

DO UNTO OTHERS, OR WATCH OVER YOUR SHOULDER?

TRACING SANCTUARY AND ILLEGAL IMMIGRATION
AS A CHURCH AND STATE ISSUE

*Samuel S. Stanton, Jr.**
&
*Jared M. Walczak***

TABLE OF CONTENTS***

I.	INTRODUCTION	138
II.	SANCTUARY	141
	<i>A. Biblical Roots</i>	141
	<i>B. Sanctuary in Historical Context</i>	143
	<i>C. Sanctuary in United States History</i>	145
	<i>D. Sanctuary and Asylum, International Law</i>	147

* Samuel S. Stanton, Jr. is an Associate Professor of Political Science at Grove City College. He specializes in violent conflict studies and human security issues and is the author of the recently published book *HOW ENVIRONMENTAL SCARCITY CONTRIBUTES TO CONFLICT* (2010, Mellen Press).

** Jared Walczak is the Legislative Assistant to Virginia State Senator Mark Obenshain. Jared is a 2008 graduate of Grove City College.

*** The authors wish to thank The Center for Vision & Values at Grove City College where an early draft of this work was supported. Many people assisted in vetting this work including Dr. Steven Jones, Dr. John Sparks '66, and Eliza Thurston '10. All errors, however, remain those of the authors.

III.	THEORIES	151
	A. <i>Security and Economics</i>	151
	B. <i>Equality and Human Rights</i>	155
	C. <i>Federalism</i>	158
IV.	SANCTUARY, REDUX	160
	A. <i>The 1980s Sanctuary Movement</i>	160
	B. <i>The Current Sanctuary Movement</i>	170
V.	DILEMMA	172

I. INTRODUCTION

On August 16, 2006, Elvira Arellano refused to comply with an order from the U.S. Office of Immigration and Customs Enforcement directing her to return to her home country of Mexico. Instead, she took sanctuary in Adalberto United Methodist Church in Chicago, Illinois, resurrecting memories of the sanctuary movement of the 1980s when churches sheltered undocumented aliens who they claimed should have been protected refugees from civil wars in El Salvador and Guatemala. Ms. Arellano, by her own admission, came to this country from Mexico to make a better life for herself.¹ She entered the country illegally in 1997 using false documents and was caught and returned to Mexico, return-

1 Notes from speech by Elvira Arellano given at the University of Wisconsin—Stevens Point on May 3, 2006. Ms. Arellano spoke in Spanish throughout the presentation and the notes are based on interpretation by an unnamed associate at the event.

ing shortly thereafter to the U.S. with new, and equally fraudulent, documents. She found work in Washington State where, in 1999, she gave birth to her son, Saul. Ms. Arellano moved to Chicago in 2000, took a job at O'Hare International Airport, again using false documents, and was arrested in 2002.

Senators Richard Durbin and Barack Obama had previously secured stays of deportation for Ms. Arellano, but they have expired, and both senators went on record saying that Ms. Arellano was obliged to obey current immigration laws.² In 2007, she was repatriated to Mexico despite the efforts of several members of Congress, including Illinois Democrat Bobby Rush, to forestall her deportation, and over the protestations of those who insisted that Adalberto United Methodist Church had a legal right to offer sanctuary. The case of Ms. Arellano, however, has little in common with the provision of sanctuary for Central Americans fleeing violence in their countries of origin, and the U.S. government continues to hold that no claim to sanctuary exists in federal law.

In the late 1970s and early 1980s, members of churches, primarily in the southwestern United States, but supported by congregations in every region of the country, provided sanctuary to people from Central America and South America who entered the United States illegally. Unlike Elvira Arellano, the majority of these sanctuary claimants came to the United States seeking asylum as political refugees from the civil wars and violence that

2 P.J. Huffstutter, *Sanctuary Movement Still Has a Heartbeat*, LOS ANGELES TIMES, Nov. 24, 2006, at Home Edition, A25.

engulfed Central and South American countries during that time period. As in the case of Elvira Arellano, however, the provision of sanctuary to illegal entrants to the country, hereinafter referred to as illegal immigrants, occurred unbeknownst to the general population, which remains largely unfamiliar with the practice, the role of churches in immigration questions, and the rationale behind the sanctuary movement.

What is this practice which Ms. Arellano's situation returned to the headlines, and what place does it hold in the relations of church and state? Our research attempts to answer these questions in three parts. First, the definition and evolution of the current understanding of sanctuary is developed. We examine the Judeo-Christian tradition regarding sanctuary by tracing the practice of sanctuary from its biblical inception to the present day. Particular attention is given in this section to understanding the current status of sanctuary as the provision of asylum. Second, consideration is given to theories regarding how asylum/sanctuary and immigration in general should be applied by states. Third, we examine how the practice and theory of sanctuary bring church and state into confrontation.

II. SANCTUARY

A. Biblical Roots

The biblical basis for sanctuary is found in the Pentateuch. In the book of Numbers there are two passages in the 35th chapter that delineate the Jewish legal creation of sanctuary:

Then you shall appoint cities to be cities of refuge for you; that the manslayer who kills any person accidentally may flee there. They shall be cities of refuge for you from the avenger, that the manslayer may not die until he stands before the congregation in judgment. And of the cities, which you give, you shall have six cities of refuge. You shall appoint three cities on this side of the Jordan, and three cities you shall appoint in the land of Canaan, which will be cities of refuge. These six cities shall be for refuge for the children of Israel, for the stranger, and for the sojourner among them, that anyone who a person accidentally may flee there.³

Sanctuary, in its biblical context, is God's command to Moses to create safe havens for people fleeing from the commission of manslaughter. There were specific limits on the location and number of havens to be provided for those who "killeth any person at unawares." Traditional Judeo-Christian theological

3 *Numbers* 35:11-15 (New King James).

writing suggests that sanctuary as established in Numbers was to provide protection against vigilante justice.⁴ The safety of these places was provided both for the citizens of Israel and for visitors. No distinction is made in the biblical idea of sanctuary between legal visitors and illegal visitors. The contextual suggestion is that visitors were family and relatives of people living in the country as subjects of the king or were present at the request of the king or his ministers. Anyone else in the country who did not declare his presence to the local authorities would be considered a spy—an offense punishable by death if uncovered. The implication of such a policy is that a person entered a country by invitation from family or the government and all others who entered the country were spies; this implication is consistent with the use of spies during the time period.

