

Sanctuary Cities, States *Undermining the American Republic*

by James H. Walsh

Entry into the United States without inspection is a misdemeanor; but harboring, shielding, or concealing illegal aliens is a felony (Immigration and Nationality Act). Federal, state, and local officials may not restrict the sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual (Illegal Immigration Reform and Immigration Responsibility Act; Welfare Reform Act). Thus those entering the United States illegally can be charged with a federal misdemeanor, but aiding and abetting illegal aliens within the United States is a far more serious charge – a federal felony. What about the new immigrant sanctuary cities and states popping up across the nation? They are in statutory violation of U.S. immigration laws. By their defiance of U.S. laws, these sanctuaries or “civil liberties safe zones,” as some call themselves, are undermining the American Republic.

A republic is a sovereign state ruled by representatives of a widely inclusive electorate. In contrast to a direct democracy, a republic empowers voters who elect representatives to act for them at the federal level, where the majority rules – not a congressional district or a state – but the majority of U.S. representatives and senators. That is how immigration legislation is passed and, signed by the President, becomes the law of the land. The United States of America is a federal republic, in which federal laws have precedence over state and municipal laws. With cities and states choosing to defy U.S. immigration laws, the result is anarchy at the borders – immigration anarchy.

The concept of sanctuary as a safe haven for

undocumented immigrants has no legal basis in the United States. In 2002, the United States Court of Appeals for the Second Circuit affirmed U.S. immigration laws and denied sanctuary as a defense (*USA v. Francine La May*). In 1989, the Supreme Court upheld criminal convictions of sanctuary workers for violating immigration laws (*USA v. Aquilar*). In that landmark case, the Court affirmed U.S. immigration laws that prohibit bringing in or landing aliens, transporting or moving undocumented aliens within the U.S., and concealing, harboring, or shielding aliens.

Recent proclamations by certain U.S. cities and states offering sanctuary to all immigrants, despite their legal standing, demonstrates contempt for federal laws. Among the new sanctuaries or civil liberties safe zones are the states of California, Maine, and Oregon. Sanctuary cities include Anchorage, Baltimore, Durham (NC), Madison (WI), along with Boston, Houston, Los Angeles, and New York City. These renegade governmental entities, which challenge the validity of U.S. immigration laws, are spreading like a cancer rotting the sinew, muscle, and bone of the American Republic. The result, intentional or not, promises to be a balkanized network of warring city-states.

Immigration anarchy in their home districts makes cowards of legislators on Capitol Hill. In 2003, the Congress failed to pass legislation that would require federal, state, and local law enforcement agencies to obey U.S. immigration laws. The Clear Law Enforcement for Criminal Alien Removal Act (CLEAR), a House of Representatives bill, and the Homeland Security Enhancement Act, a Senate bill, fell short of passage in the 108th Congress. This embarrassing lack of legislative fortitude bodes ill for the Republic. The very need for such laws is an indication of troubled times.

Roots of Sanctuary

Claims of sanctuary did not appear in the United States until the 1970s, but the concept has an ancient tradition in other parts of the world. Law dictionaries

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define sanctuary as "a consecrated place, which had privileges annexed to it, and in which offenders were accustomed to resort for refuge, because they could not be arrested there, nor the laws be executed." The Greeks and Romans had forms of sanctuary using temples, which protected criminals from the harshness of the law, offering a form of banishment or extended imprisonment.

U.S. sanctuary advocates refer to biblical passages to justify their actions, quoting Leviticus: "The stranger who sojourns with you shall be to you as the native among you." Moses established six cities as refuges for those who committed involuntary homicide, and such sanctuaries were connected with particular temples or shrines.

In 392, A.D., sanctuary was officially recognized by the Theodosian Code, which limited sanctuary to the altar of the church or the "frith," where a chair was set aside for the fugitive. Sanctuary became extended to the church property including cloister, courtyards, and clergy residences. Excluded from this protection were heretics, apostates, and public debtors. In the sixth century, the Justinian Code excluded murders, adulterers, and rapists. The Anglo-Saxon code of laws, compiled by Ethelbert, King of Kent, in 597, officially recognized sanctuary; and the first laws to regulate sanctuary were those of Ine, King of the West Saxons (688–725). In the Middle Ages, the Catholic Church continued the Greek and Roman practice of extending sanctuary to all criminals; and in the final days of sanctuary in England, protection was limited to 40 days, after which the fugitive had to sign an oath abjuring the realm and accepting perpetual banishment. Sanctuary dealt with individual criminals rather than with waves of illegal aliens entering a country.

