

# A Jewish Textual and Theological Grounding for Sanctuary

The New Sanctuary Movement, which has thrived primarily among churches, draws much strength and inspiration from the Bible, in particular the New Testament's Matthew 25:34-46:

For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in... Then the righteous will answer him, 'Lord, when did we see you hungry and feed you, or thirsty and give you something to drink?... The King will reply, 'Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.'

This article examines a number of Jewish sources and justifications that Jewish communities may rely on as we enter the movement.

## I. FROM MY VERY ALTAR

Even Christians in the New Sanctuary Movement draw initially on the Torah, beginning with Exodus 21:14:

One who fatally strikes a person shall be put to death. If s/he did not do it by design, but it came about by an act of God, I will assign you a place to which s/he can flee. **When a person schemes against another and kills her/him treacherously, you shall take her/him from My very altar to be put to death.** (Translation: NJPS, modified)

This is the verse that led to the medieval concept of sanctuary, where people could take refuge in certain churches.<sup>1</sup> The verse's emphasis on such a heinous crime—cold-blooded, premeditated murder—leads us to conclude that, for lesser acts, we would not think that we could remove a criminal from the altar for punishment. In other words, the Torah seems to be suggesting that the altar offered sanctuary, except in extreme cases.

Such a conclusion is borne out by the biblical stories of Adoniyah (I Kings 1:50-53) and Yoav (I Kings 2:29-34), both of whom seek sanctuary after rebelling against King Solomon. Both are ultimately removed forcefully—Adoniyah's life is spared, while Yoav is executed—but their stories indicate that the concept of sanctuary was alive in the culture. Two other stories point to a similar tradition, albeit in private homes: Lot's defense of his two guests (Genesis 19:8) and Rahav's sheltering of the two spies (Joshua ch. 2). Neither, of course, is a perfect moral example: Lot's offer to turn his two daughters over to the mob, in defense of his guests, is deeply troubling, and Rahav is at least partially motivated by self-preservation in the face of the incipient Israelite attack.

Most of the later commentators narrow the focus of our verse, interpreting it to mean that a priest who is in the middle of performing a sacrifice can be removed from the altar to be tried for murder (see, e.g., Rashi). One exception is the *Ha'amek Davar*, Rabbi Naftali Yehudah Tzvi Berlin (1817-1893), who writes explicitly in his commentary on Leviticus 27:29 that the altar does provide sanctuary for one who rebels against the king. This might provide a good analogy to the actions of contemporary undocumented immigrants seeking sanctuary.

This source text is challenging, because it requires that we accept that undocumented immigrants have committed a crime, which the movement denies. (It may technically be true in some cases but is morally quite problematic; in any case, the legal status of unauthorized entry has changed over time. See p. 12 for a short history and the texts about Sodom on p. 30-31 for a reflection on how "crime" gets defined by a society.) It does, however, offer a sense of the sanctity involved in protecting someone.

### HA'AMEK DAVAR ON LEV. 27:29

...It seems, according to the plain text of *parshat Mishpatim* (Ex. 21:14) that the king can execute a murderer without formal warning [unlike a *beit din*, a Jewish court], and for this reason it says, "From My very altar you shall take him to die." **This is not similar to the case of one who rebels against the king, where the altar provides sanctuary**, for here it adds that if the king has decreed that he be executed, anyone who encounters him should kill him.

העמק דבר על ויקרא כז: כט  
כל חרם וגו'... ונראה עפ"י הפשט כמש"כ בפ' משפטים  
עה"פ וכי יזיד איש וגו' שהמלך יכול להרוג את הרוצח בלי  
התראה, וע"ז כתיב מעם מזבחי תקחנו למות, ואינו דומה  
למורד במלך שהמזבח קולטו, וכאן הוסיף המקרא שאם  
נחרם מן המלך שיהרגנו כל מוצאו בשביל רציחה...

<sup>1</sup> See <http://aleteia.org/2017/02/19/seeking-sanctuary-in-a-church-what-does-it-mean-today/> for a brief history.

## II. REFUGE AND DUE PROCESS

Exodus 21:13 (above) is developed later in the Torah into a system of Cities of Refuge, where manslaughterers could flee and be protected from blood vengeance **until they received a fair hearing**. This is the aspect of Cities of Refuge emphasized by Rev. Alexia Salvatierra, a leader of the sanctuary movement: Sanctuary congregations cannot provide permanent housing and security but can offer protection until the immigrant can receive a fair legal hearing. Later *halachic* literature (see, e.g., Talmud *Makkot* 10a)<sup>2</sup> also elaborated at length how these cities were to be thriving, holistic communities, not penal colonies—another reminder that when a person is in sanctuary, they are being supported by a communal effort.