Sanctuary is not, however, in its biblical roots, protection from trial. A person found guilty of murder was still condemned to death. Also, any person found guilty of manslaughter was forced to remain inside the boundaries of the city of refuge until the death of the current high priest, at which time the individual may return to his original home. If the guilty person left the city of refuge before the high priest's death, a blood relative of the slain could kill the person without being guilty of murder.⁵

4 One such theological discussion can be found in the Matthew Henry Complete Commentaries. The commentaries are available on-line and this particular passage of the *Bible* is archived at: <http://bible.crosswalk.com/Commentaries/>

MatthewHenryComplete/mhc-com.cgi?book=nu&chapter=035.

5 *Numbers* 35:24-28 (King James).

Sanctuary, in biblical practice, does provide punishment for a manslayer; it is a form of house arrest. It is a punishment from which there is no reprieve and to which there is no end other than the death of the high priest. This form of punishment for the sanctuary seeker is repeated in historical legal uses of sanctuary. At no time prior to the last few decades in the United States has there been a belief that the recipient of sanctuary might one day walk free among the population of the country without the death of a high priest, pope, or king. A brief examination of sanctuary and the laws of sanctuary in historical context will bear out this last assertion.

B. Sanctuary in Historical Context

Sanctuary, as understood in the modern context, is devoid of the scriptural references of Mosaic times. Instead, sanctuary refers to the inviolability of all things sacred in the Roman Catholic Church. While there is little record of sanctuary during the first three centuries of the church, the practice of sanctuary found favor within Latin Christianity, and was applied by bishops of the Church. The problematic way in which the right of sanctuary was meted out by local bishops led Theodosius the Great to outlaw the practice in the late 390s, but the practice was resurrected in the first decade of the 5th century.⁶

At the First Council of Orleans (A.D. 511), Clovis I decreed

6 *The Sanctuary*, Luminarium Encyclopedia, available at <http://www.luminarium.org> (last visited Jan. 5, 2007).

that adulterers, murderers, and thieves could claim refuge (sanctuary) in a church or the ecclesiastical residences. The right of sanctuary was also to be extended to fugitive slaves, with the stipulation that a slave be returned to his master if the latter swore on the Bible not to treat the slave cruelly.⁷ The conditions in which sanctuary could be claimed under this decree exceeded the narrow grant of sanctuary accorded by Jewish law.

The earliest mentions of the practice of sanctuary in England are in the A.D. 600 codifications of King Ethelbert. The practice was very limited and highly structured; the code demanded that the offender be within the sanctuary zone surrounding the church building prior to declaring sanctuary. Ethelbert's codifications required that a claimant declare, in detail, the guilt of the crime for which sanctuary was sought within forty days of entering sanctuary. A claimant paid a fee to the church for sanctuary, and, after admitting guilt, the claimant had to enter exile by traveling a prescribed route within a given (and brief) period of time to the nearest port city, never to return to England. Those who did not confess to their crime within forty days were remanded to the civil authorities.⁸ Henry VIII limited the number of sanctuary cities in England to seven in 1540, and in the same decree, limited coverage of sanctuary to murderers and those guilty of felony-level thievery. James I formally abolished sanctuary in England and English Common Law in 1623, an act pertinent to contemporary

⁷ *Councils of Orleans*, Catholic Encyclopedias, available at <http://www.newadvent.org> (last visited Jan 5, 2007).

⁸ See note 5.

American jurisprudence, as most of the laws and legal practices in the United States today trace their roots to English Common Law (with the notable exception of the state of Louisiana, which owes its distinct legal system to the Napoleonic Codes).⁹

C. Sanctuary in United States History

In the United States, sanctuary as an organized practice prior to the twentieth century was rooted in the Abolitionist Movement. It was a means of smuggling escaped slaves into free states or out of the U.S. entirely. The religious aspect of this practice was exemplified by the involvement of the Society of Friends, more commonly known as Quakers. Pennsylvania, as a colony, was chartered to provide a sanctuary (safe haven) for Quakers, and Quakers are still deeply involved in every sanctuary movement in the United States. This participation by members of a church represents a direct link between the practice of religion by members of a church and violation of laws of this country. With the passage of the 13th Amendment to the U.S. Constitution in 1865, slavery was abolished and the organized practice of sanctuary as a means of protecting and promoting the freedom of slaves was no longer necessary.

The earliest forms of sanctuary in the United States, then, were not to protect adulterers, murderers, and thieves, as they were in England, but rather to protect the freedom and liberty of

9 *Id.*

individuals.¹⁰ Sanctuary also became synonymous with opposition to the legal system of the country and not a surrogate for the legal system through common practice. Sanctuary previously meant harboring fugitives with justice to be applied by trial in the church or by admission of guilt by the fugitive with punishment meted by the church. In the United States, however, sanctuary has taken the form of harboring fugitives from legal sanctions, or, as argued by the defendants in the most renowned case dealing with sanctuary in the United States in the last thirty years, *U.S. v. Aguilar*, sanctuary has become the enforcement of laws by the people when the state has failed in its duty.¹¹ Clearly sanctuary in the United States, as currently practiced, is tied to the idea of the status of individuals seeking asylum.

Before examining the specifics of the sanctuary movement in the United States and its current resurrection in connection with illegal immigration issues (primarily through investigation of cases arising in the southwestern United States), it is necessary to look at how the practice of sanctuary came to be tied to the question of political asylum. To this end, we must establish what constitutes political asylum. We also address theoretically how states make determinations about the application of political asylum, which, in turn, allows us to better understand the decision

10 We use the terms freedom and liberty instead of simply using the term freedom because liberty represents something ideologically different than freedom and hermeneutically different in social science.

11 Susan Bibler Coutin, *Smugglers of Samaritans in Tuscon, AZ: Producing and Contesting Legal Truth*, 22 AM. ETHNOLOGIST 549, 549-71 (1995). See also pre-trial motions in *U.S. v. Aguilar*, No. CR-85-008-PHX-EHC (D. Ariz. 1986).

of churches and their members to offer sanctuary in violation of the laws of the United States.¹²

D. Sanctuary and Asylum, International Law

In the 19th century, international law only required that states provide protection to their own citizens. During the inter-war years of 1919-1939, violent conflicts and political issues that arose in many regions of the world caused mass displacement. The League of Nations did what it could to provide *ad hoc* solutions and negotiate the resolution of specific crises, but no general definition of refugee was created, nor was a standardized procedure adopted for handling refugees. Sanctuary as pertains to asylum originated in the post-World War II development of the Cold War. It is not a far leap to move from the term “refuge” to the term “sanctuary,” so it is a natural continuation of the language to apply the idea of hosting refugees as providing a sanctuary for them.

