I am happy to attend this symposium with you, on a subject which became so important today. I am the regional delegate for the south-east of France, in an NGO created in 1939, the aim of which was to help the victims of Nazism and totalitarian states. After the war, la Cimade became an NGO of solidarity to defend the rights of foreign people, migrants and asylum seekers.

Firstly, I will tell you how we came to became aware, through our legal practice, of the scope of the notion of “Fundamental rights”. Then, I will give an account of the large movement which become apparent in France, like in numerous other European countries, in favour of welcome and hospitality to refugees, whatever their legal status is.

1. The notion of fundamental rights

We have discovered the stake of the notion of fundamental rights, not through books, but in our daily practice of receiving migrants and refugees. At the beginning of 2000, we realised that in our legal permanences, we were no longer defending the rights of foreigners, but we were contending ourselves with explaining to them, laws which did not garantee more rights. Therefore we became aware, that laws and rights did not mean the same thing ; that a state of Rights was much more than a state of laws.

We realised that, if we wanted to defend Rights, all the NGO's had to unite into collective groups and cease being divided through the calls of offer which were putting us in competition and making us servants of laws we disapproved of.

From then on, we turned to books, to some thinkers like David Thoreau and Hannah Arendt, for example, and we discovered fundamental notions:

1. First of all, civil disobedience: it teaches us that these are people who have the courage to disobey the laws of their time which are at the origin of all of our fundamental rights ; it was these people who defended the rights when they were threatened. Civil disobedience is defined by 3 P: it is pacifist and non-violent; it is public, because we don’t hide; it is political, because it disobeys, only to create or safeguard a fundamental right. It constitutes one of the bases of democracy.

This notion was ratified during the conference in London which, in 1945, put into place the rules of the Nuremberg trial, during which people, who had obeyed the orders and often respected the laws of their regime, were judged and sentenced on the grounds of the statement that they were human beings and citizens first of all, and as such, they had a duty to disobey laws which violate fundamental rights. This statement passed in France under the principle of exception which is article 122-7 of the penal code.

1. As well as protocol 1, article 1 of the European Convention of Human Rights of 1950
In practice, that led us to actions of welcoming and protection of the foreigners, even illegal migrants, on the basis of simple principles of humanity.

And from that, we discovered the principle which is just as fundamental “hierarchy of norms”: the law is not an absolute; above it, there is the constitution and above that, international texts, even if certain are not restrictive for the States. Our first reference today is not the law, but these international texts.

2. Over the last few years, we have been trained in the defence of the right of the Roma population, and in numerous trials we came to realise that the right of respecting private property, which is part of fundamental rights (Article 17 DUDH 1948¹), were used to get them out and don’t apply their fundamental rights, such as the right to decent housing, food, education and many others.

We also discovered the notion of “First rights” which is to say, the idea of the hierarchy within fundamental rights ; rights which concern the dignity of people’s lives must come before those which concern material possessions simply because ethically, humans have more worth than material possessions or money.

The second aspect is that certain rights come first because without them, the others cannot be effective. We think today that the right to mobility is part of these “first rights”, because without it, we find ourselves assigned at residence, closed off and without effective rights. The right to mobility also extends to the right to leave one’s country (article 13 of the Universal Declaration of Human Rights of 1948), but it must go further, up to the right to be accepted into another country, without which the right to leave is a sentence to exile or perpetual wandering. It is, in a certain way, one of the ideas of the Geneva Convention of 1951 concerning refugees, but it concern only people who fear persecution, and yet, today in France, between 2/3 and ¾ of the asylum seekers are refused. Therefore, we firmly believe that liberty of circulation and establishment, conditioned of course to the respect of people and to the rejection of all colonialism, should be recognised as a fundamental right.

3. In this approach, you understand that defending rights became much more than just a legal defence which stops at the state of laws, even when they don’t grant rights anymore. On the contrary, defending rights includes for us :

a. The notion of capability, which is dear to Amartya Sen ; it implicates a work of information, awareness, appropriation and mobilisation of the people concerned.

b. The notion of effectiveness without which we cannot talk about rights, because a right which is not effective is no longer a right - merely a beautiful idea.

Effectiveness passes through the solidarity between the concerned people and the population, which brings up the question of “living well together”. This expression brings together two important notions : that of “living together” and not separately in forms more or less resembling ghettos, at the risk of degenerating into forms of violences. The other notion comes to us from the ancestral people of Latin America - the Quechus and the Aymarases - that of “living well” which implies harmonious relationships and therefore absolute respect and justice between humans and nature.

