

Messengers of Hope:
Responding to the Voices of the Persecuted to Reverse the Erosion of Refugee Rights

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I. Introduction

Civil Society requires the rule of law to protect human dignity, equality, and liberty. Constantly adapting in response to the all too frequent transgressions against human freedom, law can serve as a formidable redoubt of protection. Its strength, however, undermines that goal when powers or authorities whittle away at its protections or capture its supposed guardians. Law then becomes a weapon to discriminate, detain, deport, and destroy individuals and groups. The Holocaust motivated nation states to develop new refugee protections under international law after Nazi persecution forced many into exile to a world unwilling to offer haven or protection. The subsequent evisceration of those protections in the twenty-first century offers an example of how authoritarian leaders dismantle the rule of law. This transformation of protection to rejection provides insight to how the alleged universal declaration of refugee rights has failed to protect Palestinians, both in the diaspora and those remaining in Palestine and Israel. Examining how nations have destabilized asylum and refugee law, both domestic and international since 1951, reveals how the rule of law can either protect or oppress the vulnerable.

Asylum seekers and refugees are “messengers of hope.”¹ As such, they offer testimony that demonstrates the necessity for international protection when nations persecute their own constituents. At the same time, they also document the need for the resurrection of international and domestic law to protect not just asylum seekers and the residents of the nation providing

1 “Message of Pope Leo XIV, For the 111th World Day of Migrants and Refugees 2025,” July 25, 2025, <https://www.vatican.va/content/leo-xiv/en/messages/migration/documents/20250725-world-migrants-day-2025.html>.

asylum. Thus, not only are they messengers of hope, but they are also active agents of repair and restoration.

This chapter originated in a panel presentation the authors gave at the Evangelical Lutheran Christmas Church in Bethlehem on November 16, 2024.² Both authors have worked in solidarity with asylum seekers from many nations since the 1980s, adding their faith-based perspective to legal representation and advocacy, to organizing shelter, food, and welcome, and to protesting human rights violations. We were asked to compare how the U.S. legal system addressed the claims of asylum-seekers with international law's protection of Palestinian refugees. This chapter commences with a discussion of the development of refugee law and its erosion over the last seven decades and then examines the Palestinian experience of forced expulsion and life under occupation since 1948. Next, we address how asylees and refugees, in solidarity with activists, partially revitalized the goals of justice and equality. Since our talk in 2024, President Donald Trump's administration and the continued genocide in Gaza have raised exceptionally difficult challenges to international law.³ In the face of these monumental difficulties and the failure of much of the world community to respond to the attrition of refugee rights, we conclude that the refugee, when allowed to engage the powers and principalities, can reveal a path to renewing the rule of law. When people of faith accompany them on that journey,

2 We thank Rev. Dr. Waltrina Middleton, Executive Director of Chicago's Community Renewal Society, who invited the authors to join the November 2024 Sabeel Solidarity Pilgrimage. We thank Omar Haramy and the Sabeel staff and volunteers for their hospitality and education. We thank Dana Connell, Margaret Mueller, Karen Musalo, Randy Rapp, Barney Schultz, John Thomas, and Cliff Zimmerman for their kind assistance.

3 International Association of Genocide Scholars, "IAGS Resolution on the Situation in Gaza" July 28, 2025, <https://genocidescholars.org/wp-content/uploads/2025/08/IAGS-Resolution-on-Gaza-FINAL.pdf>. See also, "Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and the Punishment of the Crime of Genocide," United Nations Human Rights Council, September 16, 2025, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf>; Kayla Berkely, "General Synod passes declaration for an end to genocide in Palestine," July 15, 2025, <https://www.ucc.org/general-synod-passes-declaration-for-an-end-to-genocide-in-palestine/>; Munther Isaac, *Christ in the Rubble, Faith, the Bible and Genocide in Gaza*, (Wm. B. Eerdmans, 2025), 21-32, and *Kairos Palestine—The Palestinian Christian Initiative, A Moment of Truth: Faith in a Time of Genocide, II*, 14-11-2025, https://www.kairospalestine.ps/images/KP_2_Final_English.pdf §1.2.

long and difficult as it has been and will be, refugees provide one essential path to enable all to comprehend and seek equality and justice for both refugees and the residents of nations and revive the humanitarian promises of refugee protection.

II. Establishment of a Refugee Law

A. The development of an (almost) universal definition of refugee

Traditional understanding of the genesis of the Refugee Convention (“Convention”) recalls that the failure of the victors of World War II to provide haven prior to and during the war contributed to the horror of the Holocaust which then inspired international law protection for survivors of persecution.⁴ Through its principles, the Convention recognized the inherent human dignity of each person, regardless of nationality or domestic law. Initially, the overwhelming driving force was a humanitarian approach to counter concerns of national security that had previously prevented refugees from escaping persecution by entering another nation.⁵ Noting the disproportionate number of Jewish lawyers and rabbis among the drafters of the Convention, Gilad Ben-Nun identified their expertise in international law and Talmudic studies to reveal that “the humanitarian motivations of the Israeli drafters were crystal clear.”⁶ According to Rabbi Isaac Lewin, the primary drafter of Article 33’s humanitarian promise, nonrefoulement “fulfills one of the ethically unsurpassed proscriptions of Jewish law, particularly stressed by the earlier

⁴ The 1951 Convention and the 1967 Protocol relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150, <https://www.unhcr.org/media/1951-refugee-convention-and-1967-protocol-relating-status-refugees>.

⁵ James C. Hathaway, *The Law of Refugee Status*, (Butterworth, 1991), 2. (“At least in its initial form, refugee law, constituted a humanitarian exception to the protectionist norm, in that that immigration screening was dispensed with for large groups of unprotected migrants.” See also, Karen Musalo, “The Legal and Moral Responsibility to Protect,” 45 *Fordham Int’l L.J.* 751 (2022), https://repository.uclawsf.edu/faculty_scholarship/1876/.

⁶ Gilad Ben-Nun, *Seeking Asylum in Israel, Refugees and the History of Migration Law*, (I.B. Tauris, 2017), 31.

prophets....one of them, Amos, considered the prohibiting of sending refugees back, to be a binding rule of international law of his time.”⁷

Signatories to the Convention accepted a mandatory promise of nonrefoulement—the duty to not return refugees to nations where they would be persecuted due to their race, religion, nationality, political opinion, or membership in a particular social group.⁸ Rabbi Lewin later emphasized a key element that many contemporary critics forget: “Expulsion of a refugee, in the majority of cases, means prolonged agony” and the “equivalent to death....”⁹ Rafael Lemkin, the originator of the legal concept of genocide, described a refugee as “a ghost in search of certainty and hope.”¹⁰ Similarly, while recently seeking admission into Egypt, Palestinian Mohammed R. Mhawish observed how human dignity disappears because, “I was just another refugee reduced to a handful of papers, my life shrunk into a fragile scaffolding of dates and stamps.”¹¹

Signatories promised to offer a legal procedure whereby asylum-seekers could prove their eligibility for asylum if they had been persecuted or faced a well-founded fear of persecution should they be returned to their native land. Each country would enact its law for the asylum and non-refoulement adjudication. The U.N. emphasized “that, subject to specific exceptions, refugees should *not* be penalized for their illegal entry or stay” because “seeking of

⁷ *Ibid.*, 65.

⁸ Article 33 of the Convention, 30: “1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” For more detailed history of the Convention and Protocol, see, Hathaway, *Law*, 6-10, Guy S. Goodwin-Gill and Jane McAdam with Emma Dunlop, *The Refugee in International Law, Fourth Ed.*, (Oxford University Press, 2021), 241-8, and Ben-Nun, *Seeking Asylum*, 19-86.

⁹ Ben-Nun, *Seeking Asylum*, 65.

¹⁰ Philippe Sands, *East West Street, On the Origins of “Genocide” and “Crimes Against Humanity,”* (Alfred A. Knopf, 2016), 166.

¹¹ Mohammed R. Mhawish, “Torn Apart,” *The Nation*, September 2025, 30. (“Palestinians who escape the horrors of Gaza face a new trauma: the dislocation of exile from their homeland.”)

asylum can require refugees to breach immigration rules.”¹² The world had witnessed what happened when Jews fleeing Europe before or during the war had to report to the police to obtain papers before leaving their native land. All agreed that the necessity of flight mandated that receiving nations would adapt their immigration law for asylum-seekers.

Although primarily drafted to assist the displaced persons and refugees in Europe after World War II, the end of the war did not extinguish persecution, necessitating that the Convention protections expand for persons anywhere in the world who met its eligibility definitions. The 1967 Protocol (Protocol) ensured that the refugee protections would be geographically and ideologically neutral. After the United States adopted the Protocol, Congress enacted the Refugee Act of 1980 (Act) and pledged that the Act fulfilled all the requirements of the Convention and Protocol.¹³ Acknowledging that asylum-seekers might have to break the law to access asylum protections, the Act underscores that “any alien who is physically present in the United States or who arrives in the United States . . . *irrespective of such alien’s status*, may apply for asylum”¹⁴ The overarching promise made by both the Convention and the Act entailed nonrefoulement—no return of *bona fide* refugees to places of persecution through an established procedure to determine eligibility. Recognizing that refugees often found themselves in the interstices between the borders of their native land and surrounding nation states whose domestic immigration law often prohibited admission, the drafters sought to establish a system that would balance the competing interests of directing refugees into safe places while developing durable solutions that would not undermine national sovereignty. Susan Akram

¹² *Refugee Convention*, 3 (emphasis added).

¹³ *INS v. Cardoza-Fonseca*, 480 U.S.421, 436 (1987).

¹⁴ 8 U.S.C. § 1158(a)(1) (emphasis added).

asserts in that balancing the “core function, however, is to promote a secure durable solution for refugees.”¹⁵

It is often forgotten when stressing the Convention’s humanitarian origins, that the drafters also sought to resolve the critical failure of international law when nations abdicated responsibility and exiles could find no nation willing to admit them, leaving them adrift with no place to go. Asylum law provided a necessary fix to resolve this international law conundrum. Thus, this universal definition of refugees and asylum adjudication procedure adopted by all the signatories heralded a new day for refugee protection. The timing of the negotiations for the Convention juxtaposed with the UN’s role in establishing the newly sovereign state of Israel, however, created one glaring omission.