In July 1951, a special United Nations Conference adopted the Convention Relating to the Status of Refugees.¹³ It was drafted between 1948 and 1951 and involved the participation of twenty-six states. The convention produced the first general definition

12 A quick note here on the use of the term “state” is needed for our readers. State refers to the legitimate government of a country, this is common usage in the study of international relations and political science in general. It is a shortened variant of the term sovereign state, which represents a government with a defined territory on which it exercises internal and external sovereignty, a permanent population, a government, independence from other states and powers, and the capacity to enter into relations with other sovereign states. For reference see MALCOLM NATHAN SHAW, *INTERNATIONAL LAW* (2003).

13 JOHN VRACHNAS ET AL., *MIGRATION AND REFUGEE LAW* 173 (2005).

of refugee, listing five characteristics—race, religion, nationality, social group membership, and political opinion—that were adequate for the provision of asylum if they were the source of a well-grounded fear of being subject to serious harm were the asylum-seeker to return to his state of origin.¹⁴ The 1951 Convention also provides a guarantee against repatriating refugees to their country of origin if doing so would subject them to persecution.¹⁵ One shortcoming of the 1951 Convention is that it limited the status of refugees to persons who feared persecution based on the five categories because of events which transpired prior to January 1, 1951. A 1967 Protocol was adopted affirming the primary details of the 1951 Convention, but made refugee status universally applicable regardless of the date of the event. As of 2005, over 140 states have signed the Convention and Protocol.¹⁶

Serious limitations exist pursuant to the Convention and Protocol. First, the fact is that refugee status is limited to civil and political status of an individual caused by race, religious affiliation, national origin, membership in a social group, or expressed political views. No concern is expressed for the quality of life expressed in the legal definition of a refugee. What if events simply overtake a person, forcing this person to flee their country of origin, not because of some classification, but because of natural or man-made disaster? By the language of the Convention and Protocol, this person has no claim to refugee status. What this

14 Article 1A (2), *Convention Relating to the Status of Refugees* (1951).

15 Article 33, *Convention Relating to the Status of Refugees* (1951).

16 VRACHNAS, *supra* note 13, at 174.

means is that a person fleeing a civil war does not have right of refugee status unless he can demonstrate successfully that he will be persecuted if returned to his country of origin because of one of the five categories, which is rarely possible to demonstrate. What the terms of the Convention and Protocol also mean is that desiring a better life is insufficient reason for granting refugee status.

The second limitation is that the Convention and Protocol make individual states responsible for determining if a person qualifies as a refugee under the provisions of the Convention. There is no international right to immigrate or attain refugee status; it is determined by states in keeping with the idea that no supra-national government exists that can dictate behavior to states. According to realist theories of international relations, states themselves are responsible for maintaining the international system.¹⁷ Many competing theories attribute equal or partial responsibility to non-state actors (such as churches, interest groups, and other non-governmental organizations) alongside states for maintaining the international system.

Despite significant limitations, the Convention and Protocol remain the source for most states' determinations of refugee status, and it is these definitions that are employed in U.S. laws

17 Again we use a commonly understood assumption of realist and neostructural realist theories of international relations. The assumption is that states are unitary actors that exist in a self-help environment because there is no higher authority in the international system than states themselves. Discussions of this are common to general textbooks on international relations and so numerous that we do not list them. A good singular work on international relations theory is KENNETH WALTZ, *THEORY OF INTERNATIONAL POLITICS* (1979).

regarding the status of refugees and immigration.¹⁸ Opposition to the manner in which the 1980 U.S. Refugee Act was applied led many people—especially in the southwestern United States—to participate in the sanctuary movement of the 1980s, bringing the issue into the public consciousness.¹⁹

As a signatory to the Convention and Protocol, the United States obligated itself to recognize valid claims for asylum (refugee status). This commitment was codified by the passage of the Refugee Act of 1980 and further affirmed and developed in the U.S. Immigration and Nationality Act (1996). No fewer than three U.S. offices in three different departments take part in determining refugee status, proper procedure in application, and the resettlement of refugees in the United States.²⁰ Figures available through the United Nations High Commissioner for Refugees (UNHCR) office show that the U.S. not only accepts more refugees seeking asylum than any other country in the world and is the foremost destination for general immigration as well but also that the U.S.

18 I say most states because in 1969 the Organization of African Unity (OAU) adopted a broader definition of refugee applicable to its member states. Also, the 1984 Cartagena Declaration incorporates a definition similar to that of the OAU signed by many Latin American states. *See also* VRACHNAS, *supra* note 13.

19 The 1980 Act and the 1996 Act discussed in later paragraphs were the result of political response to the fears of many U.S. citizens that we accepted immigrants in a hodgepodge fashion and that we accepted too many refugees. This is discussed in CARL J. BON TEMPO, *AMERICANS AT THE GATE: THE UNITED STATES AND REFUGEES DURING THE COLD WAR* (2008).

20 The Office of Refugee Resettlement (Department of Health and Human Services), Bureau of Population, Refugees, and Migration (Department of State), and Citizenship and Immigration Services (Department of Homeland Security).

accepts more refugees and immigrants than all of the other countries in the world combined.²¹

III. THEORIES

A. Security and Economics

There are two primary theoretical sides to the issue of admitting immigrants and refugees into a country. One side argues that a country's government must consider the general welfare of its own population as its foremost priority. The other side emphasizes the primary duty of all mankind to be humanitarian to all people, and that, by extension, states should act in as charitable a manner as possible.

Myron Weiner correctly points out that migration creates security and policy issues for states.²² Consider the fact that Palestinian immigrants in Kuwait collaborated with Iraqi forces in 1990, or that the United Kingdom feared that an influx of Vietnamese refugees in the mid to late 1970s would jeopardize the security of Hong Kong, prompting the British government to order these refugees to return to Vietnam despite international protest. In a global geopolitical climate informed by fears of international terrorism, it should be recognized that when a state's security is at stake it is easily justifiable to create preferences in admissions policies for immigrants and refugees.

