

## ***“Birth and migrations”***

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### **Introduction**

In order to adequately address the question of “Birth and Migrations”, we must first engage in a reflection on the fundamental right of children to be conceived and born to parents who find themselves in situations of either forced or voluntary migration. While pursuing answers to such a fundamental question, we quickly find the current-day obstacles that are placed to creation of new life in the world-at-large but evidently are exacerbated by the repressive policies of some governments and extremist groups that impose forced contraception and abortion on migrants and refugees under their control.

Once a child has been born to migrant or refugee families already living temporarily or permanently in a host country, s/he is at risk of remaining “stateless”, unless the host authorities concede nationality, or, even more importantly, citizenship, through *ius soli*. This right is more and more contested by the citizenry of receiving countries who are affected by attitudes of xenophobia, discrimination, and outright rejection toward “strangers” and newcomers”.

A complete reflection on the topic at hand requires a more committed and determined belief in the right of a child to be conceived and born to migrating parents. That same child will desperately demand adequate nurture, which can only partially be supplied by his/her parents or by either the nuclear or extended family. The State in which the child is born must provide and defend the rights of this child to have access to education and health care, social protection, and decent living conditions, and, upon reaching adulthood, to access decent work and to found his/her own family.

This paper will attempt to examine, within the limitations of space and time, these crucial questions underlying the challenging topic of “Birth and Migrations”. While approaching this reflection, I will rely on internationally agreed human rights principles and policies and on the tenets and doctrine of the *Magisterium* of the Catholic Church, which tragically stand in stark contrast to the real-life situation of countless present-day migrants, refugees, asylum-seekers, and victim-survivors of human trafficking and modern forms of slavery. I also will cite the practical and urgent suggestions, in this regard, as proposed by the Migrants and Refugees Section of the Dicastery for the Promotion of Integral Human Development, for advocacy on the Compacts for Refugees and for Safe, Regular and Orderly Migration that currently are being debated and negotiated through the convening power of the United Nations.

### ***1. The right to be born***

The *Catechism of the Catholic Church* unequivocally posits the right to life of every human person as follows: Human life must be respected and protected absolutely from the moment of conception ... From the first moment of his existence, a human being must be recognized as

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having the rights of a person - among which is the inviolable right of every innocent being to life (2270).<sup>1</sup> Through its International Covenant on Civil and Political Rights, international community codified, in secular terms, the right to life that already had been recognized by people of faith from time immemorial: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>2</sup>

Even a cursory survey of the situation faced by many people on the move in the world of today, particularly among forced migrants, however, gives striking evidence that the right to be conceived and born is not always respected in the spirit of religious teaching or of international policy and law. In a 2013 Report entitled *Depo Provera: Deadly Reproductive Violence against Women*<sup>3</sup>, the Rebecca Project for Justice revealed a policy of the Israeli government to mandate Depo Provera injections for Ethiopian Jewish women refugees who sought resettlement in Israel. According to the Rebecca Project Report, women were subjected to these injections without being fully informed of the potentially harmful effects of this medication. The practice resulted in a 50 percent decrease in birthrate among Ethiopian women in Israel, within the span of ten years. This led the then-Director-General of the Israeli Health Ministry, Professor Roni Gamzu to communicate the following decision, “Without taking a stand or determining facts about allegations that were made, I would like to instruct, from now on, all gynaecologists in the HMOs not to renew prescriptions for Depo-Provera for women of Ethiopian – or any other – origin, if there is the slightest doubt that they have not understood the implications of the treatment.”<sup>4</sup> According to the Rebecca Project, “Regrettably, Israel’s previous draconian policy disregarding Depo Provera’s dangerous health impacts, is the foundation of ongoing U.S. domestic and global family-planning strategy for women of colour.”<sup>5</sup>

Even more recently, however, we see similar attempts to control population growth among the refugee population of Rohingyas, who have fled Myanmar in massive numbers to escape what some experts have labeled genocidal persecution. At the end of May 2018, the Banglaesh government announced a plan, in cooperation with the United Nations Fund for Population Activities (UNFPA), to provide so-called “reproductive health and family planning information and services to the Rohingya refugees and host communities in Cox’s Bazar district without discrimination and with dignity and respect.” Mr. Kazi Mustafa Sarwar, Chief of the Bangladesh Family Planning Directorate (DGFP), insistently stated to a local journalist, “Many of them have been given short-acting injectable [contraceptives] with three-months’ effectiveness, but we want to introduce long-acting methods that last three years and 10 years

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<sup>1</sup> *Catechism of the Catholic Church*, #2270, Libreria Editrice Vaticana, 2003

[http://www.vatican.va/archive/ENG0015/\\_P7Z.HTM](http://www.vatican.va/archive/ENG0015/_P7Z.HTM), last accessed 3 June 2018.

