

## RECONCILIATION AND RESTORATIVE JUSTICE

- Topic: Anamnestic Solidarity: Immigration from the Perspective of Restorative Justice
- Conveners: Stephen Pope, Boston College  
William O'Neill, Jesuit School of Theology at Berkeley
- Presenter: William O'Neill, Jesuit School of Theology at Berkeley
- Respondent: Stephen Pope, Boston College

Restorative justice has emerged as a “moral squint” in modern Catholic social teaching. In section (i) of his paper, O'Neill explored the Catholic interpretation of restorative justice against the backdrop of rival communitarian and liberal conceptions. In section (ii), he turned to the implications of the Church's teaching on restorative justice for undocumented immigrants in a religiously pluralist polity like our own. He concluded (iii) with the distinctive role played by citizens of faith in pursuing restorative justice for undocumented migrants. For like the Good Samaritan, Christians are charged to “go and do likewise” (Lk. 10: 37), i.e., to “see and have compassion” (Lk. 10:33) in “anamnestic solidarity” with the stranger. Whereas in the US, restorative justice comprises various forms of victim-offender mediation in the criminal justice system; in South Africa and Rwanda, restorative justice, in Desmond Tutu's words, addresses “the healing of breaches, the redressing of imbalances, the restoration of broken relationships” between peoples. The detention, deportation, and incarceration of undocumented migrants in the US raise questions germane to both interpretations of restorative justice.

While a communitarian “politics of the common good” favors the root metaphor of members and strangers, the liberal “politics of rights” favors that of citizens and aliens privy to a social contract. Inspired by the great biblical injunctions of justice or righteousness (*sedaqah*) and right judgment (*misphat*) marking the reign of God, Modern Roman Catholic social teaching charts a “*via media*” between these opposing politics in a rights-based conception of the common good. The question becomes not what do I owe *strangers* or *aliens*, but rather what I owe near and distant *neighbors*.

The Catholic Church thus recognizes not open, but porous borders, respecting a persons' right to change nationality for social and economic as well as political reasons. Recognizing the urgency of basic human rights and correlative duties indicates the elements of an equitable immigration policy, i.e., one which takes due cognizance of the moral priority of relative need (gravity and imminence of harm); particular vulnerabilities, e.g., of women and children; familial relationship; complicity of the host country in generating migratory flows; historical or cultural affiliations, e.g., historic patterns of migration; and a fair distribution of burdens (e.g., which countries should offer asylum).

In “anamnestic solidarity” with undocumented migrants, disciples express a sense of the fitting: they “see and have compassion” (*esplanchnisthē* signifies being moved in one's inmost heart), even as compassion (literally, a ‘suffering

with') becomes a way of seeing the stranger "in all her truth." A hermeneutics of hospitality enjoins anamnestic *solidarity* where care is offered, not to the alien or stranger, but rather to my neighbor, especially my neighbor, in Simon Weil's words, "stamped with a special mark by affliction." The trope, "neighbor," clothes the stranger morally; for dignity is always in local garb, always "attentive" to the stranger in his or her concrete moral truth. Christianly, the Samaritan's hospitality tutors our imagination. The Christian virtue of hospitality, in the words of Jean-Marc Éla, becomes a "pedagogy of seeing" our neighbor's basic human rights. Here, precisely *as* a virtue, hospitality functions maieutically in interpreting and motivating compliance with the strict (deontological) precepts of restorative justice, e.g., migrants basic claim-rights.

In his response, Pope raised questions regarding the adequacy of restorative justice for immigration policy and the implications of natural law for grounding such policy. Can necessary structural transformations of immigration policy be incorporated under the rubrics of restorative justice? And must not such justice itself be grounded in a richer interpretation of the common good, extended not only to citizens or members but to all moral persons? Pope likewise sought to clarify the specific criteria of immigration policy from a restorative perspective. He concluded by noting the limits of "porous" borders in Church teaching, looking again to pertinent ethical criteria for regulating migration. A lively discussion ensued and considerable interest was expressed in pursuing both the specific questions raised with respect to immigration policy, and the broader, interdisciplinary issues raised by the topics of restorative justice and reconciliation.

WILLIAM O'NEILL

*Jesuit School of Theology at Berkeley  
Berkeley, California*