



Unitarians seeking Sanctuary

Clay Nelson © 12 March 2017

Our recent experience with providing the Indian students with sanctuary has been a rich source of reflection for me since we said our farewells to them. And I know I'm not alone in that as I listen to conversations at morning tea. And not just for us, if comments of colleagues from other faith groups are any indication. Even the head of Auckland's office of Immigration called this week to ask if we could have a coffee to unpack the experience.

The idea of sanctuary is an enormous topic that we as a congregation had little time to explore before we were asked to offer it. We really only had time to look at the practicalities of doing it, not the deeper, theological and spiritual reasons. I know it may sound strange for us to say so; it was an act of faith for us to go forward in our uncertainty.

On one level people are quite supportive of the idea of sanctuaries when it involves nature. New Zealand is full of sanctuaries. Just 4km off Auckland's east coast, is one of the most successful conservation projects in the world, Tiritiri Matangi. It provides a pest-free habitat for a number of rare and endangered species of birds including kiwis.

A short drive south of here is Sanctuary Mountain Maungatautari. It is a mainland ecological island located in the North Island of New Zealand. Surrounded by the world's longest pest-proof fence, Sanctuary Mountain's ancient forest offers a sanctuary for populations of many of our most endangered species – from birds to bats, frogs to reptiles, tuatara to giant weta.

A few hours' drive to Whitianga allows you to take a Kodiak boat out to Cathedral Cove Marine Reserve (another name for sanctuary) to snorkel with a highly diverse population of fish living safely within its boundaries.

Unless you run a fleet of ships doing factory fishing or own a mining company or are the CEO of Shell Oil I doubt you disagree that protecting environmental habitats and their inhabitants in partnership with the first inhabitants of this land is the right thing to do. Providing sanctuary to human beings, however, does not generate a similar consensus. And I grant you it is and always has been a little more complicated.

Biblical injunction is often cited as the justification for sanctuary. But the Bible does not offer clear instruction. In the book of Exodus, Moses gives the people "judgements" relating to asylum, in which those who flee to the "altar" are given some form of protection.

The historical book I Kings opens with two examples of individuals seeking asylum at the altar. When David's son, Adonijah, hears that Solomon has been crowned king, he fears for his life and "[lays] hold of the horns of the altar", until Solomon provides

some partial guarantee of his safety.

That promise lasts less than a chapter. Solomon proceeds to have Adonijah executed, along with Joab who also seeks refuge at the altar, only to be hacked down inside the sanctuary in direct contravention of the Mosaic command.

In the book of Joshua we find an alternative tradition. Here God instructs Moses' deputy to set apart six "cities of refuge", strategically located so that none was more than a day's journey from any location in the country. The cities were designed to mitigate the law of retribution or blood vengeance. Someone who had committed manslaughter could flee to one of the cities and wait until a trial had taken place.

These injunctions do not make clear how broad the circumstances for giving sanctuary are. Do they go beyond protecting those who might be the target of blood vengeance? Do sanctuary cities protect foreigners as well as citizens?

To get a clearer understanding of sanctuary in western thought we need to look at how it was understood for over a thousand years in Europe. It was a time when the right of a criminal to protection within the walls of a consecrated church was universally accepted.

Historian Karl Shoemaker in his work *Crime and Sanctuary in the Middle Ages* starts in Late Antiquity to trace the religious background of sanctuary, showing how Christian teachings about clemency, which emphasise that repentant sinners deserve pardon, decisively influenced the development of sanctuary practices. These combined with Roman traditions of intercession (according to which aristocrats intervened on behalf of followers in legal cases) to create the formal right of sanctuary. First attested in the late fourth and early fifth centuries, this gave any criminal the right to remain in a church unharmed for a period of time during which the local bishop might intercede on their behalf, seeking pardon for the repentant miscreant.

While this connection between sanctuary, penance and intercession remained intact in the early Middle Ages, feuding practices added an important new dynamic. Sanctuary came to play a decisive role in dispute settlement, drawing its power from the intersection between concepts of penance and compensation. Sanctuary was also integrated into the ideology of kingship, as rulers were praised for their ability to uphold Church rights. The prevalence of sanctuary is therefore not to be seen as a sign of weak kingship – many powerful rulers were prominent supporters of it.

In medieval England, from at least the 12th to the 16th centuries, sanctuary was defined as a legal procedure within both canon law and secular common law. It was a last resort for those accused of crimes, often under chase by the community. However, once fugitives crossed the threshold into the churchyard, the community that had failed to capture them was legally required to keep them safe and even feed them for up to 40 days.

Sanctuary protection granted accused felons mercy from the king of England. When they "fled to the church," fugitives avoided trial and either mutilation or execution. Sanctuary could also protect noblemen from political retribution – King Henry III's right-hand man, Hubert de Burgh, kept his life by seeking sanctuary three times after losing his government post.

Sanctuary delayed legal decision, which enabled people to negotiate alternatives. Sometimes the fugitive turned out to be innocent, or as in Hubert's case, publicly declared obedience and reconciled with his king.