B. The Persistent Palestinian Problem

After the establishment of the state of Israel in 1948 through United Nations diplomacy, Israel coerced nearly 85% of the Palestinian population or between 750,000—800,000 Palestinians into exile.¹⁶ The Nakba, the expulsion of Palestinians combined with the destruction of their villages and seizure of their fields in 1948, effectively banned them from returning to their homes. As Benny Morris relates, “Generally applied with resolution and, often, with brutality, the policy was to prevent a refugee return at all costs.”¹⁷ Rebutting any claims that Palestinians voluntarily gave up their lands, Francesca Albanese writes that many Palestinian villages “were not simply abandoned; many were deliberately destroyed.”¹⁸ Adam Raz reports

15 Susan Akram, “Myths and Realities of the Palestinian Refugee Problem: Reframing the Right to Return,” *The MIT Electronic Journal of Middle East Studies*, Vol. 8, Spring 2008, 183-198, <http://www.bu.edu/law/faculty/scholarship/workingpapers/2008.html>.

16 Rashid Khalidi, *The Hundred Years’ War on Palestine, A History of Settler Colonialism and Resistance, 1917-2017*, (Metropolitan Books, 2020), 75.

17 Benny Morris, *The Birth of the Palestinian Refugee Problem Revisited* (Cambridge University Press, 2004), 589.

18 Francesca Albanese, *When the World Sleeps, Stories, Words, and Wounds of Palestine*, trans., by Gregory Conti, (Other Press, 2025), 168.

newly discovered documents corroborate claims that “that the IDF expelled Arabs systematically and violently during the War of Independence.”¹⁹ Thus, the Nakba not only exiled refugees and prevented return,²⁰ but foreshadowed the current trend where nations externalize refugee control in disregard of addressing eligibility within a nation’s borders as required by nonrefoulement.

Although they had focused on solving the refugee and displaced persons of World War II, the Palestinian conundrum that confronted the drafters occurred from

a direct result of a decision taken by the United Nations itself with full knowledge of the consequences. The Palestine refugees were therefore a direct responsibility on the part of the nations and could not be placed in the general category of refugees without betrayal of that responsibility.²¹

The drafters sought resolution by adding Paragraph 1D of the Convention to exclude any refugees from Convention protection if they had already been receiving protection and assistance from a United Nations organization.

Although the paragraph named no specific nationality, it applied only to Palestinians.²² Akram emphasizes that Israel, as a UN member, prohibited the return of Palestinians who had “already suffered persecution by virtue of their massive expulsion from their homeland for one or more of the grounds in the definition. Thus, they were given special recognition as a group or category, and not subject to the individualized refugee definition.”²³ Hathaway concurs, noting, “it is nonetheless clear from the drafting history that the shared intention of the Arab and western

19 Adam Raz, “‘Terror Was Needed to Make Arabs Leave’: What the Israeli Army Did in 1948, Revealed,” *Haaretz*, February 27, 2026. For example, former IDF major-general Haim Ben-David testified, “We knew the international laws, but I also know that we often did not behave according to those laws. We resorted to illegal means.” <https://www.haaretz.com/israel-news/israel-security/2026-02-27/ty-article-magazine/.highlight/terror-was-needed-to-make-arabs-leave-what-israels-army-did-in-48-revealed/0000019c-9a4b-d930-ad9f-feffd8c80000?gift=7c3e160cefd646b9bbd5e4a4fd9e6043>.

20 Khalidi, *Hundred Years*, 75.

21 Statement of Mr. Azkoul of Lebanon, quoted in Hathaway, *Law*, 206.

22 Akram, “Myth,” 189.

23 Susan Akram, “Re-interpreting Palestinian Refugee Rights” in *Palestinian Refugees: the Right of Return*, ed. Naseer Aruri, (Pluto Press, 2001), 165, 167.

states was to deny Palestinians access to the convention-based regime so long as the United Nations continues to assist them in their own region.”²⁴

Despite these humanitarian intentions, history has not produced the desired goals. International diplomacy and the imbalance of a sovereign state of Israel competing with Palestinians absent the protection of a sovereign state undermined that promised protection.²⁵ The UN agency established to protect Palestinians ceased protection operations in 1952 and the United Nations Relief and Works Agency provides assistance, but does not have the jurisdiction to provide the protection Paragraph 1 D anticipated.²⁶ Tossed into the tempest of history, “the multiple refugee definitions that were drafted for different purposes, coupled with their widely divergent interpretations, have made the determination of who is a Palestinian refugee ambiguous and complex.”²⁷ Consequently, Akram concluded, “Palestinian refugees have been treated as ineligible for the most basic protection rights international law provides to refugees and stateless persons in general, further eroding, the precarious international legal guarantees....”²⁸ Noura Erakat adds, “throughout the course of the Palestinian struggle for freedom, international law has seemed futile, if not irrelevant.”²⁹ Through its actions Israel, became one of the first sovereign nations to demonstrate the possibilities of the external control of migration. Ironically, Israel, the first sovereign nation that the United Nations established primarily to establish a haven for exiled refugees, began the unraveling of international protection for asylum-seekers.

²⁴ Hathaway, *Law*, 208.

²⁵ Noura Erakat, *Justice for Some, Law and the Question of Palestine*, (Stanford University Press, 2019), 54.

²⁶ Hathaway, *Law*, 168-69.

²⁷ Susan Akram, “UNRWA and Palestine Refugees” in *Oxford Handbook of International Refugee Law*, ed. Cathryn Costello, Michelle Foster, and Jane McAdam, (Oxford University Press, 2021), 10, <https://scholarship.law.bu.edu/faculty/scholarship/1603>.

²⁸ Akram, “Re-interpreting,” 165.

²⁹ Erakat, *Justice*, 2; Albanese, *Sleeps*, xii; *Kairos II*, § 1.23.

A well-intentioned effort to provide additional protection under the rule of law melted in the heat of history into ambiguity and loss for Palestinians. In addition, given the central argument of this chapter that asylees and refugees often provide the testimony and evidence of past harms that serve to justify remedies, banning the return of Palestinians delays or destroys the likelihood of reparations. Seven decades later, moreover, as nation states increasingly defend borders and externalize refugee control, these practices negatively impact all asylum-seekers and demonize those seeking shelter even though their claims echo the fears of those that animated the spirit of the Convention.

III. The Evisceration of International Law

A. 1951--2024

Despite the lofty humanitarian promises made by the drafters of the Convention, they planted seeds of national security and protectionism that have since grown like weeds strangling the Convention's humanitarian goals. Born in the early years of the Cold War, some drafters, predicting that refugees would fuel Cold War propaganda, limited the definition of persecution based on western political and civil values. Hathaway points out that "the strategic dimension of the definition comes from successful efforts of western states to give priority in protection matters to persons whose flight was motivated by pro-Western political values."³⁰ Subsequent U.S. asylum decisions reflected those Cold War fears. Early on refugees fleeing Iraq were often granted asylum in 60% of the cases, while refugees fleeing United States allies El Salvador and Guatemala prevailed in less than 3% and 1% of their cases, notwithstanding the documented history of executions and torture in Central America.³¹

³⁰ Hathaway, *Law*, 6.

³¹ Jonathan Blitzer, *Everyone Who Is Gone is Here, The United States, Central America, and the Making of a Crisis*, (Penguin Press, 2024) 141.

At the same time, case law restricted the breadth of protection. With the Protocol's expanded asylum eligibility refugees could not only seek admission between contiguous nations but could cross oceans and continents thereby increasing stresses on receiving nations to live up to their promises. When thousands of Haitians fled a heartless regime in Haiti seeking haven in Florida, the U.S. interdicted Haitians in the ocean and returned them to Haiti. Litigation sought to uphold the Act's promise of nonrefoulement. Despite the gruesome evidence in Haiti, the Supreme Court held that nonrefoulement did not apply extraterritorially but only protected those at the border.³² The Court gave a green light to externalizing border control, weakening refugee protection. Contrary to the court's holding, Ben-Nun asserts that the drafters intended extraterritoriality of nonrefoulement to prohibit return based on ocean interdiction.³³ Citing the erroneous retreat from our nation's promises under international law, dissenting Justice Harry Blackman took the rare step of authoring a law review article contending, "the mandate and spirit of the Refugee Convention are clear: 'Vulnerable refugees shall not be returned.' Article 33.1 forbids nations from returning any refugee to a territory where he will suffer persecution. This, of course, is precisely what the Government did when it interdicted and forcibly returned Haitian refugees."³⁴ According to Blackman, the *Sale* decision turned "the Refugee Convention into a 'cruel hoax.'"³⁵ Similarly, many scholars call *Sale* an outlier far removed from the protections granted by other nations, yet it remains bedrock U.S. law.³⁶

The Court subsequently restricted eligibility by holding that asylum-seekers had to prove a persecutor's intent to violate their rights based on a nexus to one of the Convention grounds of

32 *Sale v. Haitian Centers Council*, 509 U.S. 155, 173 (1993). Blitzer, *Everyone*, 113 (Violence in Haiti was "stark, brutal, and bloody.").

33 Ben-Nur, *Seeking Asylum*, 51.

34 Harry A. Blackmun, "The Supreme Court and the Law of Nations," 104 YALE L.J. 39, 44 (1994).

35 *Ibid.*

36 Goodwin-Gill and McAdam, *Refugee*, 312.

race, religion, nationality, political opinion, or membership in a particular social group.³⁷ The effect of a persecutor's actions without that targeted intent, even if severe harm or death resulted, would not sustain an asylum claim. For example, a conscientious objector to a nation's conscription law, could not obtain asylum when facing death or detention for refusing to serve in the military, because the law applied to everyone and was not directed to punish a particular pacifist faith.³⁸ Even when a nation implemented extrajudicial punishment, courts often denied the claims. Refugees often fleeing with little more than the clothes on their backs, endured new challenges to produce documentary evidence to prove nexus.

In 1996, Congress further restricted asylum eligibility by enacting Expedited Removal that permitted the government to return individuals without the protection of the promised asylum adjudication procedure if they failed to present appropriate papers or were apprehended near the border. If a person raised a fear of persecution, Congress provided a constrained opportunity to undergo a credible fear interview with limited appeal rights, and often without access to legal counsel.³⁹

During the first Trump administration a series of Executive Orders further eviscerated asylum's humanitarian promise. Among other actions, the administration banned a significant number of citizens of select Muslim nations from admission. Asylum-seekers at the border were severely limited by the requirement that applicants remain in Mexico prior to adjudication. Separation of families in detention facilities sought to deter asylum applicants through harsh

³⁷ *INS v. Elias-Zacarias*, 502 U.S. 478, 483 (1992).

³⁸ *Canas-Segovia v. INS*, 970 F.2d 599 (9th Cir. 1992); Craig B. Mousin, "Can One Still Call It Ignorance or Bias? Nexus Test Modified, but Courts Still Fail to Address International Law Under the International Religious Freedom Act," in *Migration and Religious Freedom, Essays on the Interaction Between Religious Duty and Immigration Law*, Carolus Grütters & Dario Dzananovic (eds), (Wolf Legal Publishers, 2018), 85, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3329604.