The concept was long in coming to the United States. The pilgrims did not adopt sanctuary, nor was it part of the common law they brought to the New World. An argument that pilgrims viewed the entire New World as a sanctuary has no foundation in recorded fact; colonial history is silent on the question. Nor was sanctuary much on the minds of the Founding Fathers. Nowhere is sanctuary found in *The Record of the Federal Convention*, *The Federalist Papers*, or *The Debate in the General State Convention on the Adoption of the Federal Constitution*. Ironically, the same people who espouse sanctuary – with its religious connection and protection postures – at the

same time support the oft-cited "separation of church and state" concept of the U.S. Constitution.

During the Civil War and the days of the Underground Railroad to assist escaping slaves, no move was made to institute sanctuary as a legal privilege. All understood that the Underground Railroad was a form of civil disobedience, in which one risked punishment for violating existing laws.

The Sanctuary Movement was established in the United States during the Vietnam War in defense of draft dodgers, but no claim was made to any legal recognition of the privilege. The illegality of the act, an act of civil disobedience, gave the concept its symbolic power in confronting an unpopular war. In two court decisions (*United States v. Beyer* 1970 and *Bridge v. Davis* 1972), persons absent without leave from the military and violators of the Selective Service laws were taken from churches where they were staying to avoid the authorities. Military police were sent into the churches to take the men out and return them to their bases. No sanctuary argument was raised in the courts, even though in the *Bridge* lawsuit Sanctuary Movement members were plaintiffs. The appellate court decision turned on the right of a military base commander to control his base and its members; sanctuary as a legal defense was never raised.

In the 1980s, religious groups supported a Sanctuary Movement, largely in the western states, to assist those fleeing civil wars in Central America. U.S. immigration laws have provisions for refugees, but those who could not qualify because of health problems or criminal records and those who refused to wait for the legal process were crossing U.S. borders illegally. Many of those assisted by the Sanctuary Movement turned out to be from Mexico and other countries around the globe. Unfortunately, hidden in their midst were anti-American revolutionaries and sleeper-cell terrorists.

Post 9/11 Sanctuary Cities, States

By the close of the 20th century, the Sanctuary Movement had faded in the West, but then came the 9/11 terrorist attacks. Responding to outraged citizens, the U.S. Congress garnered the courage to strengthen immigration enforcement with the Patriot Act of 2001. In reaction to this law and a perceived loss of civil liberties, a number of cities and states declared themselves immigration sanctuaries supported by such

One-Worlders as Hungarian-born financier George Soros, and by various religious groups and humanitarians. These sanctuary advocates condone violation of federal law through omission or commission by governmental units. Meanwhile most voters go about their lives unaware of the felonious acts being perpetrated by their own state and local governments. The undocumented immigrants in their midst are keenly aware of immigration malfeasance by state and local governments. They depend on it.

"Today's sanctuary cities and states ignore U.S. immigration laws by employing a 'don't ask-don't tell' policy for government employees."

Today's sanctuary cities and states ignore U.S. immigration laws by employing a "don't ask-don't tell" policy for government employees. Some governmental agencies go so far as to forbid their employees to inquire about citizenship status. State and local politicians who advocate immigration sanctuary share motivation with those national politicians who routinely vote against strengthening enforcement of immigration laws. Republicans and Democrats, exhibiting a reelection-at-any-cost philosophy, respond to their need for votes and their constituents' greed for low-cost labor.

Methods to protect immigrant lawbreakers vary depending on municipal resolutions, city executive orders, law enforcement departmental orders, city commission recommendations, governors' orders, or general orders of "no cooperation with federal authorities." Some 70 localities have promulgated sanctuary policies; but, on a larger scale, most local and state governments simply ignore their illegal alien populations – refusing to distinguish them from citizens. Sanctuary policies exist through official fiat or through sub-rosa non-enforcement of federal laws. Politicians hide behind arguments that enforcement of immigration laws is a federal obligation (not their job) or that reporting "illegal aliens" to federal authorities

infringes on states' rights. Cities and states that ignore their illegal aliens then turn around and seek federal monies to subsidize the additional schools, environmental remediation, drinking water, electricity, health care, police and fire protection, and social services. These include Social Security, Medicare, and Medicaid benefits demanded by increasing numbers of undocumented immigrants.