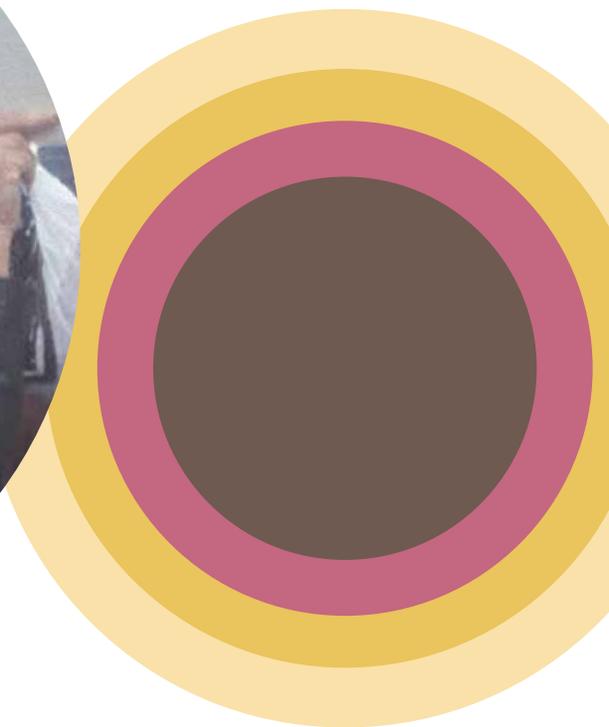
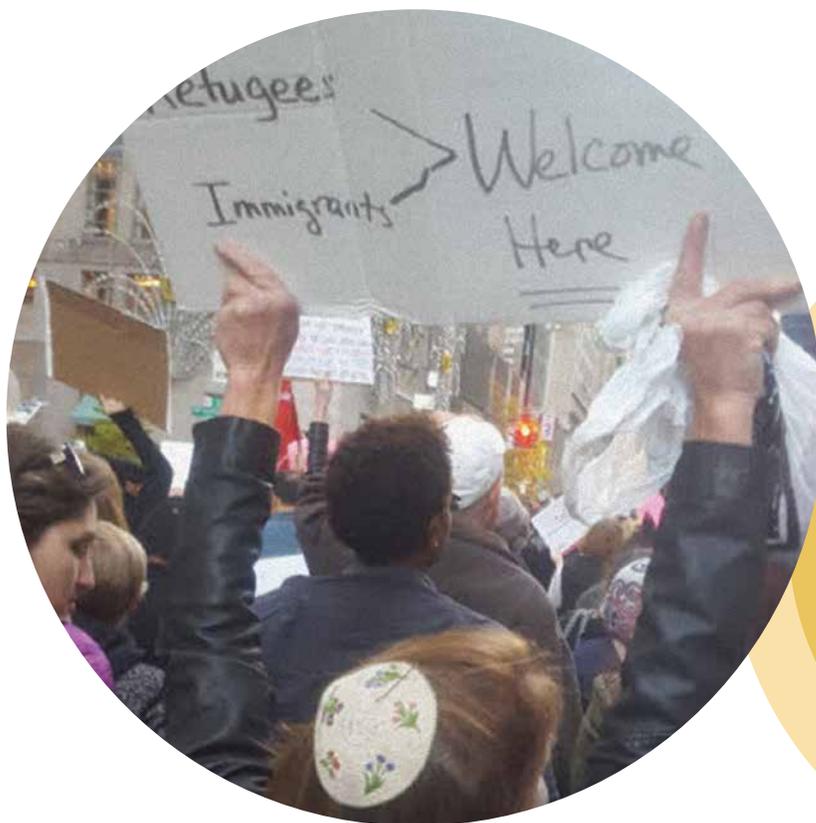
It is also noteworthy that two *talmidei chachamim*, disciples of the rabbis, would escort the manslayer on his/her way to the City of Refuge (see Mishnah *Makkot* 2:5). We will return to this below (see section VII).

## III. PROTECTING THE GER

Another source frequently referenced is the many biblical verses that enjoin us to treat the *ger* well. We take a deep dive into this body of *mitzvot* on page 27. Here we offer one note of caution about the common translation “stranger.” In the vast majority of cases, undocumented immigrants are not strangers or new arrivals but people who have been living in the United States, as integral parts of their communities, for years. While the injunction to love and protect the stranger may resonate with us emotionally, we need to avoid inadvertently creating an “us vs. them” distinction that equates immigrants with strangers.

