187ff. According to Schröder ("Was wir Migranten schulden"), the refugees in the fall of 2015 "came primarily from camps in neighboring countries where they were safe."

29. *TAP*, no. 13.
30. To guarantee such a right, the state would have to have control of employment opportunities, thus ending the free economy. Cf. John Paul II, *Centesimus Annus* (May 1, 1991), no. 48; Pontifical Council for Justice and Peace, *Compendium on the Social Doctrine of the Church* (2004), no. 291.
31. Eckhart Klein, "Rechtliche Klarstellungen zur Flüchtlingskrise," in Depenheuer and Grabenwarter, ed., *Der Staat in der Flüchtlingskrise*, 166.
32. Marcel Kau, "Ein Recht auf Migration? Die Migrationskrise aus der Perspektive des Völkerrechts," in Uhle, ed., *Migration und Integration*, 33.
33. Udo di Fabio, "Migrationskrise als föderales Verfassungsproblem," *Gutachten im Auftrag des Freistaates Bayern* (January 8, 2016), 118.
34. Winfried Kluth, "Gutachten D, Grundorientierungen und Instrumente der Migrationssteuerung," in *Migration und ihre Folgen: Wie kann das Recht Zuwanderung und Integration in Gesellschaft, Arbeitsmarkt und Sozialordnung steuern?*, ed. Winfried Kluth and Richard Giesen (reports D/E, prepared for the 72th German *Juristentag*; Munich, 2018), 59.
35. Josef Isensee, "Menschenwürde: Rettungsinsel in der Flüchtlingsflut?," in Depenheuer and Grabenwarter, ed., *Der Staat in der Flüchtlingskrise*, 244.
36. Joachim Wagner, *Die Macht der Moschee: Scheitert die Integration am Islam?* (Freiburg, 2018).
37. Cairo Declaration on Human Rights in Islam, <http://hrlibrary.umn.edu/instree/cairodeclaration.html>.
38. Paul Collier, *Exodus: How Migration Is Changing Our World* (Oxford: Oxford University Press, 2013).
39. Such a charge is made by Arnd Küppers and Peter Schallenberg, "Flucht, Migration, Integration: Versuch einer sozialetischen Einordnung," *Kirche und Gesellschaft* 426 (2016): 13.
40. Aquinas, *ST I-II*, Q. 105, A. 3.
41. Aquinas, *ST I-II*, Q. 26, A. 6.
42. Francis, "Rede."
43. Hans-Peter Schwarz, *Die neue Völkerwanderung nach Europa. Über den Verlust politischer Kontrolle und moralischer Gewissheiten* (Munich: Deutsche Verlagsanstalt, 2017), 90.
44. Robert Cardinal Sarah, "Migration Is a New Form of Slavery," <http://cisanewsafrika.com/guinea-migration-is-a-new-form-of-slavery-cardinal-sarah-says/>.

45. Cf. the arguments for and against using private ships to rescue the refugees at sea presented by Caterina Lobenstein and Miriam Lau in *Die Zeit*, July 12, 2018.
46. Kluth, "Gutachten D," 53.
47. Peter Graf Kielmansegg, "Über Migration reden," *Frankfurter Allgemeine Zeitung*, February 4, 2019.
48. United Nations, *Global Compact for Safe, Orderly and Regular Migration*, 8, https://refugeemigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf.
49. United Nations, *Global Compact*, 10.
50. United Nations, *Global Compact*, 33.
51. Schwarz, *Die neue Völkerwanderung*, 201ff.
52. Otto Depenheuer, "Flüchtlingskrise als Ernstfall des menschenrechtlichen Universalismus," in Depenheuer and Grabenwarter, ed., *Der Staat in der Flüchtlingskrise*, 23.