

What Is Entailed in Offering Sanctuary?

Findings from a Consultation held at Romero House Toronto, November 2007

MICHAEL CREAL

On November 20–21, at Romero House in Toronto, close to fifty people from across Canada came together to compare their experiences in offering sanctuary to refugees facing deportation to places where their lives would be in danger.

What follows is a summary of some of the more important findings/conclusions.

Sanctuary has been offered in Canada in a variety of settings: churches, religious communities, and homes, in each of these cases with a significant number of successful outcomes. It is only offered when all legal options have been exhausted though if legal representation has been seriously deficient, a change of lawyers may be the appropriate step before moving to sanctuary. Sometimes, however, even after sanctuary is in process, a successful outcome for a person or family in sanctuary has been the result of a freshly formulated Humanitarian and Compassionate application or even a new risk assessment where compelling new evidence is presented. On other occasions, success was achieved through Ministerial intervention.

Congregations that offer sanctuary have to be confident that they are supporting a valid refugee claim and therefore that claim has to be thoroughly scrutinized (and it is a fact that far more requests for sanctuary have to be rejected than are accepted). It is important to understand that in the process of reaching a positive decision, members of the congregation have time to come to know the person/family more completely than immigration officials or IRB judges. It is not a matter of the sanctuary providers being “better” than immigration authorities but of their being in a position to see and hear the desperation of the refugee claimants and getting to know their stories more fully. This is simply a fact though it may not fit well within the perspective of government officials. Nonetheless, it is a point that deserves recognition. Having sufficient time with a refugee claimant clearly affects the capacity to assess the *credibility* of a complicated

refugee claim, and establishing credibility is obviously a central point in the refugee determination process.

Since there are many people of good will within the refugee system, it makes sense to reach out and try to work with them, and in a number of cases this has led to a successful outcome. But it is also the case that government officials tend to be intolerant of sanctuary and often the bureaucracy seems impenetrable. Frequently the government strategy is to “wait out” cases, assuming that either the congregation or the refugees concerned will give in through sheer exhaustion. This is all the more evident because recently the length of time in sanctuary has been increasing. In other words, sanctuary is a huge undertaking for all concerned: it takes enormous perseverance and commitment from everyone involved. In the process, there are many dark and discouraging moments as well as quite profound moments of learning and growth. But sanctuary is never offered or undertaken lightly. And the experience is not an easy one.

Different social/political meanings of sanctuary were considered. Sanctuary could be seen as a power conflict or a challenge to “the powers that be,” a challenge that arises out of a prophetic tradition that brings to light abuses in systems of power. Hilary Cunningham, a University of Toronto anthropologist who has written extensively on sanctuary, saw sanctuary “as a diagnostic site disrupting power relationships and creating new social geographies.” This was exemplified in the US sanctuary movement, which had major political dimensions and ended up in the courts. Peter Showler, a former Chair of Canada’s Immigration and Refugee Board (IRB), examined fundamental issues of law. He argued that a moral vision underlies law. Natural justice arises out of that vision and, ideally, that is what law rests on. Particular laws and particular applications of laws are always open to challenge and the Canadian Charter of Rights and Freedoms, the constitution, and international instruments can be used as a basis for a challenge. Most cases that end

in sanctuary do so because there is something wrong either with the law or the application of the law. In this connection the point was made repeatedly that the failure to implement a proper appeal system—called for in the Immigration and Refugee Protection Act (IRPA)—to deal with matters of substance in the refugee claim was a major reason for the existence of the sanctuary movement in Canada. On the other hand, it was pointed out that the effectiveness of an appeal system would depend entirely on how it was constituted and administered. A badly constructed appeal system would make little difference. Still, most participants believed that the sanctuary movement existed because of deficiencies in the Canadian refugee system, many of which could be remedied, and they looked forward to a day when sanctuary would no longer be needed. Whether that day would ever come was another question.

An important issue that recurred in the course of the discussions was whether sanctuary was a form of civil disobedience or represented a “civil initiative.” Most participants thought in terms of a civil initiative that called upon the government to honour its commitments to the protection of refugees, specified in IRPA, and to various international instruments—like the Convention Against Torture—that the government had signed onto. Seen in this light, congregations offering sanctuary were upholding the law, not breaking it. Civil disobedience, on the other hand, was the repudiation of what was regarded as a bad law or a bad practice in the name of a “higher law” or in the name of those foundational moral principles upon which law is supposed to be based. In most arguments supporting sanctuary in the Canadian context, the principle of civil initiative is cited as the grounds for action.

One full session of the consultation was devoted to the religious/ethical basis of sanctuary and began with a presentation by Gregory Baum, a retired professor of religious studies at McGill University. Baum’s presentation was wide-ranging and comprehensive and what follows are just some of the points in his presentation:

1. One needs to look at the conditions and imperial/political conflicts in the world that generate refugees and find ways of addressing the sources of the problem. In this connection, the definition of “refugee” needs to be widened to include, for example, environmental refugees. And we need to be aware of situations where our own country is complicit in practices that force people to become refugees.
2. Church teaching since the nineteenth century has argued that people have a *right* to move. While the state has a right to control migrants, there is an issue of justice for people on the move (migrants).

Migrants are not just social problems: they are people seeking to escape oppression and build a new life.

3. Offering sanctuary is an act of charity—in the deepest and richest sense of that word. Helping an individual person is enormously important (here Baum described his own experience of being helped as a refugee at a personal level and how that help opened up a whole world of possibilities for him).
4. Besides being an act of charity, offering sanctuary is an act of resistance. It is saying, in effect, “We live out of a different kind of logic than that which appears to prevail in the existing power system.” It is also an act of resistance to bureaucracy as Max Weber described it, *i.e.* bureaucracy as an expression of rationality where everything is governed by an extensive system of rules administered by officials who must obey these rules scrupulously. Bureaucrats may detach themselves from their feelings and be controlled by rules. Individual human beings can easily fall through the cracks in a bureaucratic system. This is the experience of many refugees.
5. Even though in our time we no longer have an overarching social vision of a political project that can solve our problems (*e.g.* the socialist dream), we can create micro alternatives that live out of a different logic than that which prevails in our culture. The sanctuary movement may be seen as part of this. The act of offering sanctuary is therefore not an isolated, arbitrary act but a model of other ways of being and acting. It is also an indication that relatively small groups can act effectively and create new forms and structures.

In the final analysis, it was agreed that an ethical imperative underlies the sanctuary movement. Meeting a refugee face to face is a call to action. John Juhl, a Franciscan priest, put it this way: when a refugee family facing deportation came to my door asking for help what could I do? If the Church does not stand up for people seeking refuge, what are we about? It’s a moral responsibility. We are called to be prophetic, we are called to be a voice for the voiceless. Congregations that offer sanctuary act in this tradition. They seek to combine the prophetic with the pragmatic.

Michael Creal is a Professor of Humanities (Emeritus) at York University, a member of the Centre for Refugee Studies, and the Chair of the Southern Ontario Sanctuary Coalition.