The officials who govern America's sanctuary cities and states act under color of title or law. Among them are governors, mayors, elected or appointed commissioners, law enforcement officers, and judicial officers who purposely and knowingly defy U. S. immigration laws. Such officials choose to ignore the possibility of being indicted on felony charges, yet their policies shield illegal aliens, including dangerous criminals, from rightful detention and/or deportation.

Impact of Sanctuary Policies

Immigration sanctuary affects national security, criminal justice, local and national economics, environmental protection, and national health and welfare programs. Advocates shout down any attempt to reveal the actual impact of undocumented immigrants – whose numbers I estimate at 30 million inside the United States. This figure is not far-fetched, if Los Angeles alone has 2 million undocumented workers, as reported by Rev. Steve Niskanen, pastor of that city's Our Lady Queen of Angels Church.

According to *Time* (September 2004), over 4,000 illegal aliens walk across the 375-mile border between Mexico and Arizona in a single day. The U.S. Border Patrol, which reported 1.2 million apprehensions along the entire Mexico-U.S. border in FY 2004 (up from 931,557 in 2003), estimates that 3 to 5 aliens gain illegal entry for each one apprehended. These numbers apply only to the southern border. They don't account for illegal entries at the Canada-U.S. border or along the Atlantic and Pacific coasts; nor do they include visa overstays or those entering with fraudulent documents, as did the 9/11 terrorists.

The federal government, however, continues to low-ball estimates of undocumented immigrants (illegal aliens) in the United States. I have been compiling numbers in support of the 30-million estimate for the past 15 years, and each year the federal government raises its estimate but only slightly. "Convince a man against his will, he's of the same opinion still" – old Gaelic proverb.

National Security

It goes to reason that immigrants who enter the United States illegally will be inclined to break other laws once they are here.

CIA Director Porter Goss testified before the U.S. Senate Intelligence Committee in February 2005 that al Qaeda might try to use chemical, biological, radiological, and nuclear weapons against the United States. Admiral James Loy, Deputy Secretary, Department of Homeland Security, advised on an al Qaeda plan to use Mexico's professional alien smugglers to bring terrorists into the United States. FBI Director Robert S. Mueller, III then testified in March 2005 that Muslim terrorists are training in Latin American countries – learning local dialects and culture – in order to pass as Latin Americans sneaking into the United States via the Mexican border.

The cross-pollination of terrorism and illegal immigration is exemplified in the links between al Qaeda and Salvadoran criminal gangs operating throughout the Americas. These gangs are especially active in metropolitan Washington, D.C. and Los Angeles, California. Adnan G. El Shukrijumah, a top al Qaeda operative, has been working with the Mara Salvatrucha ("Salvadorian Gang" or M-13) that controls alien smuggling routes into the United States from Mexico. M-13 has a strong presence in sanctuary states such as Alaska, Illinois, Maryland, New York and Oregon and sanctuary cities such as Atlanta, Chicago, and Detroit. *The Washington Times* (March 2005) reports 5,000 M-13 members in metropolitan Washington, D.C., and 20,000 M-13 nationally. Later that month, 35 M-13 were arrested by federal agents in Washington, D.C., and Baltimore – two sanctuary cities. They were responsible for at least seven murders in Washington plus crimes, such as rape, carjackings, extortion, alien smuggling, and aggravated assaults. Such Latin American gangs transplanted to the United States constitute a national security threat.

Crime and the Criminal Justice System

- In September 2004, *Time Magazine* published a special investigative report, "America's Border – Even After 9/11 It's Outrageously Easy To Sneak In" by Donald L. Bartlett and James B Steele. Among the many points they make is the finding that in a ten-month period in the Tucson Border Patrol Sector,

9,051 persons crossing illegally into the U.S. had criminal records (from homicide on down) in the United States. Those were only the illegals actually caught. The *Time* article suggests that "quite possibly hundreds of thousands" of illegal criminals treat the U.S. border as a turnstile. The Pulitzer Prize-winning reporters wrote, "The government doesn't want to fix it, and the politicians, as usual, are dodging the issue (illegal immigration)...."