21 United Nations High Commissioner for Refugees, *available at* <http://www.unhcr.org> (last visited Nov. 23, 2006).

22 MYRON WEINER, *Security, Stability and International Migration*, in INTERNATIONAL MIGRATION AND SECURITY (1993).

Not all admissions policies should be predicated on fear of security, however. Most states are unlikely to serve as progenitors for future terrorists, and most immigration continues to be based on economic concerns. Concern for the less fortunate and for the employment needs of U.S.-based firms both affect government decision-making regarding target immigration numbers; these concerns also affect the type of immigrant that is targeted. Most immigrant visas granted today are issued for people seeking to work in technologically advanced fields of industry and in the public healthcare sector.

Scholars increasingly recognize that globalization and free trade are not beneficial to all people.²³ While these scholars do not doubt that globalization increases the total economic gain of the world's population, some people gain, while others lose, and the losers are often disadvantaged minorities within their country of origin. The losers are compelled by economic conditions to seek a better situation, often only available to them in another country.

23 PAUL COLLIER, *THE BOTTOM BILLION* (2007), and Joseph J. St. Marie, Samuel S. Stanton, Jr. & Shahdad Naghshpour, *The Colonial Origins of Human Security*, 36 *POLITICS AND POLICY* (2008), and Samuel S. Stanton, Jr, Joseph J. St. Marie & Shahdad Naghshpour, *Globalization and Discontent: Decomposing the Effects of Globalization on Ethnic Conflict*, *American Political Science Association Annual Meeting, Aug 30 to Sep 02, Chicago, IL.*, and David Dollar, *Globalization, Poverty, and Inequality since 1980* (World Bank Policy Research Working Paper No. 3333, 2004), and Axel Dreher, *Does Globalization Affect Growth? Evidence from a New Index of Globalization*, 38 *APPLIED ECONOMICS* 1091, 1091-110 (2006), and Axel Dreher, *Index of Globalization* (2006) available at <http://www.globalization-index.org>, and William Easterly, *Globalization, Poverty and All That: Factor Endowments versus Productivity Views* (NBER Globalization Workshop, 2005), and J.D. Fearon, *Primary Commodity Exports and Civil War*, 49 *J. CONFLICT RESOLUTION* 483, 483-507 (2005).

Can the receiving country support the influx of migrants socially and economically?

The economic costs of accepting immigrants into a country in which the government takes responsibility for the provision of certain services and resources to all or portions of the population must be recognized. By accepting refugees in the United States, we accept them into a society that provides more service and infrastructure at no cost or reduced cost to individual users than most other states in the international system. To what extent can states afford to keep offering these benefits when increasingly large parts of populations may not be providing revenue for state action? One reason states impose limits upon immigration is the high cost of assimilating immigrants into the society.

Any state that opens its borders readily to immigration “might soon find other states taking advantage of its beneficent policy.”²⁴ Many states are perfectly willing to allow residents to leave creating financial savings for the state. If a state is lax in immigration control or readily admits large numbers of immigrants, it is not unheard of for a neighboring state to encourage its citizens to consider migrating. Not all decisions are based on bureaucratic and economic judgment, however; it is necessary to consider the interplay of political and moral forces as well.

A state granting refugee status to individuals or to groups is making a moral and political judgment. When the U.S. govern-

24 Myron Weiner, *Ethics, National Sovereignty and the Control of Immigration*, 30 *INTERNATIONAL MIGRATION REVIEW*, 173 (1996) (Special Issue: Ethics, Migration, and Global Stewardship).

ment grants asylum to a Cuban, it is saying the person in question can reasonably expect to be persecuted for political opinion if they return to Cuba. Issuing such a judgment is making a statement about the political situation in Cuba on behalf of all citizens of the U.S. On our behalf, the government is saying that another sovereign state is mistreating its own citizens. This is a strong statement to make, and it implies strong criticism of the state in the refugees' country of origin.

When State A declares asylum for citizens of State B, State B will most often see this as interference in the internal matters of State B by State A. State A is, after all, stating that State B has mistreated or might mistreat these citizens if they are returned to State B. The long term effects of such blatant statements about the moral, ethical, and sovereign behavior of State B by State A can be politically taxing. Consider too that most refugees receive asylum in democratic states that allow them to speak out openly against the government of their country of origin. Do citizens of state A really support the overthrow of the government of State B? This will appear to State B to be affirmed when refugees from State B granted asylum in State A speak out openly and loudly against State B.

Considered in this light, immigration and asylum policy is an inherently political decision. To those who maintain that the state acts, or should act, purely in their own citizens' rational interests, such policy is not made out of concern for all people in the world, but instead out of concern for the quality of life of citizens

in the country represented by the particular state. A government that represents its citizens must first and foremost make decisions about how best to protect those citizens. Secondly, this government must make decisions about how to promote the economic wellbeing of the greatest number of its citizens. All decisions of immigration and asylum must take into account how the security and economic health of the country will be affected, as these are commonly understood as the primary responsibilities of modern states.

In a globalized world, a great deal of the security and economic prosperity of the country is tied to foreign trade, investment, and security arrangements. This constraint on security requires a country to be extremely cautious in making moral and political judgments regarding any other country. This constraint also means asylum and immigration policies are tied to foreign policy goals, affecting both regions and individual states, from which states will accept people who are seeking temporary or permanent immigration and asylum status.

B. Equality and Human Rights

Opposed to the idea that states must be concerned about implications for the quality of other states is a position that favors open borders for unrestricted immigration as a means of providing the best quality of life for the most people. The fact that some people lose and others gain from globalization and free trade shows the inequalities of life. When we ask how to deal with inequal-

ity a good starting point is John Rawls, whose work is accepted as one of the classic starting points for discussions of fairness, equality, and justice in contemporary discussions of human rights. According to the Rawls' difference principle, these inequalities should be acceptable only if they ultimately benefit those who are least well off.²⁵ Joseph Carens stresses this principle by pointing out it is only a matter of chance that people are born in democratic, peaceful, prosperous countries rather than in poor, authoritarian, conflict torn countries.²⁶ The great necessity addressed by immigration is providing a better quality of life to a maximum number of people. Framed in this theoretical perspective, the question becomes is it more moral to preserve a particular status quo of life quality, or to promote the welfare of every individual of the human race?

Andrew Shacknove argues that a claim to refugee status exists whenever a state does not protect the basic needs of citizens.²⁷ Shacknove's claim is a moralistic and exceedingly broad claim, which is hard to support as it leaves many questions unanswered. What are the basic needs of citizens? Does this include a job?