Our reading of *ger* may be informed by its similarity to another biblical Hebrew word, *gur*, meaning fear or dread. For instance, in Numbers 22:3 we read that the nation of “Moav was in exceeding dread (*vayagor*) before the people, since they were so many; they feared the Children of Israel.” (Everett Fox’s translation) This fear may cut in two directions: perhaps the *ger* is one who arrives fearing for their life, and/or the *ger* may inspire fear in the community where they seek refuge, as the Israelites did for the Moabites. Part of our task, then, is to manage our own fear and understand its origins so we can deal with it appropriately.

We also note that all of us human beings on Earth are *gerim* in God’s land: “But the land must not be sold beyond reclaim, for the land is Mine; you are but *gerim* resident with Me.” (Leviticus 24:23)



2 For a fuller treatment of Cities of Refuge see T’ruah’s Handbook for Jewish Communities Fighting Mass Incarceration: <http://www.truah.org/prisons>

## IV. THE FUGITIVE SLAVE

Some activists and teachers, including Christian leaders of the Sanctuary Movement, have suggested the commandment in Deuteronomy of protecting a fugitive slave as another strong support:

You shall not turn over to her/his master a slave who seeks refuge with you from her/his master. S/he shall live with you in any place s/he may choose among the settlements in your midst, wherever s/he pleases; you must not ill-treat her/him. (Deut. 23:16-17, Translation NJPS, modified)

In this formulation, the federal government is equated with the master and the immigrant is a runaway slave—not a glamorous category but much less problematic than “criminal” or “stranger.” Rabbi Shai Held, President and Dean of Hadar, points out that this law stands in stark contrast to other Ancient Near Eastern civilizations, which mandated returning runaway slaves. He goes on to explain how the Torah’s specific phrasing about “choosing a place to dwell” completely transforms how we should view the arriving person: “Despite his status as a slave somewhere else, now that he has arrived in the land, the runaway slave is utterly free—as free as God, as it were. The whole land is a sanctuary, and the entire people is summoned to welcome those who arrive in search in freedom.”<sup>3</sup>

The challenge here is, as with the altar, the line of *halachic* interpretation over the years limited this verse to a narrow context: that of a non-Jewish slave owned by an idol-worshiper who escapes to the land of Israel in order to convert to Judaism<sup>4</sup>. In the particular case in which a Jewish member of the community is undocumented and needs sanctuary—and T’ruah knows of at least two cases like this in the country—this text does provide a powerful *halachic* and moral grounding for extending that protection. In more general cases, however, the justification may come apart under closer scrutiny.

Building on Ibn Ezra’s formulation (below), we might ask ourselves if we would simply rely on the principle of *Kiddush HaShem*—sanctifying God’s name in public—when engaging in sanctuary work.

### IBN EZRA ON DEUT. 23:16

“You shall not return a slave”—when [the Israelites] go out to war it is likely that a slave will escape to their camp, and he will not be an Israelite. “From his master”—Even though [the slave] is not an Israelite, he comes for the glory of the Name that is called upon Israel. And if an Israelite returns this slave to his master, it is a desecration of the Name...

אבן עזרא על דברים כג: טז

לא תסגיר עבד - בלכתם במלחמה יתכן שיברח למחניהם עבד ואיננו ישראל. מעם אדוניו - גם הוא איננו ישראל, כי הוא בא לכבוד השם הנקרא על ישראל. ואם העבד יסגירנו ישראל אל אדוניו, הנה זה חלול השם...



3 <https://www.hadar.org/torah-resource/let-him-live-wherever-he-chooses>; select “Download Source Sheet” for the full text of Rabbi Held’s commentary, p. 3.