- Sixty-four Border Patrol agents were assaulted in the last quarter of 2004 on the Tucson Border Patrol sector. The increase in aggressive attitudes of illegal aliens and their smugglers is based in part on the knowledge that sanctuary policies lessen the chance of being apprehended,

- New York City, a leading sanctuary city which was the site of a brutal rape of a woman by illegal aliens who had prior criminal records, finally revisited its sanctuary ordinance but failed to do away with it completely.

- Houston, Texas, a sanctuary city, has its own history of sordid crimes committed by known criminals who were permitted to roam free to murder and pillage. Walter Alexander Sorto is one of Houston's more noteworthy murderers and rapists He was the beneficiary of the city's sanctuary policies.

- In Baltimore, Maryland, a sanctuary city, two young illegal aliens brutally killed three younger children for no apparent reason. The news media and the city officials, including Mayor Martin O'Malley, acted as though nothing had happened.

- In a *Los Angeles Times* article, Richard Marosi wrote in February 2005 that about 30,000 of the 680,000 illegal aliens who were arrested during an eight-month period in 2004 by the Border Patrol had criminal records. One such illegal alien escaped to the sanctuary state of Oregon where he raped two Catholic nuns, killing one.

Environment

The national environmental organizations have problems. On the one hand they demand that natural resources be preserved and protected. On the other hand they have opted to side with the immigration special interest groups, supporting illegal aliens and open borders.

The nation now has to deal with a population of unknown numbers that is growing by the thousands

daily causing water shortages, atmospheric pollution, urban sprawl, vehicular congestion, and diminution of the quality of life.

The Sierra Club's board members were quoted in part in *The San Francisco Chronicle* article of February 2004 that due to partnerships with progressive groups, with labor, with organizations representing people of color, an anti-immigration message would send shock waves and divert the club from its core conservation mission.

The environmentalists do not complain that the over 30 million illegal aliens presently in the U.S. damage sensitive ecosystems while crossing the border, then use water resources, drive pollution-causing vehicles, use fossil fuels for heat and cooling, contaminate the air, help deforest the land for shelters, require fertilizers for additional food production, and overtax the national and state parks.

Health

Legal immigrants have to have medical examinations to ensure that they do not carry viruses or have the potential to spread disease. Illegal aliens have no such requirement but expect the federal, state or local government to pay for all medical expenses, regardless of costs. Medical providers do grant medical and dental services free to the illegal aliens and the taxpayers pick up the tab.

Health care officials in the sanctuary cities of Arizona, stuck with millions of dollars in unpaid medical bills from Mexican patients, are now finding it cheaper to open clinics in Mexico. Federal law requires U.S. hospitals to treat all patients needing emergency care regardless of citizenship. In most southern border areas, health care providers are overwhelmed and rarely reimbursed by the federal government. Many Mexican women cross the U.S.-Mexico border to give birth and deliver "anchor babies." The children's families get all the benefits of American citizenship – such as medicaid, education, social security supplemental payments – and live in Mexico.

A study of Central America countries and Mexico has revealed increased HIV rates, both from men having unprotected sex with men and users sharing drug injections.

California reported 70 percent of the new TB cases involved immigrants. Since California is a sanctuary state no records are kept as to whether any

of the immigrants were illegal aliens.

The United States National Institutes of Health (NIH) have been concerned for years about the re-introduction of polio virus into the United States from Third-World countries. Cholera is another disease NIH researchers fear will be introduced by immigrants not properly medically screened. The nation is subject to a variety of biological attacks and not necessarily from terrorists.

Boston, another sanctuary city, has problems with unpaid medical and health care bills for treating illegal aliens. Officials at Boston Medical Center could not say how many millions of dollars the hospital loses while providing care to undocumented immigrants (illegal aliens). A conservative estimate is that there is a \$150 million shortfall, and rising daily. State and city officials along with treating doctors say in unison "the federal government must take more responsibility for people who are in the country illegally." Dr. Lachlan Forrow, of Beth Israel Deaconess Medical Center, Boston, observed in August 2004 that there were rising (numbers of) cases of tuberculosis among undocumented immigrants (illegal aliens).

In March 2005, medical experts at the Centers for Disease Control and Prevention (CDC) announced that rubella (German measles), one of the greatest fears for expectant mothers, is no longer a health threat in the United States. A professor of medicine and infectious diseases at the Mayo Clinic said that we cannot stop immunizations as "cases continue to come in, particularly from the southern border." Immigration laws require that legal immigrants have complete medical examinations to determine whether the immigrant carries any possible disease.