25 This idea emanates from Rawls' "difference principle", which is the primary basis for much of the social justice theory among human rights scholars. The difference principle postulates that each member of society has an equal claim on their society's goods that is unaffected by personal attributes, so the basic right of any individual in the society is an equal share of the goods. Rawls argues that inequality in distribution of the goods is acceptable only if it is to the advantage of those who are worst-off. See also JOHN RAWLS, *A THEORY OF SOCIAL JUSTICE* CAMBRIDGE (1971).

26 Joseph Carens, *Aliens and Citizens, the Case for Open Borders*, 49 *THE REVIEW OF POLITICS* 251, 261 (1987).

27 Andrew Shacknove, *Who is a Refugee?*, 95 *ETHICS* 274, 274-84 (1985).

Does a government owe a person protection of his employment? Does this mean protection of access to fresh water (a necessity for life) and arable land (needed to grow food or raise livestock)? Some human rights activists claim that any discrimination against human rights is grounds for asylum. Liberal democracies ought to admit all individuals whose human rights are violated by their own governments. But what are human rights? Does government have a right to put limitations on things that are generally considered rights by most people? For instance, does a government have a right to impose a one child per family limit? Should states give asylum to any family asking for protection on grounds of desiring to have two or more children? Should a country grant asylum to an openly homosexual Brazilian—an orientation largely rejected by Brazilian society—because his government does not protect people from social derision? In the end it would still be a government's decision as to what human rights are basic and to justify granting asylum if infringed.

Egalitarian arguments dismiss nations and sovereignty as impediments to a just world. The predominant idea is distributive justice, which requires abrogation of sovereignty. Proponents of this idea argue that we should not consider immigration's impact on welfare, employment, educational benefits, healthcare, the environment, and community relations. Instead, we must ensure the highest possible quality of life for the most possible people regardless of political and economic costs to individual states. To the egalitarian, this is not just a humanitarian act—it is a moral

imperative.

Further complicating understanding state-centric versus open border arguments surrounding asylum is the question of whether or not sovereignty resides on more than one level. Previously we discussed sovereignty in relation to the actions of the state in pursuit of a range of policies that are designed to maximize the outcomes for the population represented while protecting the right of a government to determine what is best in dealing with its own citizens free from encroachment by foreign powers. Another matter to be decided, however, is whether sovereignty exists at multiple levels within a single country.

C. Federalism

A final theoretical consideration is based on federalism. Federalism is a system by which more than one level of government shares power in a country. In the United States this refers to cities and counties (local government), the fifty states, and the federal or U.S. national government. Which of these is sovereign? Based on the U.S. Constitution and the numerous court decisions interpreting this document, the Constitution and other federal laws are the supreme law of the land. State and local laws may add to federal law, but cannot take away or negate sections of federal law. In this legalistic sense, sovereignty ultimately rests with the federal government.

Recent scholarship challenges this idea. Randy Lippert examines sanctuary cases in Canada and applies a definition of

sovereignty involving multiple spheres.²⁸ He defines sovereignty as the ability to coerce and to make and suspend laws, writing that “[i]t is not the outcome of a decision but the capacity to make the decision and to have it obeyed that renders the decision sovereign.”²⁹ Lippert argues that this is exactly what churches did in Canada and in the United States by offering sanctuary, because the churches did not have to offer sanctuary and could remove sanctuary at any time of their choosing. Moreover, the churches were seeking to coerce the government into taking action.³⁰

Lippert’s argument leads to the question of who determines the sovereignty of the government and/or other actors within a country. As the source of ultimate authority for the Constitution and for the government that it creates, are U.S. citizens the last arbiters in determining where sovereignty resides? An argument can be made to favor this position. As previously noted, however, legal and historical precedent challenges this argument. Nevertheless, this line of reasoning is alive and well for some Christians in the United States. The next section of this article will explore in more detail the sanctuary movement of the 1980s and the modern progeny of this movement—namely the offering of sanctuary to illegal immigrants who are facing expulsion after legal decisions have been rendered.

28 RANDY K. LIPPERT, *SANCTUARY, SOVEREIGNTY, SACRIFICE: CANADIAN SANCTUARY INCIDENTS, POWER AND LAW* (2005).

29 *Id.* 69.

30 *Id.* 69-74.

IV. SANCTUARY, REDUX

A. The 1980s Sanctuary Movement

In 1980 the U.S. government enacted a policy regarding refugees and their resettlement within the U.S. that centered on compliance with the principles of the Convention and Protocol. The act was designed to create a process by which a target number of refugees as recognized by the Convention and Protocol would be admitted into the U.S. and be given official asylum or sanctuary. In November 1980, however, Ronald Reagan was elected President of the United States, bringing to the office a conservative who promised tougher measures to defeat communism throughout the world. One area of the globe where the growth of communism was of particular concern to President Reagan was Central America. The decision was made to support right-leaning and conservative governments in Central America economically and militarily where they were engaged in often violent conflict with portions of their populations that advocated socialist and communist ideals.

As a political matter, this decision meant the U.S. government could not make negative statements about these governments' treatment of their populations. Adherents of realist theories of international relations would argue that if the U.S. government had made a negative statement about one of the fragile Central American states, the weight of that statement could have caused a nascent democratic government to fall and be replaced with a socialist or communist government. In this vein of reasoning, a

decision was made to deny most asylum applications from this region. In truth, some of the asylum seekers were true refugees as defined by the Convention and Protocol. They had well-founded fears of persecution if they returned to their countries of origin due to their race, religion, nationality, social group membership, or political opinion.

In the early 1980s, several congregations and individuals began to create an underground network to bring people from Central American countries illegally across the U.S.-Mexico border and provide them with “sanctuary” in their churches and in their homes in a sharp public criticism of Reagan administration policies. The effort became a classic clash between church and state over “who and what interests defined U.S. sovereignty.”³¹ James A. Corbett, a Harvard-educated rancher, and Rev. John Fife, then pastor of Southside Presbyterian Church (U.S.A.) in Tucson, Arizona, were the co-founders of the sanctuary movement of the 1980s in the southwestern United States. Corbett, who died in early August 2001, is credited with having personally guided hundreds of Salvadorans and Guatemalans from Mexico to Tucson.³² Fife called Corbett “the intellectual and spiritual architect of the sanctuary movement.”³³ Both Corbett and Fife stated that they believed their actions ethically justified by the failure of

31 Hillary Cunningham, *Sanctuary and Sovereignty: Church and State Along the U.S.-Mexico Border*, 40 JOURNAL OF CHURCH AND STATE 370, 370 (1998).