³⁹ "Fact Sheet: Expanded Expedited Removal," National Immigration Forum, May 14, 2025, <https://immigrationforum.org/article/fact-sheet-expanded-expedited-removal/>.

conditions. The pandemic added further restrictions under Title 42, a seldom used health-related federal code.⁴⁰ Individuals and non-governmental agencies challenged many of the Trump restrictions, but many individuals were returned to persecuting nations despite the promise of nonrefoulement.

The rule of law demonstrated some resilience. Many of Trump's initiatives were found unlawful or unconstitutional. President Biden promised to end some of the most severe practices. Biden's fear of being seen as weak on immigration combined with bureaucratic logjams, however, left many harmful policies in effect far longer into his term.⁴¹

B. The U.S. and Israel Weaken Asylum Remedies: 2024-2026

The debate over immigration policy dominated the 2024 presidential election campaign. Trump promised to eviscerate asylum protections. The Heritage Foundation's Project 2025 outlined an abandonment of the principles of asylum and refugee protection, although Trump denied the plan's significance.⁴² True to his untruthfulness, he did not wait long to implement Project 2025's proposals. On inauguration day, despite an absence of evidence, he alleged that "the sheer number of aliens entering the United States has overwhelmed the system" and led to the loss of "operational control of the border," he, in effect, banned asylum as a remedy.⁴³

40 For a summary of these actions denying access to courts and asylum, see, Craig B. Mousin, "Constantine's Legacy: Preserving Empire While Undermining International Law," in *Christianity and International Law: An Introduction (Law and Christianity)*, ed. Slotte, P. and Haskell, J. (Cambridge University Press, 2021) 366. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3960335.

41 See, e.g., Dan Kowalski, "Manifestly Illegal," September 1, 2024, https://dankowalski.substack.com/p/manifestly-illegal?utm_source=publication-search.

42 Cecil Cicerello and Rev. Craig B. Mousin, "How They Would Dismantle Asylum Using Project 2025," *Lawful Assembly*, September 13, 2024, 36:21, <https://www.lawfulpod.com/how-they-would-dismantle-asylum-using-project-2025/>.

43 Protection of the American People from Foreign Invasion, January 20, 2025. The Order has been blocked, but appeals are pending. *Refugee and Immigrant Ctr. for Educ. & Legal Svs. v. Noem*, 793 F. Supp. 3d. 19 (D.D.C. July 2, 2025), *aff'd. sub nom., Refugee and Immigrant Ctr. For Educ. & Legal Svs. v. Mullin*, 174 F.4th 81 (D.C. Cir. April 24, 2026). See also, "Federal Court Blocks Trump Administration Efforts to Completely Shut Down Asylum at the Border," National Immigrant Justice Center, July 2, 2025, <https://immigrantjustice.org/press-release/federal-court-blocks-trump-administration-efforts-to-completely-shut-down-asylum-at-the-border/>.

His administration continues to diminish the protections of the rule of law for those already in the judicial system or residing in the nation. Immigration judges are being terminated and those that remain limit asylum remedies.⁴⁴ Cases that have been fully prepared are being dismissed and applicants with applicants sent to Expedited Removal, often without benefit of legal representation.⁴⁵ ICE and the Border Patrol abduct people off the street and deport them in clear defiance of court orders.⁴⁶ Supreme Court Justice Sonia Sotomayor lamented that under Trump policies, many “live in a country where the Government can seize anyone who looks Latino, speaks Spanish, and appears to work a low wage job.”⁴⁷ When combined with an expansion of Expedited Removal’s reach into the interior of the nation, virtually anyone, citizens and lawful permanent residents could be picked up and removed from this nation with little legal recourse. Lawyers are denied access to clients at detention centers, and even members of Congress who have a legal right to access detention centers are denied entrance to investigate human rights abuses.⁴⁸

44 Rebecca Santana, “Trump administration fires 17 immigration court judges across ten states, union says,” AP, July 15, 2025, <https://apnews.com/article/immigration-court-judges-trump-ice-229830c0779857164a832793c2a8f3e4> “The Hand that Rocks the Gavel,” *This American Life*, September 19, 2025, <https://www.thisamericanlife.org/868/the-hand-that-rocks-the-gavel>.

45 *Matter of H-A-A-V-*, 29 I&N Dec. 233 (BIA 2025), September 11, 2025, *See also*, AILA “Practice Pointer: Pretermission of Asylum Applications: New Case Law and Policy, October 22, 2025, <https://www.aila.org/aila-files/2ACA4638-7A6C-4B17-BDB6-A3AB690AED63/25102201.pdf?1761161872>.

46 Molly DeVore, “Hundreds Could Be Freed From ICE Custody After Warrantless Arrest Ruling,” *Block Club Chicago*, October 8, 2025, <https://blockclubchicago.org/2025/10/08/100s-could-be-freed-from-ice-custody-after-ruling-that-warrantless-arrests-violated-consent-decree/>.

47 *Noem v. Vasquez Perdomo*, 606 U.S. 1, 6 (September 8, 2025), Sotomayor, J. dissenting.

48 Luis Ferré-Sadurni *et al*, “11 N.Y. Officials Arrested Trying to Access ICE Detention Cells,” *The New York Times*, September 18, 2025, https://www.nytimes.com/2025/09/18/nyregion/elected-officials-arrested-ice-new-york.html?campaign_id=60&emc=edit_na_20250918&instance_id=162825&nl=breaking-news®i_id=42088890&segment_id=206179&user_id=29cf4a51a0ef96e2c3451b12468a0b4a; Mina Bloom, “Lawsuit Alleges ‘Horrific And Inhumane’ Conditions At Broadview ICE Facility,” *Block Club Chicago*, October 31, 2025, <https://blockclubchicago.org/2025/10/31/lawsuit-alleges-horrific-and-inhumane-conditions-at-broadview-ice-facility/>. *See also*, Don Kerwin *et al* for a good summary Trump administration’s policies impact in “The Origins, Consequences, and Uncertain Legacy of the Trump Administration’s Humanitarian, Refugee, and Immigration Policies: A Comprehensive Analysis,” Center for Migration Studies, June 23, 2025, <https://journals.sagepub.com/doi/10.1177/23315024261456212>.

Nor is it simply a rogue administration breaking the humanitarian and pragmatic promises of the Refugee Convention and the Act. In upholding the ability of the Trump administration to prevent asylum seekers from entering the U.S. and applying under the Act's process, Justice Samuel Alito of the United States Supreme Court relied on a textual argument that focused on "arriving in" language in the US statute.⁴⁹ He ignored, however, the context of the entire asylum statutory framework, history, and previous policies of the government to process those who appeared at the threshold of the nation seeking asylum. When pushed on whether this policy was consistent with the nation's promises in signing the Protocol and implementing the Act, he cited the Court's *Sale* decision holding that "*if* that course of action is consistent with Article 33, the Article surely allows border officials to stop aliens without valid travel document from entering the United States...."⁵⁰ Recall the critique that *Sale* is an outlier and undermines the Convention. Justice Alito's "if" tries too hard to justify his decision. "If" both declares the Court's holding, but it also suggests doubt whether the Court decided *Sale* correctly. If *Sale* is wrong, *Al Otro Lado* is wrong. Specifically, the Court ignores the "customs and usages of civilized nations,"⁵¹ and further fails to grasp the biblical prophets' humanitarian concerns that inspired the asylum remedy. Justice Sotomayor, dissenting, concluded that "The consequences...are predictable. More people will die. More people will attempt to cross the borders illegally, and some will and some will not.... More people will turn back and be subjected to violence because of something they cannot or should not have to change about themselves, such as their race, religion, nationality, or political opinion."⁵² Thus, both the Trump

49 *Mullin v. Al Otro Lado*, 609 U.S.--, 146 S. Ct. 2079, 2090-91 (June 25, 2026).

50 *Al Otro Lado*, 2095 (emphasis added).

51 Blackman, "Law of Nations," 59.

52 *Al Otro Lado*, 2118.

administration and the Supreme Court⁵³ have worked in conjunction to betray the purpose of asylum law.

1. Internal Evisceration of Asylum Protection

Although by no means identical, these policies resemble Israel's treatment of Palestinians since the Nakba in 1948, when Palestinians were exiled and prohibited from returning to the sovereign nation of Israel. For Rev. Munther Isaac, "we continue to live the *Nakba* every day. The refugees have not returned."⁵⁴ He adds, Palestinians "continue to feel like a stranger in their own homeland, especially with the nation-state law that blatantly discriminates against them. Land continues to be taken from Palestinians by force. We are still being crushed and displaced, dehumanized and discredited."⁵⁵ Through the rule of law, Erakat asserts that, "Israel has availed itself of the sovereignty framework as well as the legal fiction of Palestinian nonexistence to pursue with settler-colonial ambitions to the present day."⁵⁶ Palestinians endure torture and deprivation in prison under administrative detention that lacks due process.⁵⁷

The U.S. and Israel detain people without court-ordered warrants, including harsh treatment that violates international and domestic laws for equal treatment. Israeli administrative detention separates thousands of Palestinians from their families with little judicial overview. Leaders from both nations have attacked the judicial system, the branch of government whose responsibility is to curtail abuses of government, as under the control of rogue judges and courts

53 Stephen I. Vladek critiques the "autocratic judging" of the current Supreme Court that "poses a serious threat to the rule of law." "The Court Against the Courts," July 15, 2026, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=7123578&utm_source=substack&utm_medium=email.

54 Munther Isaac, *The Other Side of the Wall, A Palestinian Christian Narrative of Lament and Hope*, (InterVarsity Press, 2020), 189. See also, *Kairos Palestine, A Moment of Truth*, I., Par. 1.1.6, <https://www.kairospalestine.ps/index.php/about-kairos/kairos-palestine-document>.

55 *Ibid*.

56 Erakat, *Justice*, 54.

57 "Israel/OPT: Horrifying cases of torture and degrading treatment of Palestinian detainees amid spike in arbitrary arrests," *Amnesty International*, 8 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests>.

that fail to kneel before the power of the Executive. The Trump administration, led by a convicted felon, blatantly abuses the judicial system as it seeks to undermine it.⁵⁸

The Netanyahu administration continues to undermine Israel's Supreme Court as Netanyahu himself faces charges of corruption and provokes a constitutional crisis.⁵⁹ Escalation of settler violence in the occupied West Bank remains unhindered by Israel's police force or judiciary.⁶⁰ Chris Hedges details how the genocide in Gaza seeks to erase any evidence that Palestinians lived in the land for centuries.⁶¹ Waging war in Gaza, the Netanyahu administration has turned the rule of law upside down.⁶²

2. Externalizing Asylum Restrictions

Both nations have made borders and border walls the symbol of purported protection and necessary for national security. The walls serve not only as physical barriers but also

58 Stephen I. Vladek, "Justices as Fools." August 27, 2025, https://www.stevevladeck.com/p/bonus-174-playing-the-justices-for?utm_source=post-email-title&publication_id=1174827&post_id=172083146&utm_campaign=email-post-title&isFreemail=false&r=lv15c&triedRedirect=true.