Cost to Taxpayers

The State of Arizona in February 2005 sent an invoice to U.S. Attorney General Alberto Gonzales requesting compensation for more than \$118 million to house illegal alien criminals. Eligible illegal alien criminals were not deported, the State complained.

The District of Columbia passed a law in 2004 that directs city agencies to produce their documents in a variety of languages. The cost to the United States taxpayers who fund the District absurdities is \$440,000 with additional costs for interpreters. According to the D.C. public school system more than 113 languages are spoken by city residents. Ability to read and speak English is an alleged requirement for citizenship.

Because no one knows the actual number of illegal aliens in the United States, the cost to the taxpayer for medical care received by illegal aliens can only be estimated, but that estimate stands at more than \$1 billion per year. In addition, illegal aliens strain the medical staffs and hospital facilities. As in education, health administrators will say there is an unexpected undercount of persons vying for health care services.

In 1992, the Center for Immigration Studies indicated that Mexican illegal aliens used 25 percent more of welfare programs than native families. The growth of these illegal alien populations will not be properly counted and thus skew the national, state, and local budget projections and economic statistics. Officials in sanctuary communities cry that they don't have enough money for health services, educational services, community facilities, and utilities. The unexpected costs are passed on to the taxpayers.

The asset management organization, Bear Sterns, in a January 3, 2005 report states that nine states with large undocumented populations have experienced extra demand for public services. The report states that "we can extrapolate that for every undocumented immigrant (alien) child in the public school system, there are potentially 8 to 9 additional undocumented men, women and children living in the United States." Bob Sullivan, an MSNBC technology correspondent, reported on January 27, 2005 that hundreds of thousands of U.S. citizens have their identity stolen by illegal aliens. The citizens have to spend costly time, effort, and money to repair the credit damage and put their lives back together.

The report goes on to say that supporters of illegal aliens excuse this by saying it is an inevitable outcome of unfair labor laws. The federal authorities are completely disinterested in the identity theft of U.S. citizens. The two worst offenders, as reported by MSNBC, are the IRS and the Social Security Administration.

Contrary to the propaganda by immigrant interest groups that illegal aliens create a financial benefit to the United States, they actually are a net loss, \$68 billion in 2002. A study by two Columbia professors, Donald Davis and David Weinstein, was released in early 2005. Immediately, the sanctuary special interest groups attacked the study saying that it was an oversimplification of a complex issue.

Conclusion

Immigration sanctuary, advocated by elected and appointed officials, sets the wrong example to youth and adults that the nation's laws need not be obeyed. Anti-American forces profit from the resulting anarchy. U.S. citizens are in a dumb-down posture, relying on television to keep them posted. The mainstream news media, however, fail to report the linkage between foreign terrorists and illegal aliens. They fail to report the true costs of sanctuary, costs paid by U.S. taxpayers. They fail to report on contagious diseases being brought across U.S. borders undetected and untreated. They fail to report environmental damages that accrue from 30 million illegal immigrants and the toll on the nation's natural resources. Liberal academia encourages immigration anarchy by supporting sanctuary and failing to admit the negative aspects of illegal immigration.

Congressman Thomas Tancredo (R-CO), in a speech before the United States House of Representatives on June 22, 2004, warned that sanctuary states and cities create hundreds of different immigration policies. Sanctuary activists embrace a cult of radical multiculturalism at the cost of America's own identity. Arthur Schlesinger, Jr., in *The Disuniting of America*, concluded that multiculturalism is dividing the nation. Law-abiding citizens need to unite to forestall the balkanizing of the nation, which puts at risk our unifying language, culture, ethos, and heritage.

The United States is a Republic governed by the vote of its citizens, rather than by self-serving city-states catering to non-citizens and destined for a disintegration similar to that of the Roman Empire. The United States is a nation of immigrants, but immigrants who swear allegiance to the American flag and to no other.

Our Founding Fathers foresaw the pitfalls the nation would encounter. In 1787, at the close of the Constitutional Convention, a woman called out to Benjamin Franklin, "Well, Doctor, what form of government have you given us?" To which, he replied, "A Republic, Madam, if you can keep it." In the following century, Abraham Lincoln observed, "America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves." •