<sup>2</sup> *International Covenant on Civil and Political Rights*, Article 6, Adopted by the General Assembly of the United Nations, 19 December 1966, <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>, last accessed 03 June 2018.

<sup>3</sup> <http://rebeccaprojectjustice.org/images/stories/depo-provera-deadly-reproductive-violence-rebecca-project-for-human-rights-2013.pdf>, last accessed 3 June 2018

<sup>4</sup> “Israeli Minister Appointing Team to Probe Ethiopian Birth Control Shot Controversy,” *Haaretz*, 28 February 2013, <https://www.haaretz.com/reducing-ethiopian-births-a-policy-1.5231776>, last accessed 28 February 2013.

<sup>5</sup> Rebecca Project, *op. cit.*

... we have conducted a survey in [Rohingya] camps and found that their [birth] rate is higher than the host community ... we have yet to make them convinced ....”<sup>6</sup>

Another major obstacle to being born to refugee or migrant parents is the promotion of abortion among these populations. The Holy See dedicated urgent attention and reflection on such practices when, in 1999, the United Nations High Commissariat for Refugees (UNHCR), in collaboration with the World Health Organisation (WHO), the United Nations Fund for Population Activities (UNFPA), and some NGOs, published the *Inter-agency Field Manual on Reproductive Health in Refugee Situations*<sup>7</sup>. This reflection led to the preparation of a *Note*<sup>8</sup>, prepared by three Holy See Dicasteries (the then-existing Pastoral Councils for Health Pastoral Care, for Pastoral Care of Migrants and Itinerant People, and for the Family) for dissemination to the Catholic Bishops’ Conferences of the world. The overall goals of the Note were described as follows: “This Inter-dicasterial *Note* takes the *Field Manual* as a pastoral challenge for the Church and calls both pastors and other pastoral workers involved in the areas of family, health care, migrants and Itinerant people, to vigilance, so that the love, respect and protection of refugees and their rights — among which the inalienable right to life — may be the underlying and driving motive of their action for the improvement of the conditions of life of millions of displaced persons and refugees, and their enjoyment of the protection of their life and health ... The *Field Manual* carries anti-values that offend the dignity of the poorest and most vulnerable populations, with proposals regarding the limitation of births, an idea of irresponsible sexual relations, and even abortion.”

Among the specific objections presented in the Holy See’s *Note* were the following:

- “The *Field Manual* (in particular in chapter IV) proposes, without reservations, after forced sexual relations, the use of so-called “emergency contraception”, previously also called the “morning-after-pill”, and presents it as a “contraceptive”. But the reality is that it is not solely contraceptive because in the case of effective fertilisation a chemical abortion would be carried out during the first days of pregnancy.
- ... the separation between sexuality and procreation promoted by the *Field Manual* through the promotion of a “non-judgemental approach” regarding extra-marital relations as well as homosexual relations cannot be accepted ...
- “There is a last rather worrying point presented by the *Field Manual*: the presence in the milieu of refugees, in the form of post-abortion medical care, of equipment which allows the carrying out of abortions (suction with MVAs or “manual vacuum aspirators”). This is equipment that will be put into the hands of health care workers who have varying kinds of qualifications although it should be used only by medical

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<sup>6</sup> Muktadir Rashid, “Dhaka, UN to Coordinate Contraception Campaign in Rohingya Camps”, *The Irrawaddy*, 25 May 2018, <https://www.irrawaddy.com/news/dhaka-un-coordinate-contraception-campaign-rohingya-camps.html>, last accessed, 3 June 2018.

<sup>7</sup> <http://www.unhcr.org/publications/operations/3bc6ed6fa/reproductive-health-refugee-situations-inter-agency-field-manual-unhcrwhounfpa.html>, last accessed 3 June 2018.