59 "War on Israel's Judiciary: Netanyahu's Gov't Has No Respect for the Law," *Haaretz*, February 16, 2025, <https://www.haaretz.com/opinion/editorial/2025-02-16/ty-article/war-on-israels-judiciary-netanyahus-govt-has-no-respect-for-the-law/00000195-0b79-d1b4-a7fd-cf7dfd1f0000?gift=1b5b328496bd45b497542de36b2f0809>; Linda Dayan, "Constitutional Crisis? Why Israel's Government Just Openly Defied the High Court," *Haaretz*, July 6, 2026, <https://www.haaretz.com/haaretz-explains/2026-07-06/ty-article-magazine/.premium/constitutional-crisis-why-israels-government-just-openly-defied-the-high-court/0000019f-37e4-d22f-a9ff-f7f42afd0000>.

60 "Erasing Anything Palestinian, Israel's Ethnic Cleansing Of Palestinian Bedouin And Herding Communities," Amnesty International, (2026), <https://www.amnestyusa.org/wp-content/uploads/2026/07/Erasing-Anything-Palestinian-Israels-Ethnic-Cleansing-of-West-Bank-Bedouin-and-Herding-Communities.pdf>; Ronen Bergman and Mark Mazzetti, "How the Extremist Settlers Took Over Israel," *NY Times Magazine*, May 16, 2024, <https://www.nytimes.com/2024/05/16/magazine/israel-west-bank-settler-violence-impunity.html>; and Nicholas Casey, "Where is the Palestinian Gandhi?" *N.Y. Times Magazine*, May 1, 2024, <https://www.nytimes.com/2024/05/01/magazine/issa-amro-palestinian-nonviolent-activist.html?searchResultPosition=2>.

61 Chris Hedges, "Israel's Assassination of Memory," August 22, 2025, https://chrishedges.substack.com/p/israels-assassination-of-memory?utm_source=publication-search.

62 Or Bassok, "They Studied Law, Opposed Netanyahu—and Now Approve the Israeli Army's Mass Killings in Gaza," *Haaretz*, September 11, 2025, <https://www.haaretz.com/magazine/2025-09-11/ty-article-magazine/.premium/they-studied-law-opposed-netanyahu-and-now-approve-israeli-armys-mass-killings-in-gaza/00000199-28b4-d487-a3d9-acbf21680000>.

dehumanize those on the other side and result in discrimination under law.⁶³ Palestinian Pastor Rev. Munther Isaac observes that for “most visitors of the Holy Land today the wall shields us and pushes us away. They are not aware of us. We are invisible, hidden behind the wall.”⁶⁴ In the United States, the evisceration of asylum protection and dismantling of lawful immigration create a legal border that divides communities, spreading fear of apprehension without due process and detention or deportation. Border walls divide humanity and symbolize the inequality that their laws and practices nurture.

Instead, each nation relies on ever larger police forces and armies to protect itself.⁶⁵ Collaboration, cross-training of border security agents, and the profit-motives of private defense industries diminish the dignity of those on the other side of the wall.⁶⁶ Moreover, increased cooperation between U.S. and Israel enforcement agents ratchets up what would otherwise be

63 See, e.g., Craig B. Mousin, “A Migrant 4 Life Journeys to the New Tower of Babel: Christianity and Immigration,” in *Abrahamic Hospitality and Its Contemporary Implications*, ed. Ori Z. Soltes and Rachel Stern, (Fordham University Press, 2024), 54-5, 63, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4769482.

64 Isaac, *The Other Side of the Wall*, 18.

65 In July 2025, Congress increased 2025 funding ICE to 150 billion dollars for apprehension, detention, and deportation. Compare the 2024 ICE detention budget of just under four billion dollars to the current 45 billion dollars. “Immigration Detention Inc: A Podcast with Nancy Hiemstra and Deirdre Conlon,” Todd Miller, *The Border Chronicles*, August 25, 2025, <https://www.theborderchronicle.com/p/immigration-detention-inc-a-podcast> (US. immigration detention has risen from about 7,00 persons per day to currently over 60,000 per day. New funding anticipates up to 100,000). For a resource providing data on arrests and detention, see: <https://deportationdata.org/>. For additional information on the new legislation, see, “Explainer: How Congress Codified Hateful and Extreme Anti-Immigrant Policies by Passing Trump’s Budget Bill, National Immigrant Justice Center, July 10, 2025, <https://immigrantjustice.org/research/explainer-how-congress-codified-hateful-and-extreme-anti-immigrant-policies-by-passing-trumps-budget-bill/>.

66 Maurizio Guerrero, “Elbit Systems, key to Israel’s apartheid regime, is helping to expand Biden’s virtual border wall,” *Prism*, July 22, 2024, (Petra Molnar observes “This is about technologies of apartheid and technologies of control,”), <https://prismreports.org/2024/07/22/elbit-systems-israeli-apartheid-us-border/> and Omer Benjakob, “ICE Gains Access to Israeli Spyware Maker Paragon’s Tool,” *Haaretz*, September 3, 2025, <https://www.haaretz.com/israel-news/security-aviation/2025-09-03/ty-article/.premium/ice-regains-access-to-israeli-spyware-maker-paragons-tool/00000199-0f62-d487-a3d9-af7f969e0000>.

civil police actions into military actions.⁶⁷ Police forces grow, the detention/industrial complex expands, increasing the vulnerability of those outside the wall.⁶⁸

Abandoning the promise to provide a fair decision process to determine eligibility and engaging in refoulement effectively externalizes refugee control. Karen Musalo fears that, “regrettably, the violation of the norm of non-refoulement has become so common in the global north that it risks becoming normalized.”⁶⁹ Moreover, the practice is not limited to simply stopping and returning migrants at the border but deporting them to third countries that are not their native lands, while others anticipate sending Palestinians to the Sinai.⁷⁰ Today, as purported bastions of liberal democracy from Australia to the U.S. join authoritarian regimes such as Hungary, externalization of migrant control implicates the world community for its amnesia regarding the turning refugees back to the fires of the Holocaust and silence toward Palestinians.

3. Broken Promises to Refugees and Citizens

Both the United States and Israel are lands of great inequality. Israel by specific laws has established an apartheid state,⁷¹ whereas the United States fosters inequality both through the

67 See, e.g., “Police claim US-Mexico border has ‘eerie parallel’ to Israel-Gaza,” Josh Marcus, *The Independent*, November 29, 2022, <https://www.independent.co.uk/news/world/americas/us-police-israel-training-hamas-b2454442.html>; Alex Nowrasteh, “Don’t Conflate US and Israeli Border Security Challenges,” Cato Institute Blog, October 18, 2023, <https://www.cato.org/blog/dont-conflate-us-israeli-border-security-challenges>.

68 Sophie Goodfriend, “ICE operations increasingly resemble Israeli occupation. That’s no coincidence,” +972 Magazine, February 12, 2026, <https://www.972mag.com/ice-immigration-israeli-occupation-surveillance/>. Reece Jones, *Nobody is Protected, How the Border Patrol Became the Most Dangerous Police Force in the United States*, (Counterpoint, 2022).

69 Musalo, “Responsibility,” 779.

70 David Scott FitzGerald, “The Sordid History of Offshoring Migrants,” *Foreign Affairs*, July 10, 2025, <https://www.foreignaffairs.com/united-states/sordid-history-offshoring-migrants>; “Third-Country Removals in United States Immigration Policy, American Immigration Council, December 2025, 4, https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/12/Third-Country-Removals-Factsheet_1225.pdf citing an article by Camilo Montoya-Galvez, “Judge says U.S. trying to do ‘end-run’ around legal protections with deportations to Ghana,” CBS News, September 15, 2025, <https://www.cbsnews.com/news/judge-says-u-s-trying-to-do-end-run-around-legal-protections-with-deportations-to-ghana/>.

71 “Israel’s Apartheid Against the Palestinians, Cruel System of Domination and Crimes Against Humanity, Amnesty International, 1 February 2022, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>

history of slavery and Jim Crow.⁷² In both cases, the powers that benefit from such inequality brand either the Palestinians or the undocumented and asylum seekers as the other, the enemy, and the alleged source of the nation's problems. Israel has reneged on its Declaration of Independence promise to

ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.⁷³

Forsaking its own founding principle of equality, the U.S. has also reneged on its promises in the Constitution's 14th Amendment to treat all persons with due process and equal protection⁷⁴ while similarly abdicating from its promise of nonrefoulement. One federal judge chastised "the government's ignorance of an American historical document called the Declaration of Independence" which enumerated grievances against a would-be authoritarian king...."⁷⁵ When Dr. Hanan Ashrawi compared those Palestinians banned from return to those living in the occupied West Bank and Israel, she concluded, "In a sense, we are all refugees. We have all been alienated and painfully separated from our rights, from our history, from our most basic rights."⁷⁶ She foreshadowed international law's disregard of refugee rights resulting in the evisceration of citizen's rights in both the U.S. and Israel.

4. Ripples of repression continue

⁷² See, e.g., Richard Rothstein, *The Color of Law, A Forgotten History of How Our Government Segregated America*, (Liveright Publishing Corp., 2017).

⁷³ Declaration of Independence, May 14, 1948: <https://stateofisrael.com/declaration/>

⁷⁴ The United States Supreme Court failed to find any equal protection violation when it upheld the authority of President Trump to terminate Temporary Protected Status for Haitians, finding that the President's and his DHS Secretary's statements were not "overtly racial." Justice Kagan, in her dissent, called the President's language "so repellent and racially inflected that the majority declines to put them in print, concluded that the decision with its "impermissible race-based considerations tainting the decisions" will condemn Haitians "to devastating, and indeed life-threatening injury." *Mullin v. Doe*, 609 U.S. —, 146 S. Ct. 2121, 2149 (June 25, 2026), (Kagan, J. dissenting).

⁷⁵ *Arias v. Noem*, 818 F. Supp. 3d 864, 865 (W.D. Tex. 2026).

⁷⁶ Francis A. Boyle, *The Palestinian Right of Return Under International Law*, (Clarity Press, Inc., 2011), 28.

