

## **Sanctuary Resolution, Policy and Guidelines**

Posted on May 17<sup>th</sup> by the Canadian Unitarian Council

### **Resolution on Sanctuary adopted by the CUC Board, May 2005**

Whereas the CUC is a national association of Unitarian and Universalist Churches and Fellowships; and

Whereas this association is guided by a number of principles, which include the responsibility to affirm and promote justice, equity and compassion for all persons and the right to peace, liberty and justice for all persons, as well as the principle of congregational polity;

It is hereby Resolved that the Board of the CUC adopt the following Policy on Sanctuary:

The CUC endorses the right of CUC member congregations to offer Sanctuary in the time-honoured tradition to individuals and families in recognizable danger of persecution, and calls on authorities of the justice system and the immigration and refugee system in Canada to respect such Sanctuary in each case, and to communicate in an honest and cooperative way with the congregations involved in order to resolve such situations promptly, safely and justly. The Board strongly recommends that any congregation involving itself in a Sanctuary situation adhere to the Sanctuary Guidelines attached to and forming part of this policy. Sanctuary Guidelines approved by the CUC Board of Trustees, May 2005

#### **Preamble**

Sanctuary has no status in Law although it has a substantial moral claim based on religious history. Its main effect is that of moral force through publicity – that of embarrassing the authorities into reconsidering their actions. In the current context it is usually applied to a refugee claimant who has been refused by Immigration Canada and is subject to deportation. It consists of offering ‘the protection of the Church’ and living space within the church building to a person whom a Congregation, through its Board, feels has suffered an injustice or appears to have suffered an injustice in administrative or judicial process or in the finding of fact. There will also usually be a judgment of substantial risk to the personal safety of the person or persons in Sanctuary, should the deportation be allowed to take its course. The adjudication process under the Immigration Act is highly discretionary and vests a great deal of discretion in the minister. There is very limited right of appeal. The process is thus inherently open to the possibility of arriving at false or unjust conclusions, through lack of a

means to challenge the veracity of the information considered. Sanctuary is one means to try to ensure that justice is both done and seen to be done.

Since in any particular sanctuary case, due to the constraints of time and confidentiality, the Board must act on behalf of the Congregation. Given that, the Board must be confident of the Congregation's approval of sanctuary in principle. The most authoritative way to obtain this confidence would be to develop, in a consultative manner, a policy on sanctuary for congregational approval. This policy could clearly set out the sort of cases to which the congregation is open to consider sanctuary and it could clearly state, for instance, that it will not provide sanctuary to anyone seeking protection from acts which, if committed in Canada, would lead to criminal prosecution.

The Congregation, when granting sanctuary, is and will be seen to be supporting either a claim of faulty process or of faulty finding of the process or both. It is of the utmost importance that the Board clearly determine its position in this respect and project it unambiguously to the press. Failure to do so will seriously weaken the appellant's case and possibly hold the Congregation up to public ridicule.

If the Board is confident that the Congregation approves of sanctuary in principle, and is willing to take on the inherent financial obligations, its challenge in the face of any specific request for sanctuary is to answer the following religious question: "What is our appropriate response to this situation?"

What follows are some guidelines to help in the resolution of this question.

### **Guidelines**

If sanctuary in a church is requested, the Board or its Executive Committee should consider the following factors in disposing of the request:

- 1) Is the request one of last resort? (Sanctuary should normally not be granted if the requester has other recognized avenues, of appeal available.)
- 2) Has the requester provided the Board with access to third party information (e.g., from his/her lawyer) re the circumstances both supporting and necessitating his/her request? (The Board needs to have information which is as complete and substantive as possible in order to arrive at a just assessment.)
- 3) Has the requester given permission to Immigration Canada to release its view of the situation to the Board or is he/she willing to do so? (An affirmative response gives some indication that the requester is confident of the strength of his/her case to remain in Canada.)

4) Is the situation one where the personal safety of the requester or their family is quite likely in jeopardy if the deportation order is carried out?

5) Is there good reason to believe that Immigration Canada or its adjudication boards have erred either in fact or in process relative to reasonable standards of natural justice and that this has led to or is leading to a decision which is in violation of the UUA Principles? If the request for sanctuary is made by a person who is a) already in the church and b) under deportation order, one of the following responses may be appropriate for the interval prior to the Board's decision:

a) Can the requestor, with reasonable expectation of not being apprehended, reside elsewhere until the Congregational decision is made with a reasonable expectation of being able to return to the church if sanctuary is granted? If so, this option should be considered. Board members and the Congregation's staff should probably avoid knowing the requester's whereabouts during this time so as to avoid being accused of harbouring a person under deportation order - although it is not an offence to refuse to disclose such a person's whereabouts provided one is not involved in hiding them. Arrangements can be made for the Board's decision to be relayed through a third party.

b) If staying elsewhere while awaiting a decision is not advisable, arrangements could be made for the individual to remain within the church. In that case the individual must be informed that the Congregation remains fully neutral concerning his/her case prior to the Board decision. If the Board decision is to deny sanctuary, the Congregation is under no obligation under law to report the situation to the authorities, as noted above, and can then just request the person to leave.

If sanctuary is granted, the press should be informed immediately. There are at least two important reasons for doing so. First, sanctuary can only be of productive consequence for the most part if Immigration Canada is forced by the publicity to reconsider the case.

The alternative (keeping quiet) will accomplish nothing and could put the Congregation and those active in the sanctuary effort at legal risk to the charge of harbouring someone under deportation order. Second, by informing the public and therefore Immigration Canada of the person's whereabouts, the Congregation and its members are not open to this charge.