<sup>8</sup> Pontifical Council for Health Pastoral Care, Pontifical Council for Pastoral Care of Migrants and Itinerant People, Pontifical Council for the Family, *The Reproductive Health of Refugees: A Note for the Bishops' Conferences*, 14 September 2001, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/migrants/documents/rc\\_pc\\_migrants\\_doc\\_2003072\\_salud%20reproductiva\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/migrants/documents/rc_pc_migrants_doc_2003072_salud%20reproductiva_en.html), last accessed 14 September 2018

doctors. It will be very difficult, in such conditions, to control the present-day use of this equipment ...”

Again, with much regret, we must acknowledge that the Holy See’s concerns fell on many inattentive or rejecting ears. In fact, during 2013, the United Nations constituted a Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea and released its report to the UN Council on Human Rights, on 17 February 2014<sup>9</sup>, finding that “...systematic, widespread and gross human rights violations have been, and are being, committed by the Democratic People’s Republic of Korea” and that “[i]n light of the gravity, scale and level of organization of these violations, the Commission concludes that crimes against humanity have been committed by officials of the Democratic People’s Republic of Korea, pursuant to policies established at the highest level of the State ... Repatriated women who are pregnant are subjected to forced abortions, and babies born to repatriated women are often killed. These practices are driven by racist attitudes towards interracial children of Koreans, and the intent to punish further women who have left the country and their assumed contact with Chinese men.” The Report also mentioned China’s complicity in such crimes: “Despite the gross human rights violations awaiting repatriated persons, China pursues a rigorous policy of forcibly repatriating citizens of the Democratic People’s Republic of Korea who cross the border illegally.”

Let us pray that world leaders and policy-makers will heed the forceful and persistent promotion of respect for the value of all human life, from conception to natural death, that is constantly reiterated by Pope Francis, “... human life is sacred and inviolable. Every civil right rests on the recognition of the first and fundamental right, that of life, which is not subordinate to any condition, be it quantitative, economic or, least of all, ideological.”<sup>10</sup>

## ***2. The right to National Identity and Citizenship***

Despite the severe challenges to their very right to be born, more and more refugee and migrant children are present in all parts of the world. UNICEF reports the following relevant statistics in this regard<sup>11</sup>:

- 31 million children live outside their country of birth, including 11 million child refugees and asylum-seekers.
- Nearly one in three children living outside their country of birth is a refugee; for adults, the proportion under UNHCR’s mandate is less than 1 in 20.
- Nearly 1 in every 200 children in the world is a child refugee. Between 2005 and 2015, the number of child refugees under the UNHCR’s mandate more than doubled. During the same period, the total number of all child migrants rose by 21 per cent.

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<sup>9</sup> Commission of Inquiry on Human Rights in The Democratic People’s Republic Of Korea, *Questions and Answers on The Report of the United Nations Commission of Inquiry on Human Rights in The Democratic People’s Republic Of Korea*, 17 February 2014, [www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/.../coi-dprk-q-and-a.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIDPRK/.../coi-dprk-q-and-a.pdf), last accessed 3 June 2018.

<sup>10</sup> Address of Pope Francis to the Italian Pro Life Movement, 11 April 2014, Vatican City, [http://w2.vatican.va/content/francesco/en/speeches/2014/april/documents/papa-francesco\\_20140411\\_movim-per-la-vita.html](http://w2.vatican.va/content/francesco/en/speeches/2014/april/documents/papa-francesco_20140411_movim-per-la-vita.html)

<sup>11</sup> *Uprooted: the Growing Crisis for Refugee and Migrant Children*, UNICEF, September 2016, pp.6-7, [https://www.unicef.org/publications/files/Uprooted\\_growing\\_crisis\\_for\\_refugee\\_and\\_migrant\\_children.pdf](https://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf), last accessed 3 June 2018.

- One in every 70 children worldwide lives outside their country of birth
- By the end of 2015, some 41 million people were displaced by violence and conflict within their own countries; an estimated 17 million of them were children.
- Some 70,000 children are born stateless every year, often as the result of the migration undertaken by their parents.

In its report, UNICEF notes further that “[w]ithout a legal identity or the right to one, children can be denied essential services including health care, social protection and education. They may be restricted in their future movements and unable or unwilling to seek protection when they need it. In the case of statelessness, these problems can be passed from generation to generation – parents without legal identities are frequently unable to obtain them for their children. Without strong action to curb statelessness and promote the right to birth registration and legal identity, children will continue to inherit this harmful legacy.” Even when children are not technically stateless, since they have a right to national identity from their parents’ country of origin, they may be *de facto* stateless, since their own irregular status, or that of their parents, may prevent them from accessing necessary documentation or a range of necessary services in the communities where they present live. Thus, UNICEF warns, “Without strong action to curb statelessness and promote the right to birth registration and legal identity, children will continue to inherit this harmful legacy.”