The dawn of the contemporary refugee regime arose after a world war when, in Hannah Arendt's words, "never have we depended so much on political forces that cannot be trusted to follow the rules of common sense and self-interest...."⁷⁷ Due process of law failed those dragged off the streets or out of their homes by the police without benefit of any legal protection. Arendt noted, "The nation-state, incapable of providing a law for those who had lost the protection of a national government, transferred the whole matter to the police."⁷⁸ Instead of offering protection to those fleeing persecution or prohibiting other nations from committing crimes against the vulnerable, nations abdicated any responsibility. Today, asylum-seekers and Palestinians find themselves caught within the same trap described by Arendt: "The more the number of rightless people increased, the greater became the temptation to pay less attention to the deeds of the persecuting governments than to the status of the persecuted."⁷⁹

Although we initially presented these ideas in Bethlehem in November 2024, Trump's second administration has since exposed a speed and intensity in undermining the Constitution and international law. Judge Patrick Shiltz identified 96 court orders that ICE had violated in 74 cases, noting that "ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence."⁸⁰ In a subsequent review, Judge Shiltz found a failure to follow 113 court orders in 77 other cases in the month since his first order!⁸¹ In the face of this historical assault on law, a different federal court responded, "our Constitution demands more, including the rule of law, as opposed to the rule of unchecked executive fiat."⁸²

⁷⁷ Arendt, *The Origins of Totalitarianism, New Edition with Added Prefaces* (Harcourt, Inc. 1966), VII.

⁷⁸ *Ibid*, 287.

⁷⁹ *Ibid*, 293.

⁸⁰ *Juan T.R. v. Noem*, 2026 WL 232015, *1 (D. Minn. Jan. 28, 2026).

⁸¹ *Juan T.R. v. Noem*, 2026 WL 555601 (D. Minn. Feb. 26, 2026). *See also*, Isabela Dias, "24,403 Lawsuits and Counting: How Habeas Corpus Became the Front Line of Immigration Defense," *Mother Jones*, March 3, 2026, <https://www.motherjones.com/politics/2026/03/immigration-enforcement-22800-lawsuits-and-counting-habeas-corpus-the-frontline-of-immigration-defense/>.

⁸² *Briceno Solano v. Mason*, 818 F. Supp.3d 802, 812 (S.D.W. Va. Feb. 4, 2026).

The sheer disregard for the law led the *Arias* court to conclude that, “the perfidious lust for unbridled power and the imposition of cruelty in its quest know no bounds and are bereft of human decency. And the rule of law be damned.”⁸³ Despite these holdings, the government appeals these cases and continues to arrest without warrant and deport without due process.⁸⁴ The rhetoric and conduct of federal officials stamping the “other” as a terrorist or a criminal becomes the fuel for authoritarian leaders to torch the foundations of democracy.⁸⁵ Trump’s and Netanyahu’s self-interest have undermined both international and domestic law. Their unconstitutional and illegal attack on sovereign nations, such as Iran and Venezuela, demonstrate an ongoing disdain for international law that simultaneously forces more human beings into exile, placing greater burdens on the legal system. As Arendt described refugees in Germany, undocumented persons, asylum-seekers, and Palestinians now become the focus of the legal system rather than those that persecute, defend apartheid, or commit genocide in Gaza and the occupied West Bank. To buttress these initial court safeguards, however, more will be expected of those who seek restoration of constitutional rights, especially if higher courts reverse these decisions or the respective administrations refuse to follow the law.

5. Silence of the witnesses

For too many, however, only silence greets these events. Michael Prior observes “the good desire of Western Christians to repent of their crimes toward Jews, has been turned into the destruction of Palestinians, by making western Christians feel that they should pay for their guilt

83 *Arias*, 866. See also, *Hueso v. Soto*, 2026 WL 539271, (D. N.J. February 26, 2026). (“The Government’s continued actions after being called to task can now only be deemed intentional.” *3).

84 For a powerful summary of the many ways the second Trump administration has devastated the protections of international and domestic asylum law, see, Kerwin, “Analysis.”

85 McCoy, J. *et al.* “Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Polities,” *American Behavioral Scientist* 62(1), 16–42 (2018). <https://doi-org.ezproxy.depaul.edu/10.1177/0002764218759576>. (“the psychology of polarization becomes fundamental as mechanisms of dehumanization, depersonalization, and stereotyping all contribute to the emotional loathing, fear, and distrust of the out-partisans.”).

to Jews by turning a blind eye to their unjust treatment of Palestinians.”⁸⁶ As international and domestic protections for refugees evaporate today, Christians fall prey to an amnesia that neglects the biblical prophets’ animating spirit of the Convention evoked by Rabbi Lewin to prevent prolonged agony and death of those sent back to their native persecuting land. International law becomes a brittle shell when bystanders within a nation look aside as police and military shun the guard rails of due process and law, to detain without reasonable cause, deport based on skin color, or torture those who remain detained, forcing some to sign alleged voluntary departure papers by denying food until detainees sign the paperwork.⁸⁷

Thousands of Palestinians detained without cause find few in Israel protesting these conditions. As John Conroy previously confirmed:

In places where torture takes place, it is often well known to thousands and sometimes millions of people. That means the responsibility is diffused. Mere bystanders simply don’t know what to do, how to even, even if they are inclined to—certainly a situation faced by many good Germans during the years of the Holocaust—and they remain immobilized....⁸⁸

He added, “it is not so difficult for many bystanders to adapt their beliefs, to buy into the idea that what is being done is not an abomination, but a service to humanity—that for example, innocent lives are being saved because men and women are being tortured.”⁸⁹ After extensively documenting the public and extensive governmental torture of Palestinian prisoners, he concluded, “observe, for example, the case of Israel, where there is no large-scale protest over the widely reported torture of more than twenty thousand Palestinians....”⁹⁰ Conroy observed

86 Michael Prior, “Zionism and the Bible,” in *Holy Land and Hollow Jubilee, God, Justice and the Palestinians*, ed. Ateek, Naim and Prior, Michael, (Melisende, 1999), 71. Accord, Rosemary Radford Reuther, “Justice and Reconciliation,” in *Holy Land*, 116.

87 Mark Liederman, “Broadview ICE Facility Must Provide Basics Like Water, Calls With Attorneys Under Judge’s Order,” *Block Club Chicago*, November 5, 2025, <https://blockclubchicago.org/2025/11/05/broadview-ice-facility-must-provide-basics-like-water-calls-with-attorneys-under-judges-order/>.

88 John Conroy, *Unspeakable Acts, Ordinary People, The Dynamics of Torture*, (Alfred A. Knopf, 2000), 255.

89 *Ibid.*

90 *Ibid.*, 255. Conroy also critiqued citizens in Belfast and Chicago for similar acquiescence.

that the silence of bystanders indicts all in a community that allows torture or human rights violations to be an element of civil society's protection.⁹¹

The silence continues today. Dr. Hussam Abu Safiya, a Palestinian pediatrician has been detained since December 2024 after advocating that the Israeli Defense Forces not attack the Gaza hospital where he was serving the medical needs of the community. While detained, he has been denied medical care and appears to have been tortured. Yet the medical community in neither Israel nor the United States has spoken out and called for his release or an independent medical review of his care. Dr. Barry Danino has called for the Israeli Medical Association to demand that every person being detained receive proper medical care. He submits, moreover, that silence violates both medical and moral standards, claiming that a failure to speak out “toward a helpless individual who is in the custody of the state doesn’t reflect upon him; it reflects on us.”⁹²

It is not just the medical profession. Alain Epp Weaver critiques Christian churches that have refused “any sustained discussion of Palestinian refugees,” concluding that they “do not represent a particular moral problem; like all Palestinians, they are viewed as interlopers onto and usurpers of the territory rightly belonging to the Jewish people.”⁹³ This silence lives on as a world community ignores not just Palestinian refugees, but refugees throughout the world.

6. International law undermined

91 *Ibid.*, 240. For example, he writes “The citizens of Chicago were unmoved.” (Few clergy, reporters, politicians, prosecutors, or judges spoke out against the evidence of torture by Chicago police officers.)

92 Dr. Barry Danino, “As a Senior Israeli Doctor, Our Silence on Hussam Abu Safiya is Insufferable,” *Haaretz*, July 7, 2026, <https://www.haaretz.com/opinion/2026-07-07/ty-article-opinion/.premium/its-a-medical-stance-not-a-political-one/0000019f-38a8-d07c-af9f-f8fd8dc40000?gift=755994d82a09439e8e87b7a58356f9a8>.

93 Alain Epp Weaver, “Memory Against Forgetting: The Church and the End(s) of Palestinian Refugee Rights,” in *The Forgotten Faithful, A Window Into the Life and Witness of Christians in the Holy Land*, ed., Naim Ateek, Cedar Duaybis, and Maurine Tobin, (Sabeel Ecumenical Liberation Theology Center, 2007), 187.

Admittedly, international law faces its own shortcomings. National sovereignty refuses to accede to any world government. Guy Goodwin-Gill observes that international efforts to secure agreements regarding asylum that would result in durable solutions “are more likely to produce equivocation, qualification, and exception, that can tend only to dilute the rules and principles already established in State practice.”⁹⁴ Perhaps we ask too much from international law. Palestinian theologian Shadia Qubti argues the problem goes deeper:

These Christians believe in human rights and justice, but they cannot reconcile the reality of Israeli apartheid and genocide with their belief that Israel represents an oasis of Western civilization in the Levant. They assume that if Israel is doing something wrong, it must be misunderstood, continuing to wait for Israel to “return” to proper Western values because they cannot accept that this violence IS the Western value system in action....*the Western system [is] working as designed, that the same power structures that created international law also determine when it applies and to whom.*⁹⁵

As for domestic law, democracy in Israel finds it impossible to overcome what Rashid Khalidi calls the core problem of demographics. Because Palestinians, if granted the equal rights promised in 1948, would have an equal or slightly larger population, threatening Israel’s founding identity. For Khalidi, “The inequality is the central moral question posed by Zionism...”⁹⁶ That inequality, however, undermines the foundation of a democratic nation state. As Arendt argued, “the nation-state cannot exist once its principle of equality before the law has broken down. Without this legal equality...the nation dissolves into an anarchic mass of over- and underprivileged individuals.”⁹⁷ Arendt’s identification of the void of common sense and the rule of the powerful through self-interest in the 1930s rises again under Trump’s and Netanyahu’s leadership.

IV. Stories of Faith Respond When the Rule of Law Fractures

⁹⁴ Goodwin-Gill, *Refugee*, 476.

⁹⁵ Shadia Qubti, “Two Sacred Responses in the Shadow of Genocide,” July 16, 2025, (emphasis added), Sabeel Worship, <https://www.shadiaqubti.com/blog/two-sacred-responses-in-the-shadow-of-genocide>.

⁹⁶ Khalidi, *Hundred Years*, 243.

⁹⁷ Arendt, *Totalitarianism*, 290.

