

GUIDELINES FOR CHURCH GROUPS AND CONGREGATIONS

CONSIDERING SANCTUARY

COMPILED BY THE CANADIAN SANCTUARY NETWORK

These guidelines are offered in an effort to assist groups who may be considering Sanctuary.

The ancient practice of Sanctuary has been taken up anew by Churches and religious groups in Canada today. This practice is grounded in a double affirmation of faith:

- a) That human life is sacred and worthy of protection.
- b) That there are places and spaces that are beyond the reach of the state.

When a refugee approaches a church asking for sanctuary he or she must be listened to with great respect. We must listen carefully to understand the immense distress that has driven them to make such a request. It is also important to realize that no matter how good a refugee system may be, mistakes can be made and those mistakes have life-threatening consequences for some refugees.

The person who has listened to the refugee may then suggest that a meeting with a smaller group take place in order to assess the situation more clearly. This may involve one or more meetings and may include others who have some expertise to offer. Living in Sanctuary is a long and difficult option for both the refugee and for the church that is sheltering them and it cannot be offered lightly.

- i. Assessing the refugee's need for sanctuary:
 - A. Here it is important to make a distinction between refugees who will face difficulties, perhaps serious difficulties, if returned to their own country and refugees who would be in extreme danger if returned to their own country i.e. "arbitrary torture, detention or death" (The Geneva Convention 1951)

Local church groups are not alone in this effort and are encouraged to seek assistance from one of the resource groups listed at the end of these guidelines.

- b. Many of the refugees who seek sanctuary will face difficulties but not danger if returned to their country. In these cases, a church group could assist them in dealing with those difficulties e.g. providing transitional financial assistance or helping to secure employment through contacts in the home country. Church groups may also be able to identify groups (NGOs and church groups in the home country) who could help the refugee after they are returned to that country.
- c. However, it may also be clear, after this careful assessment that this refugee will be in extreme danger if returned to his or her country. In such cases every effort must be made to investigate whether there are options other than sanctuary which are available
 - a) Are there still other various legal applications available in Canada? (a “stay” motion at the federal court, a pre-removal risk assessment, a Humanitarian and Compassionate application, a sponsorship application, a temporary work permit etc.)
 - b) Would it be possible to make a special appeal to the Minister of Immigration?
 - c) Are there other options outside of Canada? E.g. Living and working in a country other than the country of origin?
 - d) Are there safe places in the country of origin where the refugee would be protected?

If all these options have been explored and it seems the refugee would still be in danger if deported then the congregation and the refugee need to consider these factors:

- ii. Verification and Documentation of the Case:
 - a) Has the evidence of danger if deported been carefully documented? Could it withstand intense scrutiny?
 - b) Is there anything in the refugee’s history that could discredit the practice of sanctuary?
- iii. Assessing Resources for Sanctuary:

- a) Does the refugee (individual or family) have the inner stamina and personal/spiritual resources to endure the isolation, confinement, Public scrutiny?
 - b) Does the congregation have the spiritual/personal resources to support the family during a long period of confinement?
 - c) Does the church have adequate physical space for Sanctuary? i.e. sleeping, eating, bathing?
Note: the space of sanctuary may be interpreted in a broad sense as any space associated with a place of worship i.e. rectory, manse, a monastery, retreat centre, a building with a chapel etc.
 - d) Does the Congregation have access to legal resources to work on an eventual resolution of the situation? Does it have medical resources in case of normal illnesses?
 - e) Does the church have access to financial resources to support the family? (either from its own resources or together with other groups?)
 - f) Most importantly, is there a viable plan to ensure that eventually the refugee will be able to resolve their situation and leave sanctuary?
- IV. Considering the consequences:
- a) What will be the spiritual effects of practicing Sanctuary? Of not practicing Sanctuary?
 - b) What will be the consequences for the refugee if they are not offered Sanctuary?
 - c) Has the congregation considered and accepted possible legal consequences (see section on Sanctuary and Canadian Law)
 - d) Are we committed to the long haul?

**SEE THE WEBSITE WWW.SANCTUARYCANADA.CA FOR MORE
DETAIL ON THE HISTORY AND PRACTICE OF SANCTUARY**

SANCTUARY AND CANADIAN LAW (the situation as of Easter, 2013)

Sanctuary is an ancient practice in the tradition of Christianity and other religions. However, the legal status of the practice of Sanctuary is nowhere clearly defined in Canadian law. In fact, Sanctuary has never been violated by the government in over 30 years of recent practice by Canadian churches. The only exception to this was the case of an Algerian refugee claimant in a Quebec city church was arrested by local police on the grounds that he had breached a court ruling that he not leave Montreal. Local police handed him over to Immigration officials and he was deported. Subsequently he was able to return to Canada and eventually achieved refugee status.

In fact almost all the cases of refugees in Sanctuary over this thirty years period have been quietly resolved so that the refugee could leave the church with a secure status.

The only “law” that could be remotely linked to the practice of Sanctuary is in the Immigration and Refugee Protection Act and the Criminal Code, where there are provisions against knowingly inducing, aiding or abetting or counseling a refugee to commit a crime. The penalty against such activities is up to two years in prison or a fine of \$50,000 or both.

In fact, no one and no congregation have ever been charged under such provisions for providing Sanctuary. More recently, these sections have been challenged in court (in British Columbia).

It seems that the government is reluctant to charge a church for the “crime” of offering Sanctuary as it would become a major test case involving a Charter Challenge (freedom of conscience, freedom of religion). Our best legal opinion indicates that the government would be reluctant to bring such charges as it would jeopardize aspects of the Immigration and Refugee Protection Act. The government has opted for the practice of trying to “wear down and wait out” those offering Sanctuary.