32 *Sanctuary Movement Co-Founder Dies*, ASSOCIATED PRESS STATE AND LOCAL WIRE, Aug. 7, 2001.

33 *Id.*

the United States to accept Central American refugees.

The sanctuary movement was contested among churches and church leaders. Obvious questions arose about liberation theology, as well as the proper role for churches in contesting civil laws.³⁴ Liberation theology emphasizes Christ's redemptive character and envisions Him as the liberator or emancipator of the oppressed. In its inception, this theology arose in the Roman Catholic Church and primarily in Central America and South America. Pope John Paul II admonished such teaching as antithetical to scriptural teaching of Christian liberty and rebuked the teaching for allowing Marxism to creep into the Church, curtailing the movement's growth.³⁵ The message of liberation theology maintains its popularity in liberal theological circles, where the Bible is regularly interpreted as a text on social justice. Theologically, liberation ideology remains a major point of dispute among Christians, which makes it less than persuasive as a reason for breaking the laws of the state which governs the location where a Christian lives.

34 Renny Golden and Michael McConnel discuss the contest and the eventual size and scope of the Sanctuary Movement in *Sanctuary: The New Underground Railroad* (1986). Eventually the movement involved approximately 70,000 members. WILLIAM K. TABB *CHURCHES IN STRUGGLE: LIBERATION THEOLOGIES AND SOCIAL CHANGE IN NORTH AMERICA* (1986) discusses the ideas of liberation theology and its impact on the Sanctuary Movement.

35 Pope John Paul II made this clear in his 5000 word speech at Palafox Seminary in Puebla, Mexico in February 1979. A story regarding this event is available at <http://www.time.com/time/magazine/article/0,9171,920117,00.html>.

On March 24, 1982, a dozen congregations—primarily in Southern Arizona—declared themselves open sanctuaries for illegal immigrants seeking asylum in the United States. While the fact that the movement was church-based receives most of the attention, the political motivations behind the sanctuary movement should not be ignored. Robert Tomsho, whose work is a defense of the movement, writes that the “political goals of sanctuary were never clandestine. The movement was not smuggling refugees merely to satisfy religious commandments or provide the press with a few good headlines. . . . [T]he movement hoped to persuade Americans to reconsider their government’s support of regimes the refugees were fleeing.”³⁶

Tomsho’s assessment is echoed in statements Fife made in 2002; he told a reporter that it was gratifying to see that the movement “seems to have been a significant moment in the whole history of human rights and refugee rights.”³⁷ More than forty churches in the U.S. gave sanctuary to illegal aliens from Central America during the height of the movement. Among those churches that extended sanctuary to refugees were congregations from a wide range of denominations, including American Baptist, Episcopalian, Lutheran (ELCA), Mennonite, Methodist,

36 ROBERT TOMSHO, *THE AMERICAN SANCTUARY MOVEMENT* 94 (1987).

37 Arthur Rotstein, *Sanctuary Movement Marks 20th Anniversary of Aiding Refugees*, ASSOCIATED PRESS STATE AND LOCAL WIRES, Mar. 22, 2002.

Presbyterian (PCUSA), Quaker, and Roman Catholic.³⁸ Some of those involved in the movement even reasoned that they were actually enforcing U.S. law, which the government was unwilling to enforce, therefore, their actions should not be considered as a violation of the law. According to one report, “some church leaders say the churches are taking a humanitarian stand and calling attention to what they consider the unfair application of the Refugee Act of 1980.”³⁹ Indeed, the term civil initiative was used by the movement’s proponents to describe its actions and inspire members to believe they were carrying out existing law. This differs from civil disobedience, as in the disobeying of law that dissenting individuals determine to be morally reprehensible.⁴⁰

The U.S. government’s response was two-fold. First, it issued regular statements emphasizing that no right of sanctuary was recognized in U.S. law. Second, the government began investigating and collecting information regarding the activities of members of the movement. The second part of the response included active infiltration of the churches involved by informants and actual agents of the U.S. government. Reagan administration officials defended the “indictments of American church workers—and the use of infiltrators with concealed tape recorders—as

38 *Id.* It is not clear whether Missouri Synod Lutherans participated in the movement, but the ELCA issued a denominational level statement in support of the movement. The same may be said of the different variants of Presbyterian Churches, however the PCUSA did issue a denominational statement in support of the movement.

39 George Volcky, *U.S. Churches Offer Sanctuary to Aliens Facing Deportation*, N.Y. TIMES, April 8, 1983, at A1.

40 Coutin, *supra* note 11, at 553.

part of their obligation to pursue people suspected of breaking laws concerning illegal aliens.”⁴¹

Does the infiltration of a church by government agents represent a violation of the legal doctrine of separation of church and state? Do individuals have the right to contest the source of sovereignty or the right to carry out law for the government? The Ninth Circuit Court of Appeals answered all of these questions in the negative in *U.S. v. Aguilar*, 883 F.2d 662 (9th Cir. 1989), with the U.S. Supreme Court declining to grant *certiorari*, effectively affirming the ruling of the appellate court.⁴² The *Aguilar* decision was part of a gradual shift away from an earlier legal presumption in favor of the plaintiff in cases where religiously-inspired practices were alleged to conflict with state and federal law, a shift we examine in the following paragraphs through examination of *Sherbert v. Verner*, 374 U.S. 398 (1963).

Associate Justice William J. Brennan, Jr., writing for a 7-2 majority on the U.S. Supreme Court in the case of *Sherbert v. Verner*, held that the Free Exercise Clause of the First Amendment required that the government demonstrate a compelling governmental interest and act in the least religiously burdensome manner possible wherever such action imposes a substantial burden on an

41 *Sanctuary Leaders Assail U.S. for Ousting Central American Refugees* L.A. TIMES, Mar. 2, 1985, at Home Edition, 5.