When the rule of law succumbs to government discrimination, persons of faith and conviction must speak out and confront those who sustain the breakdown. Faith responses in the 1980s when U.S. laws and practices threatened the rule of law offer glimmers of hope. The stories of persecution of campesinos, union laborers, nuns, priests, and medical workers had failed to persuade immigration judges of the validity of their asylum claims. That failure led persons of faith to establish public sanctuaries in churches and synagogues for asylum-seekers. Reinforcing their public witness to follow the word of God by offering hospitality to the stranger in opposition to federal law, congregations mailed letters to the U.S. Attorney General and the press declaring public sanctuary.⁹⁸ Many also developed programs to recruit and train volunteer attorneys to offer free legal representation to asylum-seekers and organized communities to resist federal violations of the law.⁹⁹

Asylum-seekers and their lawyers critiqued the apparent discrimination by the adjudicators. The stories of asylum seekers inspired advocates to file a national class action lawsuit seeking First Amendment religious liberty protection for the churches and an end to the discriminatory rulings. The testimony of asylum-seekers explaining why persecution and torture forced them into exile led the government to settle the case in 1990. Fearful of litigation that might expose the lies and foreign policy objectives that funded death squads and taught soldiers to torture and execute citizens, government lawyers settled the case in *American Baptist*

98 *Justice Ministries, The Struggle for Peace, Justice, Sanctuary*, ed., Dick Simpson and Clinton Stockwell, (Community Renewal Society, Spring, 1985), 113. See also, Blitzer, *Everyone*, 70. For a more detailed account of the sanctuary movement, see Renny Golden and Michael McConnell, *Sanctuary: The New Underground Railroad*, (Orbis Books, 1986). We are active with Wellington United Church of Christ, which was one of the first public sanctuary churches in 1982. Wellington was one of the national organizational class members in the ABC litigation, *infra* at n. 100.

99 Golden and McConnell, *Sanctuary*, 48-54; Craig B. Mousin, "Steal Away," <https://www.youtube.com/watch?v=c9VTkjhZlcl>. See, e.g., www.immigrantjustice.org and www.icirr.org.

Churches v. Thornburgh (ABC).¹⁰⁰ Significantly, *ABC* reopened a decade of denied Guatemalan and Salvadoran asylum cases, providing relief to over 300,000 applicants.¹⁰¹

Asylee testimonies revealed that much of the persecution, torture, and disappearances were perpetrated by soldiers trained at the US Army's School of the Americas (SOA). The US funded the wars in Guatemala and El Salvador, as it now sustains Israel's genocide in Gaza. After the 1989 martyrdom of six Jesuit priests, their housekeeper and her daughter by the Salvadoran Army, Maryknoll priest Roy Bourgeois climbed a tree near a SOA dormitory and played a recording of Archbishop Oscar Romero's last sermon pleading with Salvadoran soldiers to put down their weapons and "do not kill."¹⁰² That 1990 protest germinated annual vigils at the SOA and at the Nogales, Arizona/Sonora, Mexico border wall. The names of thousands who had been disappeared, tortured, massacred, imprisoned, and murdered by SOA-trained troops were raised up, followed by calls of "Presenté."¹⁰³ SOA officials denied responsibility for those deaths and disappearances, pleading instead that they were teaching these soldiers human rights law.¹⁰⁴ Today, in Israel, the military similarly claims compliance with the rule of law to avoid personal responsibility for war crimes, employing military lawyers to paint a patina of regularity to absolve themselves of personal responsibility for genocide.¹⁰⁵

Yet the witness of the many asylum-seekers and the dedication of the marchers memorializing the dead and disappeared inspired change. Congress momentarily closed the

100 760 F. Supp. 796 (N.D. Ca. 1991); Blitzer, *Everyone*, 142.

101 Blitzer, *Ibid.*

102 James Hodge and Linda Cooper, *Disturbing the Peace, Roy Bourgeois and the Movement to Close the School of the Americas*, (Orbis Books, 2004), 947.

103 Stephen Lee Myers, "Be All That You Can Be: Your Future as an Extortionist," *The N.Y. Times*, October 6, 1996, <https://www.nytimes.com/1996/10/06/weekinreview/be-all-that-you-can-be-your-future-as-an-extortionist.html?searchResultPosition=1>. See also, www.soaw.org.

104 Lesley Gil, *The School of the Americas, Military Training and Political Violence in the Americas*, (Duke University Press, 2004), 221-226.

105 Bassok, "Studied Law."

SOA, but subsequently re-opened it with cosmetic changes; still the resistance continued with the mantra, “new name, same shame.”¹⁰⁶ By uncovering the culpability of the SOA, the School of the America’s Watch staff, volunteers, attorneys, and human rights workers invigorated the rule of law, calling the nation to its promise of justice.¹⁰⁷ Once protected within the legal process, moreover, some asylum-seekers united with their attorneys to bring to justice the officers and military commanders who had ordered and implemented the deaths, disappearances, and torture.

One asylum applicant, Yushy René Mendoza, testified in a Spanish courtroom where the Judges in Spain’s highest criminal court convicted Colonel Inocente Orlando Montano of the “decision, design, and execution” of “terrorist murders” of the five Spanish Jesuit priests at the University of Central America in 1989.¹⁰⁸ The prolonged teamwork with his attorneys from his first asylum hearing in 1994 until Colonel Montano’s 2020 conviction represented the power of an asylum seeker to call the law and the world to its principles to protect the vulnerable and convict the guilty. The conviction, however, required a massive time-consuming task and multinational effort by lawyers, priests, and NGOs as well as decades-long personal trauma to Mr. Mendoza. Without his personal resilience and steadfast determination, he may never have had the opportunity to provide evidence leading to the first conviction of any senior Salvadoran officer for their human rights violations.¹⁰⁹ Although the voice of the oppressed can challenge the failure of law, one cannot forget that it often comes with great personal cost.

In a separate U.S. civil trial, three other survivors testified that they had been tortured by the Salvadoran military under the direction of its highest leadership. One reviewing court

¹⁰⁶ Gil, *School*, 233.

¹⁰⁷ *Ibid*, 211.

¹⁰⁸ Sam Jones, “Ex-Salvadoran colonel jailed for 1989 murder of Spanish Jesuits,” *The Guardian*, 11 Sep. 2020, <https://www.theguardian.com/world/2020/sep/11/ex-salvadoran-colonel-inocente-orlando-montano-jailed-for-1989-of-spanish-jesuits>. The housekeeper, her daughter, and one Salvadoran Jesuit, who were also murdered, were not Spanish citizens, and therefore, were not included in the lawsuit.

¹⁰⁹ *Doe v. Gonzalez*, 484 F. 3d 445 (7th Cir. 2007).

stated, “The record swells with evidence regarding the brutality and oppression that the Salvadoran military visited upon the people of El Salvador.”¹¹⁰ Their testimony convinced a jury to award the three plaintiffs \$54,600,000 in damages.¹¹¹ That testimony should haunt all the leaders, lawyers, military and police officers, who cloak their refusal to stop the violence, permit the impunity, and engage in the violations. These are but two examples of how the voice of the oppressed—when given opportunity through asylum and other legal processes—can help seek the justice that politicians, journalists, historians, theologians, and faithful people had failed to accomplish by themselves. These testimonies corroborate Pope Leo XIV’s assertion that the “resilience and trust in the possible” of “many migrants, refugees, and displaced persons” make them “privileged witnesses of hope.”¹¹²

Indeed, one of the three plaintiffs in the *Arce* litigation, Ms. Neris González, continued aiding and encouraging other refugees for decades. Underscoring the theme of this chapter, her tenacity and her experience led her to recognize the similarity of the persecution in El Salvador to the ICE tactics and abductions of the 2025 Midway Blitz in Chicago.¹¹³ Other refugees, moreover, convey their messages in distinct and diverse ways. Palestinian poets, artists, and writers teach the world about the ongoing Nakba in Palestine. Palestinian artist Malak Mattar recalls her father’s wisdom to her as an exile in England, “You are there for a reason, Malak. You have to paint our lives, our struggle, all that we are going through. You are an artist, so you

110 *Arce v. Garcia*, 434 F. 3d. 1254, 1264 (11th Cir., 2006); see also, Julia Lieblich, “My Dreams Will Never Be the Same,” *Harvard Divinity Bulletin*, (Autumn/ Winter 2021), <https://bulletin.hds.harvard.edu/my-dreams-will-never-be-the-same/>.

111 *Arce*, 1255.

112 Pope Leo XIV, “Message,” 1.

113 Kade Heather, “ ‘I Never Imagined...Such An Aggressive, Violent, Unaccountable and Military Response’,” *Chicago Sun-Times*, 6/12/26. Ms. González applied for asylum as a client of the Asylum and Immigration Legal Clinic at DePaul University College of Law. At that time, Mousin co-directed the Clinic. Ms. González has given the authors permission to disclose this information.

are our voice.”¹¹⁴ Poet Refaat Alareer, who was murdered when his home was targeted by Israel in December 2023, gave the world his poem demanding, “If I must die, you must live to tell my story.”¹¹⁵ His poetry converts us to become witnesses of his people’s story. Ms. González, Ms. Mattar, Mr. Alareer each reveal the veracity of Pope Leo XIV’s claim that our world needs to listen to these messengers of hope. Such hopes are not fleeting fantasies. Aziz Abu Sarah and Maoz Inon wonder, “What if Palestinian refugees could return and rebuild some of their destroyed villages? What if the ‘city of peace’ was not meant only for Jerusalem, but also for each of these villages reborn as living symbols of justice restored and wrongs acknowledged?”¹¹⁶ They respond that the “refugee ‘problem,’ like every other obstacle to peace, is not an impossibility—it is a challenge we have the power to solve.”¹¹⁷ The voice of the asylees became the key to shedding light on atrocities and bringing perpetrators to justice.