¹. As well as protocol 1, article 1 of the European Convention of Human Rights of 1950
The notion of “living well together” is eminently political, because politics is, in the noblest sense, quite simply the art of organising society and a harmonious life for the happiness of everyone in a healthy and sustainable environment.

You could tell me that I’m dreaming; yes, but as said the Nicaraguan poet, Peter René: “if we are all dreaming, tomorrow will be a new day”, in a new world. And since last summer, we believe that this dream has made a little step in our sad reality, while several millions people are seeking asylum, and knock on the door of our countries.

Indeed, the governments have largely closed the doors, but a very large part of the population of our countries, has chosen the open door; the open heart, has chosen welcome and hospitality.

II. Hospitality Politics

Whom are we talking about?

Generally, in the media and the political discourses, they make a distinction between the “economic migrants”, often considered as illegitimate to come in our countries, and the “political refugees”, more rarely “climatic refugees”, by trying to separate the true from the false. Through our experience, we join the positioning of the High-Commissioner to the Refugees, Antonio Guterres, and the General Secretary of the United Nations, Ban Ki Moon, who assert that we can intellectually distinguish the reasons of the departure, economic, political and climatic, but, in the reality, the diverse causes become linked with the point to make illegitimate the separation, and especially the hierarchical organization of the people.

Indeed, those we call “economic migrants” are victims of economic policies. Why to attach them the economic and not the politic adjective? We also know that one of the consequences of the climate change, especially in Africa, is the advance of the desertification. Why to attach the economic adjective to those who flee it, because they cannot live any more there? We consider them as refugees, because in our old Mediterranean culture, this term induces a duty of hospitality.

I know that means a lot of people to welcome, since the report of the UNDP, entitled "Overcoming barriers" (2009) calculated them about a billion on the planet. The rich countries welcome only 14% of the refugees, but we don’t want to say: it makes too many people! But: what do we have to change in our dominant global economic system and in our lifestyle, so that whole populations were not obliged to leave their place of life, hoping to live with dignity elsewhere?

The network Hospitality

In the meantime, European governments are striving to contain the essential part of these people outside our borders, deriding at many rules of international law, of which the Geneva Convention of 1951, the ban of collective expulsions, the International Convention of Children’s Rights. Today they dispose of the military capabilities in front of civilians fleeing war and conflicts. For us, it’s a denial of rights and, moreover, a denial of humanity.

However, since this summer, the media did not say enough that, while this has been going on, thousands of people have been showing their solidarity by helping refugees all around Europe. In southern France, the place I know the best, citizens across dozens of towns and villages

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organised themselves to welcome refugees. We have had debating meetings with about 30 and 300 people of all ages and social backgrounds.

We are witnessing a real social movement, a real “political” movement in a broad sense, because it is concerned to organise the “good living together” which is, much more than the race for power, a real definition of what politics should be. And this movement is taking place against the backdrop of two major crises which often, are not talked about enough. The first one is a political crisis, because in France, and seemingly in many other countries, half of the potential electors do not vote because they no longer have any confidence. The second one is demographic: the rate of population growth is at 2.1 children per woman, in Germany it is 1.2, and Austria, England and Italy at 1.4. France is the best off, but all the same it has come under the threshold.

Therefore, an important part of our population is conscious that we need the refugees and migrants, at least as much as they need us. Linked to deep ethical convictions, engrained into the defence of fundamental rights, this movement is organising a network. In each welcoming organisation, we find the same social and administrative commissions of action, working on language learning, school support for children, entertainment, mobility, conviviality...

This movement is also political, because on the ground, the hospitality which we seek to create the optimum and most perennial conditions for, has a connection with:

- The social question, because the network welcomes everyone who needs it, including nationals; we refuse any discrimination.
- The political question, because we practise direct participative democracy in the meetings we attend.
- The economical question: because we know that there won’t be any integration or sustainable hospitality if no jobs are created. This implies passing through new forms of economy, based on solidarity and justice, because the current concept of the economy has created mass-unemployment and contributed to turning the countryside into a social desert.
- The environmental question: because respect is “one”; respecting people and respecting nature are one and the same; a dignified welcome implies a dignified environment.

I therefore firmly believe that, if mobility, integrating free circulation and establishment, is today, one of the “first rights”, hospitality should be recognised as a first and complementary duty of human societies. It’s what the civil societies of Europe are putting forward, to create a culture of welcome and hospitality, because she establishes the heart of a happy globalization for every people and everybody.

I thank you for your attention. Jean-Pierre Cavalié

1. As well as protocol 1, article 1 of the European Convention of Human Rights of 1950