4 See, e.g., Rabbeinu Bachya

## PART OF THE TRIBE NOW

A large Reform synagogue in a major metropolitan area has an Iranian member who converted to Judaism. She is married to a citizen, has children who are involved in the congregation, and is herself an active member. She is in the country without legal status; if she is deported to Iran, she faces indefinite detention and, most likely, the death penalty. Since Trump’s election, the congregation has been working to get her legal support so she can stay in this country and stay safe. Her rabbi reflects,

**“I never thought that, as a rabbi, I would be called upon to protect one of my own congregants from the government of the United States of America.”**

## V. A DEBATE FROM THE 1980S

In 1987, the Union of American Hebrew Congregations published an extraordinary 148-page document called *Providing Sanctuary: The Jewish Role: A Practical Guide for Congregations and Individuals*.<sup>5</sup> It includes part of a responsum by Rabbi Dr. Michael Chernick, in which he analyzes the *halachic* grounding for sanctuary. From Rabbi Chernick's perspective, the principle of *dina demalchuta dina*—the law of the land is the law—basically holds in this instance; that is, he does not find a *halachic* basis for offering sanctuary. He rejects the escaped slave argument from Deuteronomy, except perhaps if the immigrant is Jewish, in which case the situation borders on *mesira*—the sin of handing over a fellow Jew to the (unfriendly) authorities. He also finds that there may be an exception if deportation equals certain death, as it did for many refugees from Latin America in the 1980s; in the present context, we might use that opening to offer sanctuary to those fleeing oppressive regimes, gang violence, and other forms of warfare. In the last paragraph of the excerpt, Rabbi Chernick does leave open the possibility that individuals might commit civil disobedience, under the principle of *middat chasidut* (the attribute of piety), but he does not see that extending to the community as a whole.

Rabbi David Saperstein, then director of the Religious Action Center of Reform Judaism, follows Rabbi Chernick's article with a short response, in which he challenges him on two main points. First, Rabbi Chernick's analysis relies on federal law not being discriminatory, treating all people equally. If the law were to discriminate, then according to Rabbi Chernick there might be grounds for civil disobedience. Rabbi Saperstein points out that, in fact, immigration rules were discriminatory, treating those from Latin America differently from those from elsewhere, perhaps opening a *halachic* loophole that sanctuary congregations could adopt. In the present environment, with the administration's blatant anti-Islamic views, the same might hold true.<sup>6</sup> Secondly, Rabbi Saperstein ends by asking the question of which side American Jews want to find themselves on—the side of authority or the side that challenges unjust authority. This continues to be a live question today, particularly among those who bring a progressive analysis to the issue of anti-Semitism: will Jews cozy up to those in power in the hope that that will save us, or will we align ourselves with other minority groups who have experienced—and continue to experience—various kinds of oppression? While not a *halachic* argument, this does cut to the core of how Jews behave in the world.

## VI. A MEZUZAH ON THE DOORPOST

A different sort of justification for offering sanctuary may come from the *halacha* of placing a *mezuzah* on the synagogue door. Maimonides writes that synagogues generally are not required to have a *mezuzah*, because they are sacred places and thus exempt, but that village synagogues where travelers would spend the night must have them. (*Hilchot Tefillin uMezuzah* 6:6) This suggests a *halachic* and historical precedent for synagogues being a place of safety for those at risk. As times changed and travelers no longer were typically hosted overnight in synagogues, this requirement faded. (The *Shulchan Aruch*, YD 286:3, calls for a *mezuzah* on a synagogue only if it contains an apartment for dwelling.) Despite this, the memory of travelers lodging in synagogues is retained via saying *Kiddush* in synagogue on Friday nights, which was originally for the benefit of those who would be sleeping there. (SA OH 269)

“As a Jew, I call on God every morning as the power that “gives courage to the orphan and widow” (Psalm 146:9). I believe that we humans are created in the image of God, and therefore have a duty to emulate God’s love and compassion and righteousness. I grieve that my government willfully creates widows and orphans.”

— CANTOR VERA BROEKHUYSEN, TEMPLE EMANU-EL, HAVERHILL, MASS., WRITING IN *THE FORWARD* AFTER A T’RUAH- AND HIAS- SPONSORED DELEGATION TO SAN DIEGO AND TIJUANA, JULY, 2018.

Churches that extend sanctuary to an undocumented immigrant typically perform a public “liturgy of welcome” to ritually establish the person in the church. These texts on *mezuzah* suggest two loci where a Jewish “liturgy of welcome” might coalesce:

1. At the end of a Friday night service, when *Kiddush* is said.
2. Related to the *mezuzah* on the doorpost. For Maimonides concludes his chapter on *mezuzah* writing, “Every time one enters or leaves [a home], one should tap [the *mezuzah*], the unification of the Name of the Holy Blessed One, and remember one’s love for God and be awakened from one’s sleep in the vanities of time, and know that the only thing that endures for eternity is the knowledge of the Rock of the World—and immediately one will return to knowing [God] and walking in the ways of the upright.” (*Hilchot Tefillin uMezuzah* 6:13) This could serve as a powerful spiritual reminder of the congregation’s purpose in extending sanctuary.