V. Overcoming Both the Decline in the Rule of Law and the Resurgence of Christian Nationalism/Zionism

The tsunami of cruelty and power linked to self-interest rather than the rule of law may threaten loss of faith in both religion and the rule of law. Hope seems, well, hopeless. James Cone reminds us, however, that Black Theology’s Christology

affirms that who Jesus Christ is for us today is connected with the divine future as disclosed in the liberation fight of the poor. When connected with the person of Jesus, hope is not an intellectual idea; rather, it is the praxis of freedom in the oppressed community.¹¹⁸

114 Quoted in Albanese, *Sleeps*, 181.

115 Refaat Alareer, *If I Must Die, Poetry and Prose*, (Or Books, 2024), 19.

116 Aziz Abu Sarah and Maoz Inon, *The Future is Peace, A Shared Journey Across the Holy Land*, (Crown, 2026), 208.

117 *Ibid.*

118 James H. Cone, *God of the Oppressed*, (The Seabury Press, 1975), 129. *See also*, Esther McIntosh and Anupama M. Ranawana, “Silence is Complicity: Theological Failure in the Face of Genocide,” *Int. J. of Pub. Theology*, 18 (2024) 463-487 (“Liberation theology....roots itself with the poor, not only as a point of analysis, but as the bearer of the authoritative knowledge about a particular situation....”), 483; May Seikaly, “Justice and Reconciliation—Living with the Memory,” in *Holy Land*, (need to understand and amplify “the truths of the

This hope sustains all who “struggle for justice in this world.”¹¹⁹ Ta-Nehisi Coates argues that it is the stories of the oppressed that provides the power “to haunt people, to move people, and expand the brackets of humanity” against those who deny dignity and discriminate to preserve power.¹²⁰ Elisabeth Schussler-Fiorenza recommends listening to the ones who have been denied justice to find a “rearticulation of biblical religions in terms of radical democratic equality....”¹²¹ Similarly, Rev. Elaine Eachus calls us to listen to Palestinian women to hear the voices calling for justice.¹²² Neither the rule of law by itself nor faithful responses in the public square can overcome all the powers and principalities, but hope necessitates a response. Key to this hope is solidarity with the oppressed community.

People of Christian faith can first learn of walking with the oppressed through the biblical narrative that records the history of oppressed people living under empires from Egypt to Babylon to Rome yet responding in faithful ways. Despite biblical stories that uphold empire and patriarchy, the Bible includes subversive stories that inspire how to respond to unjust laws and policies. Women such as Ruth and Esther model resistance and boldness that can undergird contemporary confrontations with the powers that deny equality.¹²³

Other stories reveal the harshness and unfairness of contemporary laws. A thought experiment asking what would have happened if U.S immigration law regulated conduct in

unrecorded, the unrepresented, the vanquished, and the marginalized...those whose voices are made invisible, veiled, and unknown.”), 106.

119 *Ibid*, 132.

120 Ta-Nehisi Coates, *The Message*, (One World, 2024), 29.

121 Elisabeth S. Fiorenza, “Public Discourse, Religion, and Wo/men’s Struggles for Justice,” 51 *DePaul L. Rev.* 1077, 1096, (2002), <https://via.library.depaul.edu/law-review/vol51/iss4/6>.

122 Elaine Eachus, *Better Than Right: Appreciation, Beauty, Community* (Authorhouse, 2021), 23-26; *Kairos II*, § 2.8.

123 Craig B. Mousin, “Nonrefoulement: Responding to Asylum-seekers Through the Prism of Subversive Stories: A Study of Three Trials of Innocence,” in *Furthering Interfaith Biblical Scholarship, A Festschrift in Memory of André LaCocque*, ed. Doreen McFarlane, (Wipf & Stock, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4901648.

biblical times revealed that every major biblical protagonist violated one or more immigration laws subjecting them to deportation that would, in effect, exclude them from the biblical story.¹²⁴ Surprisingly, Jesus, a Migrant 4 Life, exiled just days after his birth, who sought entrance at a border when returning from Egypt, may have had the most immigration violations. Today a physical and legal wall would have banned his entry into Israel. Because the Romans considered all Galileans terrorists, much like the U.S. and Israel often designate groups as terrorists, Jesus gave material aid to terrorists when, in an act of love, he broke the bread and fish and provided food to thousands of Galileans. Each violation would have made him deportable, turning him into what some call an illegal immigrant.¹²⁵

Instead of understanding Jesus' shared resemblance with Palestinians, some Christians have transformed Jesus into the heart of polarization by following a so-called MAGA Jesus in supporting Christian nationalism. Others who favor greater hospitality to our neighbor, follow the Migrant 4 Life, the one who walks in solidarity with the oppressed.¹²⁶ Jesus' response to the lawyer's question regarding one's neighbor in the Good Samaritan parable leaves little question of whether to follow MAGA Jesus or the Migrant 4 Life. (Lk. 10:29) As Rev. Isaac relates:

Where do I draw the line? Jesus comes and removes the lines. *There is no circle—there is no 'us' and 'them' when defining the neighbor!* Everyone is a neighbor—and we are *called* by God to love them as ourselves. *It is not a matter of choice.* We cannot pick and choose our neighbor.”¹²⁷

When critics designate Palestinians or asylum-seekers as the other, the wall, whether physical or legal, renders them invisible, thus eviscerating that choice. Instead, André LaCocque asserts,

124 Craig B. Mousin, “You Were Told to Love the Immigrant, But What if the Story Never Happened? Hospitality and United States Immigration Law,” *Vincentian Heritage Journal*: Vol. 33: Iss. 1, Article 8, 2016, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2784951.

125 *Ibid*, text at n. 90-102. See also, Reza Azlan, *Zealot, The Life and Times of Jesus of Nazareth*, (Random House, 2013), 18-19.

126 Mousin, “Migrant 4 Life;” Isaac, *Wall*, 204, (Jesus also walks “with refugees...” quoting Mitri Raheb.)

127 Isaac, *Wall*, 111.

“Jesus’s agenda is to demonstrate that even one’s enemy can become one’s neighbor—or...one’s opportunity and invitation to be neighboring.”¹²⁸ For both Isaac and LaCocque, the parable of the Good Samaritan instructs us, most succinctly, how am I that neighbor?¹²⁹

The Migrant 4 Life metaphor finds specific meaning in the context of refugees fleeing persecution. The Book of Acts introduces St. Paul when as Saul, he consents to the martyrdom of Stephen (Acts 8:1). He then led a “great persecution” against the church in Jerusalem. Just as ICE or IDF officers violate our communities today, Saul entered “house after house” and “dragged off men and women and committed them to prison.” (Acts 8: 1, 3). When his mission took him to Damascus, he encountered the risen Christ. Jesus asked “Saul, Saul, why do you persecute me?” (Acts 9: 4) Jesus does not ask why did you persecute Stephen or why have you detained so many men and women in prison. Jesus simply asks, “I am Jesus, whom you are persecuting.” (Acts 9:5). Saul was persecuting his neighbor; a child of God like himself. Jesus teaches when government agents persecute, either unlawfully or under color of law, they deny the dignity of the human person and kill the neighbor and, indeed, persecute Jesus (Mat. 25:45).

Such stories provide a foundation to love the neighbor, but Jonathan Kuttat poses a current challenge, “As a pacifist who eschews violence, what do I do with a bully who seems to successfully get away with bullying?”¹³⁰ His response is “massive global resistance is needed” and concluded that “Christians” need to respond to the call “for an end to genocide and apartheid in Israel.”¹³¹ The impunity of ICE agents and government attorneys also calls for an end to eviscerating asylum law and denying human dignity.

128 André LaCocque, *Jesus, the Central Jew*, (SBL Press, 2015), 121.

129 As any good movement for change requires some music to accompany the resistance and remind that all are our neighbor, listen to thisisLEA’s “Wake Up America,” https://www.youtube.com/watch?v=srtMIJBgrI&list=RDMM&start_radio=1.

130 Jonathan Kuttat, “A Peacemaker’s Dilemma,” <https://www.fosna.org/the-fosna-blog/a-peacemakers-dilemma>.

131 *Ibid*.

A. A Call to Resist Through the Rule of Law

Nations adopted the rule of law to rebut the cruelty of authoritarian power. Today, in the U.S. and Israel, much of the rule of law has been captured by authoritarian adherents. Nonetheless, even when it upholds equal justice, the law's gears turn slowly, causing harm while cases slowly wend their way through the courts. Resilient lawyering, however, has over time, transformed injustice into more justice, inequality into equality, and restored the rule of law.

Dedicated lawyering has, at times, upheld equality against great odds. The great tragedy of slavery in the United States, the dismantling of Reconstruction, and the Jim Crow legacy reveal that the law failed to defend equality, and instead, sustained lynchings, murders, and arson, requiring over a century of litigating case by case seeking justice in education, housing, voting, and equal citizenship. Yet, for example, Thurgood Marshall risked his life traveling through the South representing the oppressed until his team found victory with cases such as *Brown v. Board of Education*¹³² and through civil rights legislation. In a 1996 speech, he celebrated, "There is very little truth in the old adage that one cannot legislate equality. Laws not only provide concrete benefits, they can even change the hearts of men—some men anyhow—for good or evil."¹³³

Likewise, the history of the indigenous peoples in the U.S. may most closely share the impact of the rule of law's shortcomings yet still offer hope to Palestinians and Bedouins. Bedouins have been a nomadic people since the fifth century from Gaza to the Dead Sea. Today, many are forced to live in the occupied West Bank's designated military zone.¹³⁴ They now

¹³² 347 U.S. 483 (1954).

¹³³ Gilbert King, *Devil in the Grove, Thurgood Marshall, the Groveland Boys, and the Dawn of a New America*, (Harper Perennial, 2012), 4.

¹³⁴ Amnesty International, "Erasing."

experience raids and destruction by Israeli settlers and the Israeli military acting with impunity.¹³⁵ Native Americans have suffered over two centuries of broken treaties through the failure of law to protect them, but they continue to litigate. When the Sioux Nation of Indians sought compensation for being forced off their land through broken treaties and duplicitous actions by the U.S. President and the military, their sojourn for justice commenced in 1877.¹³⁶ One court, almost a century later, stated, “A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history....”¹³⁷ Finally in 1975, in partially rectifying the harm, Justice Blackman found, at least in a claim for compensation when property had been improperly taken, Congress could take into account moral claims that provided greater relief than the law would permit.¹³⁸ Despite the failures of previous generations to acknowledge moral debts or the courts to adjudicate justice, persistence in the courts by the oppressed with their allies presenting both legal arguments and moral claims ultimately obtained some reparation. Some defend Israel’s seizure of land based on the U.S. displacement of Native Americans.¹³⁹ Given that assertion, then the *Sioux Nations* case suggests that the Palestinians can cite Justice Blackman's logic with their legal and moral claims to the land and reparations. Yet the case also highlights the time-consuming difficulty of simply relying upon the rule of law as the Sioux have refused to accept that settlement without full reparation and title to the land and continue to litigate for full justice.¹⁴⁰

135 Alex Jenkins, “This Palestinian Town Holds 5,000 Years of History. Israel Is About to Seize It,” *Truthout*, December 3, 2025, <https://truthout.org/articles/this-palestinian-town-holds-5000-years-of-history-israel-is-about-to-seize-it/>.

136 *United States v. Sioux Nation of Indians*, 100 S. Ct. 2716 (1980).

137 *Ibid.*, at 2727, citing *United States v. Sioux Nation*, 207 Ct. Cl. 234, 241, 518 F.2d 1298, 1302 (1975).