42 *Certiorari* (“to be more fully informed”) is the present passive infinitive of the Latin *certiorare* (“to show, prove, or ascertain”). In the U.S. federal legal system a writ of *certiorari* currently means an order by a higher court directing a lower court (or other designated authority) to send the records of a case to the higher court for review.

individual's ability to act upon sincere religious beliefs. Under this formulation, known as the Sherbert Test, the burden of proof rested upon the state, and a mere "religion-blind" approach to legislation was held insufficient to meet the new strict scrutiny standard.⁴³ Inasmuch as advocates of sanctuary might reasonably argue that theirs was "a sincerely held religious belief" which "conflict[ed] with, and [was] thus burdened by, the state requirement," they would have succeeded, at least, in forcing the government to demonstrate a compelling state interest for enforcing immigration policy in sanctuary cases under the Sherbert Test. By the time the courts heard the *Aguilar* case, however, the burden of proof had begun to shift, and in *U.S. v. Lee*, 455 U.S. 252 (1982) and subsequent cases, "the size of the requested exemption, not the magnitude of the burden on the claimant," became the paramount jurisprudential concern.⁴⁴

In *U.S. v. Aguilar*, the Ninth Circuit Court held that the religious motivations of the defendants were irrelevant "[s]o long as appellants intended to directly or substantially further the alien's illegal presence."⁴⁵ According to the court, the appellants had confused intent with motive. The appellate court also raised questions about the centrality of the sanctuary movement to the defendants' religious practices, noting that no members of the

43 Victoria J. Avalon, *The Lazarus Effect: Could Florida's Religious Freedom Restoration Act Resurrect Ecclesiastical Sanctuary?*, 30 *STETSON L. REV.* 664, 680 (2000)

44 *Id.* at 686.

45 *United States v. Aguilar*, 883 F.2d 662, 688 (9th Cir. 1989).

Catholic or Methodist clergy testifying before a lower court suggested that “devout Christian belief mandates participation in the ‘Sanctuary Movement.’”⁴⁶ The manner in which federal agents obtained evidence against participating congregations, moreover, was upheld under the “invited informer” doctrine, which permits the warrantless use of undercover agents and informers operating as part of a good faith government investigation where the communication monitored is voluntarily made to a third party, such as in the case of a church service or function open to the general public.⁴⁷ According to the court, the participation of a government representative in church activities for the purpose of reporting on them does not constitute an infringement of the church’s rights.⁴⁸

Unsurprisingly, the defendants felt otherwise. Stephen Cooper, attorney for two church workers who faced trial in Texas for harboring and smuggling illegal aliens, stated:

46 *Id.* at 699.

47 *Id.* at 703.

48 A year after the *Aguilar* decision was handed down, the Supreme Court affirmed its logic, ruling in *Employment Division v. Smith*, 494 U.S. 872 (1990) that “facially neutral laws of general applicability that burden the free exercise of religion require no special justification to satisfy free exercise scrutiny,” prompting Congress to pass the Religious Freedom Restoration Act (RFRA) in 1993. This legislation reestablished the stricter “compelling interests” standards of the Sherbert Test, but was limited to aspects of belief “compulsory or central” to the claimant’s religion. Some states, however, have passed parallel bills, a number of which employ more liberal definitions. Florida’s RFRA, for instance, defines the exercise of religion as an act “substantially motivated by a religious belief,” a definition which could easily encompass the provision of sanctuary and require state proceedings on such cases to adhere to a strict scrutiny standard, the implications of which have yet to fully play out. See, e.g., Avalon; James E. Ryan, *Smith and the Religious Freedom Restoration Act: An Iconoclastic Assessment*, 78 VA. L. REV. 1407-1462 (1987), and *Klemka v. Nichols*, 943 F. Supp. 470 (M.D. Pa. 1996).

I do see it as church versus state, but in a very much different way than we normally see church versus state. I can't remember any time in the past when the Government has tried to invade the churches, tried to tell the churches they can't do things that have always been recognized as within the province of the churches, tried to turn church people into criminals for nonviolent behavior.⁴⁹

This proposition is intriguing. The church and Christians are to be honest, open, and truthful according to teachings of scripture. Is it dishonest, however, for informants to tell the government what a church is doing? This is one of the many points of disagreement between congregations that were supportive of the sanctuary movement and those who opposed it. A Southern Baptist minister told the authors:

I could not support such interpretation of scripture and Christian duty that would require me to be dishonest to the authorities. But it remains my dilemma to consider how to serve God and assist those in need as Scripture teaches and not violate the laws of this country, which tell me to report and turn in illegal aliens.⁵⁰

49 Wayne King, *Leaders of Alien Sanctuary Drive Say Indictments Pose Church-State Issue*, N. Y. TIMES, Feb. 3, 1985, at A30.

50 Samuel S. Stanton is pastor of First Southern Baptist Church in Fallon, NV. This excerpt is from personal conversation held December 29, 2006.

Nevertheless, the ruling in the *Aguilar* case was that sanctuary was not a matter of fundamental religious practice, particularly since millions of Christians never engage in the practice and many openly oppose it.⁵¹ Since the practice of sanctuary is not a matter of core religious doctrine, but rather one of political practice, defenses predicated on the Free Exercise Clause were rejected.

Interestingly, the insistence of sanctuary movement participants that they were carrying out the law for the state shares certain similarities with vigilante justice, protection from which appears to have been one of the principal reasons for the initial creation of sanctuary. This is the most ironic aspect of the modern movement: it seeks to give sanctuary, which was originally intended to protect people from vigilante justice, by engaging in vigilante justice.

In the sanctuary debate, the sticking point for Christians is that Christianity teaches obedience to authority as well as kindness to strangers and the persecuted. Which of these is to be the guiding principle for behavior? The best answer would depend upon the extent to which a Christian believes in the authority and infallibility of the Bible. Many denominations teach that the Bible is infallible and, therefore, the ultimate source of authority. For the members of these churches, the answer to the question is both obedience to authority and human kindness. Many churches, however, teach that the Bible needs to be interpreted in a more socially relevant manner. For members of these churches and

51 *Aguilar*, 883 F.2d at 662.

adherents of their theological offering, it is more difficult to both obey the law and follow the teachings of social justice—charges which they see as often contradictory. This issue is highlighted in the Court’s opinion in *Aguilar* that some denominations’ representatives testified that sanctuary was not a principle element or requirement of the faith.

B. The Current Sanctuary Movement

As we examine in this section of our work, the government of the United States remains adamant that no right to sanctuary exists. This position is mentioned in numerous statements regarding sanctuary’s latest feature case—Elvira Arellano. The modern version of sanctuary is even more concerned with distributive justice and with humanitarian belief than its predecessors, and eschews the claim that people are deserving of sanctuary because they are true refugees seeking asylum in favor of a much more expansive interpretation. The modern version is exemplified by the story of Elvira Arellano, related in the opening of this article.