In the course of a primary research initiative, targeting Syrian refugees in Jordan, the International Catholic Migration Commission(ICMC) found that the child’s birth certificate serves as a crucial identity document, since it is required to prove parentage, register children in school, as well “to register the children in the family Asylum Seeker Certificate to get more assistance. At the same time, ICMC also found that, in practice, this document is more often prioritized by women than men. In situations where a family is missing several pieces of documentation, the birth certificate of the children is most often the biggest concern for the mothers, who link it with the child’s future.<sup>12</sup>

One way to solve the dilemma of children born outside the country (countries) of origin of their parents is to grant them citizenship in the country of their birth. One expert offers the following conclusion, “*Ius soli* prevents persons born and raised in a state from remaining foreign nationals with limited rights to residence and political participation .. *Ius soli* citizenship has the advantage of offering membership of a given political community to those most likely to live there, to be subject to its laws and to contribute to its society and the economy. It provides a way of promoting social integration and democratic legitimacy, and reducing concerns about internal exclusion and insecurity of residence.”<sup>13</sup>

The United States and Canada automatically grant citizenship to any child born within their sovereign territories. Since the Irish Republic abolished unconditional *ius soli* in 2004, however, no country in Europe offers automatic citizenship to any child born in its territory (as the U.S. and Canada do) ... Belgium, France, Germany, Greece, Ireland, Luxembourg, the Netherlands, Portugal and Spain all provide for *ius soli* citizenship either at birth or after birth

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<sup>12</sup> *Undocumented, Unseen, and at Risk: The Situation Of Syrian Refugees Lacking Civil And Legal Documentation in Jordan*, International Catholic Migration Commission, ICMC, Amman, Jordan, September 2017.

<sup>13</sup> Iseult Honohan, *Ius Soli Citizenship*, European Union Democracy Observatory on Citizenship, Policy Brief No. 1, [http://cadmus.eui.eu/bitstream/handle/1814/51624/RSCAS\\_EUDO\\_CIT\\_PB\\_2011\\_01.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/51624/RSCAS_EUDO_CIT_PB_2011_01.pdf?sequence=1), n.d., last accessed 3 June 2018.



for children born in the country (contingent upon birthplace or residence requirements for the individual and/ or the individual's parents).<sup>14</sup>

To the chagrin of some political leaders attempting to limit *ius soli* concessions, Pope Francis prophetically addressed this issue in his Message for the 2018 World Day of Migrants and Refugees<sup>15</sup>: “The *International Convention on the Rights of the Child* provides a universal legal basis for the protection of underage migrants ... The universal right to a nationality should be recognised and duly certified for all children at birth. The statelessness which migrants and refugees sometimes fall into can easily be avoided with the adoption of “nationality legislation that is in conformity with the fundamental principles of international law”<sup>16</sup>.

Along similar lines, the Vatican's Section for Migrants and Refugees, included the following messages for local churches to point out when advocating with political leaders engaged in the development of the UN Compacts on Migration and on Refugees: “Encourage States to enact legislation to prevent migrants and refugees from becoming “stateless” In particular:

- a. Enact legislation granting adequate protection and standards of treatment in respect of rights and freedoms as established by international conventions addressing statelessness and human rights treaties and provisions relevant to the right to a nationality;
- b. Enact legal and policy reforms that are necessary to address statelessness effectively, working in the four areas of statelessness – identification, prevention, reduction and protection – and aiming to grant citizenship to children at birth”.<sup>17</sup>

### ***The right to full life and dignity for migrant children, including the rights to access to health care, education, and social protection***

The Universal Declaration of Human Rights proclaimed that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (Article 25, #1).<sup>18</sup> These fundamental rights should apply to all persons, regardless of migratory status. The reality is, however, that the opportunity for such access by refugee and migrant children varies greatly and, to a large extent, depends on both national policy and practice on such issues as family reunification, services such as health and education, and social inclusion. Thus, the UNICEF report, cited previously point out: “[w]hile good policy is a necessary condition, it is not a sufficient one –

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<sup>14</sup> Rainer Bauböck, *et al.*, *Access to Citizenship and its Impact on Immigrant Integration: European Summary and Standards*, European University Institute, n.d., <http://cadmus.eui.eu/bitstream/handle/1814/29828/AccessToCitizenshipanditsImpactonImmigrantIntegration.pdf?sequence=1>, last accessed 3 June 2018.