Yet the upshot of most medieval sanctuary cases was what one scholar has called "fearsome mercy". After 40 days, fugitives usually had to confess their crimes and give up everything they owned, travel barefoot to the nearest port and live in exile for the rest of their lives.

Such sanctuary practices saved lives, both by providing time for negotiation and by allowing people to go into exile rather than stand trial. But more than that, they had a symbolic value: In providing such bare bones safety, medieval sanctuary marked people's vulnerability and made protecting them a sacred duty.

James I in 1623 outlawed sanctuary for felons as both church and state moved to the modern understanding of laws being for the purpose of maintaining social order and punishment. That, however, did not stop the use of sanctuary to claim protection for vulnerable people. Its use continued into the 19th, 20th and now 21st centuries.

Prior to the American Civil War, churches, including Unitarian ones, were active participants in the Underground Railroad to protect slaves escaping their southern owners.

During the civil rights movement, churches provided sanctuary space for organizing meetings. Such sanctuaries could be dramatically breached, as in the case of the bombing of the Sixteenth Street Baptist Church in Birmingham, Alabama. The church offered a safe space for civil rights activists, but that sense of safety was shattered when a bomb planted in its basement killed four young girls. That tragic event exposed the violence of American racism and led to the Civil Rights Act of 1964.

In the 1980s, many churches provided sanctuary to refugees escaping US sponsored civil wars in Nicaragua and El Salvador. The refugees were provided shelter, medical care, employment and legal representation.

As the state and the church no longer saw laws as needing to be tempered by the mercy or reconciliation offered by sanctuary, the Federal government viewed giving sanctuary to the Central American refugees not as a moral duty but as an illegal act. The Justice Department initiated several "sanctuary trials" against activists for criminal conspiracy and for aiding "illegal aliens to enter the United States by shielding, harbouring and transporting them."

In the last trial a 71-count criminal conspiracy indictment was started against 16 U.S. and Mexican religious activists in Arizona in January 1985. The sanctuary movement, however, turned the publicity surrounding the trial into a condemnation of the Reagan administration's war in Central America and its treatment of refugees.

Although most of the defendants in these trials were convicted, none was sentenced to jail time. The legislature eventually turned in favour of harbouring Central American refugees. In 1990 Congress passed legislation to grant Temporary Protected Status to people in need of safe haven.

In America, sanctuary has continually sought to make the law more just – even by working around or against the law. Unitarian Henry David Thoreau provided the theological foundation for such actions in his famous work, *Civil Disobedience*. Sanctuary was instrumental in ending slavery and segregation at home, and in exposing human rights violations abroad.

While the sanctuary movement has been dormant for the last thirty plus years, in the “Age of Trump” and his ban on Muslims and efforts to deport undocumented persons who have lived in the US for decades, it is on the rise again, not just in churches, but on university campuses and in cities as well.

Closer to home, there is a budding sanctuary movement in Australia. What has precipitated it is the federal government’s hard line stance on asylum seekers, which has left 267 asylum seekers currently in Australia facing deportation to offshore processing centres on Nauru or Manus Island. They could be removed at any time and there are 37 babies among them.

The immigration minister, Peter Dutton, has reiterated the government’s position, despite numerous protests being held throughout the country in recent weeks calling on the government to let the asylum seekers stay.

As a result, hundreds of people have gathered at churches around the country to learn how to engage in civil disobedience and protect asylum seekers should border force officials try to forcibly detain them and send them to offshore detention centres.

120 churches are now part of a movement to offer sanctuary. The idea is that human rights groups and advocates will try to get those asylum seekers to a church before the border force officials come and will then surround them by joining arms in a protective, peaceful human barrier to block them off from the police and border force staff trying to detain them.

This history clarifies what sanctuary is and is not. Offering sanctuary is a values statement, not a political one. Sanctuary is about justice not laws. Within the present-day legal system, it is a nonviolent act of civil disobedience to give time for a negotiated resolution. Sanctuary is about mercy to the vulnerable. It does not judge the guilt or innocence of the supplicant before providing protection. It is offered to anyone, just as anyone, regardless of who they are or what they believe, is welcome into this sanctuary on any given Sunday.

While political and social change is neither its rationale nor the justification for offering it, sanctuary has the proven capacity to make the world a little more humane and just. We don’t yet know if that will be true of our having provided sanctuary, but we do know that many more New Zealanders are now aware of flaws in our immigration system, the predatory practices of for-profit educational institutions, corrupt agents in India, and employers who exploit and then silence international students they hire at substandard wages. We have the assurance of many politicians that these issues will be presented to the electorate for their consideration in this year’s election. We also know that the Ombudsman’s office has accepted the students’ case for consideration. Should he find for them, it will require major changes in immigration policies protecting many more of the 120,000 international students who come each year.

Should we ever be called on again to offer sanctuary my hope is that there will be little debate that vulnerable humans are as worthy of sanctuary as kiwis and bell birds, frogs and tuatara, bats and giant wetas, whales and sea turtles.