The contemporary sanctuary movement does not care that Arellano openly admits she came here to find a better life. In this regard, the modern movement is more tied to the open borders philosophy than the movement was in the 1980s. Ms. Arellano has become a celebrity for the new movement to support—a new face for a movement that is concerned not only with persecution of the illegal alien if the person is forced to return home, but also the economic conditions that individual would face in his or her coun-

try of origin. Recognizing her importance to the movement, *Time* named Arellano as one of the “People Who Mattered in 2006.”⁵²

Arellano’s supporters are conspicuously silent about any fear of persecution if she is returned to Mexico. Most of them focus on the fact that her son, Saul, was born in the United States and therefore is guaranteed United States citizenship. Pastor Walter Coleman said his congregation offered Arellano refuge after praying about her plight. Coleman said he does not believe Arellano should have to choose between leaving her son behind and removing him from his home. “She represents the voice of the undocumented, and we think it’s our obligation, our responsibility, to make a stage for that voice to be heard,” he said.⁵³

The government’s statements about Ms. Arellano echoed those made regarding Central Americans who were denied their asylum petitions in the 1980s. In fact, a representative of the U.S. Immigration Agency said that an agent has every right to enter the Adalberto United Methodist Church and arrest her and would do so “at a time of [its] choosing,” a threat rendered moot by Ms. Arellano’s decision to leave the confines of the church to lobby publicly for her cause.⁵⁴ In response to the government’s position,

52 Wendy Cole, *Elvira Arellano, An Immigrant Who Found Sanctuary*, TIME, Apr. 21, 2007, available at <http://www.time.com/time/personoftheyear/2006/people/3.html>.

53 Don Babwin & Karla Johnson, *Immigrant Takes Refuge in Chicago Church*, ASSOCIATED PRESS, Aug. 16, 2006, available at http://www.breitbart.com/article.php?id=D8JHRKAO2&show_article=1.

54 *Elvira Arellano and the Law*, CHI. TRIB., Aug. 17, 2006, available at <http://www.chicagotribune.com/news/local/chi-0608170087aug17,1,2309585.story?coll=chi-photo-front>.

Arellano said, "If Homeland Security chooses to send agents to a holy place, I would know that God wants me to serve as an example of the hatred and hypocrisy of the current administration."⁵⁵

V. DILEMMA

This article has focused on sanctuary and illegal immigration as a church and state issue for Christians. Sanctuary may also be an issue for other American religious groups. Given the premises of their belief system, it is highly probable that this could become an issue for Buddhist and Hindus as well. It would be less of an issue for stalwart Muslims for whom there is little or no separation between church and state. Christian churches, however, dominate the religious landscape of the United States and the sanctuary movement in the 1970s and 1980s involved Christian churches. The revived movement in the first decade of the second millennium, where non-governmental actors are involved, also includes Christian churches.

Sanctuary is humanitarian. As human beings we must recognize the sanctity of human life. Christianity recognizes a necessary duty to preserve and defend human life and adherence to a belief system that routinely suggests provision of aid to those who are unable to aid themselves, as well as provision of sustenance to those who cannot provide sustenance for themselves. If people are unable to provide for the protection of their own life,

55 *Illegal Alien Activist Elvira Arellano Hides out in Church to Avoid Deportation*, available at <http://www.diggersrealm.com/mt/archives/001790.html>.

sanctuary should be provided for them. This was evidenced in the movement of the 1970s and 1980s, where participants repeatedly voiced justifiable concern for the physical safety of the illegal immigrants in question.

Sanctuary is also political. The sanctuary movement in 1980s was a political confrontation with President Reagan's anti-communist Central American policy. Reagan's policy supported governments with abysmal human rights records because these governments were not communist. Sanctuary providers challenged the legality of supporting human rights abusers in the name of fighting communism. While good humanitarian assistance was offered, would the same assistance have been offered under different political circumstances? Remember that most sanctuary declarations included a statement that the actions were taken because of the illegal and immoral policy of the U.S. government concerning Central America. If it were truly about the moral issues of the preservation and sanctity of life, it would be necessary to include a statement concerning the legality of U.S. policy in Central America only as a convenient justification for their actions. Sanctuary as a political act is certainly evidenced in the case of Elvira Arellano, where no concern exists for her safety, but plenty of concern is voiced over her possible deportation and the status of her son, Saul.

But is the provision of sanctuary really a matter of church and state relations? It is when certain denominations and congregations chose to make it an issue, although the state has shown that

it does not recognize it as pertaining to the Establishment Clause, an argument that is legally compelling, but not compelling at all to advocates of the sanctuary movement. Some denominations continue to issue proclamations that they will support sanctuary and disobedience of the U.S. laws in response to a higher calling.⁵⁶ Most churches have taken an approach that says illegal immigration is a problem that needs to be dealt with humanely and legally, but not in a manner that penalizes people under the law for acting on Christian value.

We close our consideration of the sanctuary movement with consideration of events of the year 2010 in Arizona. Representatives of the same congregations involved in the sanctuary movement in the 1980's are part of the emerging dispute over Arizona Senate Bill 1070 (AZ SB 1070). AZ SB 1070 would allow state law enforcement and state administrative agencies greater discretion in determining the illegal status of immigrants within the borders of Arizona through traditional law enforcement means and increased requirements of documentary proof of legal status. Interestingly AZ SB 1070 argues essentially the same argument that is made by sanctuary movement activists—the federal government is not enforcing the laws, so they must be enforced by citizens, or, in this case, the law enforcement agencies and courts of the State of Arizona. The injunction of the court against AZ SB 1070 argues that even if the enforcement had the same intent and

56 See for instance the statement of the Presbyterian Church—USA 217th General Assembly (2006) on Advocacy for All Immigrants.

purpose as existing federal law, the State of Arizona should not interfere with execution of federal law.⁵⁷ Both the modern sanctuary movement and modern movements to abate illegal immigration are faced with the same logic in the federal courts—you are not the U.S. government, you may not enforce the laws of the U.S. government.

57 “If enforcement of the portions of S.B. 1070 for which the Court finds a likelihood of preemption is not enjoined, the United States is likely to suffer irreparable harm. This is so because the federal government’s ability to enforce its policies and achieve its objectives will be undermined by the state’s enforcement statutes that interfere with federal law, even if the Court were to conclude that the state statutes have substantially the same goals as federal law.” U.S. District Court Judge Walker in issuing injunction against AZ SB 1070.