<sup>15</sup> Pope Francis, Message for the 104<sup>th</sup> World Day of Migrants and Refugees 2018: “*Welcoming, protecting, promoting and integrating migrants and refugees*”, Vatican City, 14 January 2018, [http://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20170815\\_world-migrants-day-2018.html](http://w2.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20170815_world-migrants-day-2018.html), last accessed 3 June 2018.

<sup>16</sup> Pontifical Council for the Pastoral Care of Migrants and Itinerant People and Pontifical Council *Cor Unum*, *Welcoming Christ in Refugees and Forcibly Displaced Persons*, 2013, #70.

<sup>17</sup> “Responding to Refugees and Migrants: Twenty Action Points for the Global Compacts,” Migrants & Refugees Section, Dicastery for Integral Human Development, September 2018.

<sup>18</sup> *Universal Declaration of Human Rights*, 10 December 1948, (General Assembly resolution 217 A), <http://www.un.org/en/universal-declaration-human-rights/>, last accessed, 3 June 2018.

the administrative capacity and the political will to implement policy are essential to provide children with the protections and opportunities they deserve. Access and inclusion can provide lasting benefits for children and communities, while exclusionary policies and practices can squander the potential of an entire generation.”<sup>19</sup> Worldwide, for example, only half of child refugees are enrolled in primary school and less than one-quarter are enrolled in secondary school. Overall, a refugee child is five times more likely to be out of school than a non-refugee child.<sup>20</sup>

Pope Francis links the child’s access to basic services to the guarantees assured in The International Convention on the Rights of the Child, which “provides a universal legal basis for the protection of underage migrants. They must be spared any form of detention related to migratory status, and must be guaranteed regular access to primary and secondary education. Equally, when they come of age they must be guaranteed the right to remain and to enjoy the possibility of continuing their studies.”<sup>21</sup> Thus, the Vatican’s “Twenty Action Points” document urges the following: “Encourage States to adopt national policies that provide equal access to education for migrant, asylum seeker and refugee learners at all levels. For example,

- a. Enact national or regional policies which provide migrants and refugees with access to primary and secondary education level no matter their migratory status;
- b. Enact policies which provide that the primary and secondary education to which migrants and refugees have access meets the same standards of education received by citizens.”<sup>22</sup>

## **Conclusion**

Three fundamental rights are essential pillars for the survival and future growth of children born to families affected by migration: ***the right to be born (or right to life), the right to national identity and citizenship and the right to full life and dignity, with access to basic health care, education and social protection***. These are pre-conditions to assure early survival; growth to physical, emotional and spiritual maturity, as well as productive and responsible engagement with, and contributions to, the host society. In his Message for World Day of Peace 2018, Pope Francis envisioned, as follows, the Road Map to converting the hopes and dreams of migrant and refugee children, and of their parents and family members, into achievable reality:

“In a spirit of compassion, let us embrace all those fleeing from war and hunger, or forced by discrimination, persecution, poverty and environmental degradation to leave their homelands ... We know that it is not enough to open our hearts to the suffering of others. Much more remains to be done before our brothers and sisters can once again live peacefully in a safe home. Welcoming others requires concrete commitment, a network of assistance and goodwill, vigilant and sympathetic attention, the responsible management of new and complex situations that at times compound numerous existing problems, to say nothing of resources, which are always limited. By practising the virtue of prudence, government leaders should take practical

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<sup>19</sup> *Uprooted, op. cit.*, p. 32.

<sup>20</sup> *Ibid.*, p. 40.

<sup>21</sup> Message for the 104<sup>th</sup> World Day of Migrants and Refugees, *op.cit.*

<sup>22</sup> “Twenty Action Points”, *op.cit.*

measures to welcome, promote, protect, integrate and, “within the limits allowed by a correct understanding of the common good, to permit [them] to become part of a new society.”<sup>23</sup>

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<sup>23</sup> Pope Francis, Message for the Celebration of the 51<sup>st</sup> World Day of Peace, 1 January 2018, #1, [http://w2.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco\\_20171113\\_messaggio-51giornatamondiale-pace2018.html](http://w2.vatican.va/content/francesco/en/messages/peace/documents/papa-francesco_20171113_messaggio-51giornatamondiale-pace2018.html) , last accessed 3 June 2018.