5 Digital copy available from T’ruah upon request; email office@truah.org.

6 Despite changes to U.S. asylum law won by the Sanctuary Movement in the late 1980s and early 1990s, the U.S. still tends to be less disposed to taking in refugees from Central America than other parts of the world, as we saw in 2014 with the surge of unaccompanied children arriving on the southern border.

## VII. ACCOMPANIMENT

At this juncture, we should pause to reconsider what we mean by sanctuary and who needs it. In the 1980's, the majority of immigrants seeking sanctuary were recently arrived in the US, without roots, and feared for their lives if they were deported; thus, being offered sanctuary in a church or synagogue was welcome. As we noted above, today's undocumented immigrants have largely been living here for years. They are embedded in communities and have children who may very well be citizens. Holing up in a church or synagogue is, in most cases, not going to work for them. But accompanying them to regularly scheduled check-ins with ICE can be enormously helpful—and incredibly powerful for the volunteers doing the accompanying as well.

This aspect of sanctuary work can draw extensively from Jewish texts. We present several of these in full in the two text studies that follow, including:

- Accompaniment as part of hospitality, as per Abraham and the three angels.
- Accompaniment as a way of showing love and honor. Levi, whose tribe was selected to do the sacred work of serving God, was named for the act of accompaniment (*Leviyah* in Hebrew; see Genesis 29:34). The modern Hebrew word for funeral—a final accompaniment—derives from the same root.
- Accompanying the divine image in people, according to the Maharal of Prague.
- Accompaniment as escort or protection from violence, as we see in the *eglah arufah* (heifer-whose-neck-is-broken).
- The great counter-example of nonhospitality in Jewish tradition is the people of Sodom, who decided to abolish the practice of hosting travelers because they believed it threatened their wealth.

The greatest challenge of this “accompaniment” framework is that it frames undocumented immigrants as “guests” in “our” country—a dynamic which, while less troubling than that of “stranger” or “criminal,” is still problematic. This may be alleviated somewhat by the halachic definition of a guest as someone from out of town (see the Rema on SA OH 333:1). Such a traveler is seen as vulnerable and benefiting from physical help and guidance, without making any judgment on their identity or belonging. Having members of the clergy accompanying an undocumented immigrant at an ICE check-in or during a raid has the potential to moderate the agents' behavior and increase the chances of a positive outcome.

## VIII. THE RIGHTEOUS GENTILES

We might also consider the righteous gentiles who hid Jews from the Nazis as a justification for engaging in sanctuary. The cultural memory—not to mention the historical fact—of vulnerable Jews being hidden from the powerful and oppressive authorities looms large in Jewish collective consciousness. In fact, the 1984 Rabbinical Assembly resolution supporting sanctuary explicitly referenced the Nazi regime. It would not be absurd to suggest that we feel moved to “pay it forward” out of gratitude for those who risked far greater sanctions than synagogues doing sanctuary work do today.

While today's situation is not the same as that of Nazi Germany, President Trump has demonstrated anti-democratic and proto-fascist<sup>7</sup> tendencies; he has attacked the press; scapegoated entire groups of people as threats to the “real” America; literally called himself a “nationalist”; purported an anti-corruption, anti-establishment stance while engaging in cronyism and self-enrichment; and has countenanced and encouraged the violence of his supporters. ICE has been increasingly documented as an agency whose culture and mission prioritizes terrorizing immigrant communities.<sup>8</sup> We must be vigilant about warning signs on the way to fascism, many of which are blinking red, and act with urgency before it is too late. If we demand that a situation be precisely like the Holocaust before we speak up, then we will be guilty of deliberately not learning the lessons of our history. ✱

7 According to Bosnian-American writer Aleksandar Hemon, “Fascism's central idea, appearing in a small repertoire of familiar guises, is that there are classes of human beings who deserve diminishment and destruction because they're for some reason (genetic, cultural, whatever) inherently inferior to ‘us.’” (<https://lithub.com/fascism-is-not-an-idea-to-be-debated-its-a-set-of-actions-to-fight/>)

8 See, e.g., [https://mijente.net/wp-content/uploads/2018/06/Mijente-Immigration-Policy-Platform\\_0628.pdf](https://mijente.net/wp-content/uploads/2018/06/Mijente-Immigration-Policy-Platform_0628.pdf) and <https://www.themarshallproject.org/2017/08/28/how-ice-uses-secret-police-databases-to-arrest-immigrants>