138 *Ibid.* at 2732 (“Congress may recognize its obligation to pay a moral debt not only by direct appropriation, but also by waiving an otherwise valid defense to a legal claim....”).

139 Prior, *Holy Land*, 78.

140 Henry Gass, “When 1 billion isn’t enough—Why the Sioux won’t put a price on land,” July 24, 2023, *The Christian Science Monitor*, <https://www.csmonitor.com/USA/Society/2023/0628/When-1-billion-isn-t-enough.-Why-the-Sioux-won-t-put-a-price-on-land>.

B. Resistance Through Responding to the Voice of the Refugee

To answer Kuttab's earlier question of Christians responding to bullies, recall the testimonies of the thousands of denied Guatemalan and Salvadoran asylum applicants who persevered until the federal government settled the *ABC* case reopening a decade of denied asylum cases. *ABC* demonstrated that the law could respond when the stories of those fleeing persecution collided with and overcame laws that constructed a barrier, instead enabling the neighbor to be greeted with hospitality.¹⁴¹

Sabeel's Solidarity Pilgrimages offer hope in revealing how the cruel experiences of Palestinian families being ripped apart by state violence mirror the brutalities endured by Latin American survivors of torture. In Ramallah, LeAnn, mother of Layan Nasser, shared the pain of her university student daughter's second forced abduction on April 7, 2024, by Israeli soldiers. They blindfolded, handcuffed and disappeared her into administrative detention. After her release eight months later, she was subsequently detained on October 10, 2025. This parallels realities by U.S. asylum seekers like Adriana Portillo-Bartow, when Guatemalan soldiers abducted two of her young children, along with her father, stepmother and baby sister--disappearing them, never to be seen again.¹⁴² Her story, however, inspired resistance as she joined other refugees demonstrating the necessity of the *ABC* settlement.

Chicago organizations continue to link people of faith and those with secular convictions to build Kuttab's global justice. When the government prohibited religious chaplains from providing pastoral assistance to immigrant detainees, two resolute Roman Catholic Sisters, Pat Murphy, RSM and JoAnn Persch, RSM, gathered persons of faith and groups such as the Illinois Coalition for Immigrant and Refugee Rights to lobby legislators to open doors and permit

¹⁴¹ Blitzer, *Everyone*, 201.

¹⁴² Chicago Cold War: Adriana Portillo-Bartow, Civil Rights Digital Library, https://crdl.usg.edu/record/kai_chm-oh_333?canvas=0&x=465&y=322&w=1577.

visitations by chaplains.¹⁴³ That coalition later obtained passage of the Illinois Trust Act and the VOICES Act that prohibit immigration detention facilities in Illinois.¹⁴⁴ It is easier to free the captive called for in Luke 4:18 if no facility exists to contain them.

The Community Renewal Society, through its anti-racism and anti-poverty mission, partners not just with Sabeel in seeking justice, but expands its advocacy for just treatment of migrants and asylum-seekers as a member of the Chicago-based Sanctuary Working Group (SWG), a network of over 30 different member organizations, faith communities, and advocacy groups.¹⁴⁵ SWG supports and accompanies vulnerable migrants in their journey towards sustainable independence. SWG raises voices beyond the legal courts. At the same time, those testimonies establish evidence against contemporary violations of the rule of law.

Further building Kuttab's mass resistance, the testimonies of those whom ICE has oppressed have kindled participation in Palestinian protests linking ICE's disappearance of migrants into detention or expedited deportation to the forced displacement of Palestinians and Bedouins chanting and singing: "Together we will abolish ICE, this is for our families who are locked inside," and "Gaza, martyrs taken, you're not alone. I can hear my siblings crying end the siege, we ain't gonna stop 'til Palestine's free! Now we're in the struggle and we can't un-see, the violence of the Israeli war machine." Faith calls us to cry out that we cannot "un-see" the connected devastatingly destructive violence of the U.S. war machine and Israel's genocide.

Common sense and faithful action can help restore what has been lost. The issue, moreover, is not simply one for persons of faith to contest. Faith can bolster pragmatism. When

143 "The Sisters Sent a Message; (John 11:3): Perseverance, Presence, and Prayer," (June 30, 2017), https://www.youtube.com/watch?v=Zw7sSV57CbA&list=PLqiNbRnrKssNXfHwziOopL0RA51W_LsG7. See also, <https://icirr.org>.

144 Office of the Illinois Attorney General, "Safer Communities" <https://illinoisattorneygeneral.gov/Safer-Communities/Resources-for-Law-Enforcement/Law-Enforcement-And-Immigration/>.

145 <https://www.thesanctuaryworkinggroup.org/>.

United States faced its greatest domestic challenge, Abraham Lincoln condemned slavery, in part, “because it deprives our republican example of its just influences in the world—enables the enemies of free institutions, with plausibility, to taunt us as hypocrites” while forcing war amongst ourselves “with the very fundamental principles of civil liberty—criticizing the Declaration of Independence, and insisting that there is no right principle of action but *self-interest*.”¹⁴⁶ Trump and Netanyahu embrace personal self-interest above all other priorities, as their nations betray founding principles. Lincoln’s fears find a contemporary echo in Senator Bernie Sanders’ critique that Trump sustains Netanyahu’s murder of Palestinians in Gaza and engages in hypocrisy in challenging human rights violations in China while supporting Netanyahu’s terror.¹⁴⁷ Both Lincoln and Sanders prove Arendt’s conclusion that a nation state forfeits its very existence when it fails to provide equal justice and becomes an anarchic jungle.

Too often, political leaders, and those who seize power in more authoritarian societies, emphasize national security over civil liberty. Fear of the immigrant, fear of the refugee, fear of the Palestinians and their families exiled in 1948, and fear of the stranger leads to increased walls, detention, and deportation. Sometimes, religious voices may align with the political forces that prioritize national security. Others will fan the flames of fear and build higher walls to exclude the other. Human finitude and fear sway the balance toward reducing liberty in the name of security. The choice has been posed previously. In 1941, Supreme Court Justice, and head Nuremberg Prosecutor Robert Jackson foresaw the necessity of international law. If not,

¹⁴⁶ Abraham Lincoln’s speech at Peoria on October 16, 1854, quoted in Harold Holzer and Norton Garfinkel, *A Just and Generous Nation, Abraham Lincoln and the Fight for American Opportunity*, (Basic Books, 2015), 38.

147 Bernie Sanders, “A Revolution in American Foreign Policy, Replacing Greed, Militarism, and Hypocrisy With Solidarity, Diplomacy, and Human Rights,” *Foreign Affairs*, March 18, 2024, <https://www.foreignaffairs.com/united-states/revolution-american-foreign-policy-bernie-sanders>. He earlier argued, “It is absurd to criticize Netanyahu’s war in one breath and provide him another \$10 billion to continue that war in the next.” in “Bernie Sanders Calls Out the Absurdity and Hypocrisy of Continued U.S. Support for Netanyahu’s Horrific War, March 6, 2024,” <https://www.sanders.senate.gov/press-releases/prepared-remarks-bernie-sanders-calls-out-the-absurdity-and-hypocrisy-of-continued-u-s-support-for-netanyahus-horrific-war/>.

the nation would be forced to “outstrip the world in naval and air, and perhaps in military, force . . . making contributions a thousandfold greater to support a world war.”¹⁴⁸ The United States, with the largest military in the world, and Israel, which dedicates 4.5% of its GDP to its military, have diminished respect for international law while promoting war and genocide.¹⁴⁹ Both the United States and Israel have failed to heed Jackson’s warning to the world’s detriment.

Reliance on self-interest, profit-seeking defense industries, underscore Vaclav Havel’s prediction. In 1995, he wrote that humanity has lost its “transcendental anchor, self-respect.... Given its fatal incorrigibility, humanity probably will have to go through many more Rwandas and Chernobyls before it understands how unbelievably shortsighted a human being can be who has forgotten that he is not God.”¹⁵⁰ Replace Rwanda and Chernobyl with Palestine. Yet the powers and principalities continue to fund the genocide and start new wars.

In the face of such overwhelming force, it may only be the voice of the ones who have been victims that can remind us of the need for a rule of law that protects the vulnerable. After arguing that Israel has successfully used the rule of law to justify its actions, Erakat, nonetheless, does not give up on the law as a force for change. Noting the need for mass resistance, she argues, “politics are the forceful winds that mobilize change, and the law can be used in the service of those efforts.”¹⁵¹ Current events challenge each of us, however, that Gaza is but a harbinger of the world disintegrating and more mass killing.¹⁵² Resilience and resistance must continue.

148 Robert H. Jackson, “The Challenge of International Lawlessness,” *American Bar Association Journal* 27, no. 11 (1941): 690–3, at 690, 693.

149 Harper Ellis, “How Strong is Israel’s Military—a 2025 Analysis: Defense Feeds,” <https://defensefeeds.com/analysis/geopolitics/how-strong-is-israels-military/>.

150 Havel, Vaclav, “Forgetting That We Are Not God,” *First Things*, March 1995, quoted in Jean Bethke Elshtain, *Augustine and the Limits of Politics*, (Notre Dame University Press, 1995), 17.

151 Erakat, *Justice*, 19.

152 Chris Hedges, “Death House,” October 30, 2025, https://chrishedges.substack.com/p/the-death-house?utm_campaign=email-half-post&r=4pgnh9&utm_source=substack&utm_medium=email.

VI. Conclusion

Examining the rule of law through the narrative of refugees exposes international and domestic law's failure to protect, instead mutating into a tool of oppression. Erosion of a robust nonrefoulement regime throughout the world and the evisceration of Palestinian rights, like two strings of DNA, have replicated to magnify the disregard for equal justice.

Contemporary Christians' guilt over the Holocaust—something they did not control—leads them to neglect Palestinian rights resulting in genocide, apartheid, and unceasing efforts to erase a people. Ongoing amnesia regarding the purpose of refugee law that neglects the Jewish drafters' call to the prophets in inculcating humanitarian principles into the Convention,¹⁵³ exacerbates the tragedy. When nations build walls, deny asylum-seekers, and externalize refugee processing, they make the persecuted invisible, hardening the cataracts that blind us to injustice.

Imperfect as international law is, it took the tragedy of the Holocaust and the witness of the survivors to uphold the rights of those deprived of rights, through the Convention, the Protocol, and the Act. Imperfect as international law is, it remains in Isaac's words, "what we have. Human rights are not perfect, but they exist for a reason."¹⁵⁴ In addition to protecting the human, the one with God-given dignity, they also provide the platform to witness against those who acted with perceived immunity. It not only brings some to judgment, but when the asylum process permits applicants to testify and tell the story of the horrors, it reminds nations of first principles. Those voices call the world to bring Palestinian refugees within the protections of the Convention and the United States to honor its promises of non-refoulement and asylum protection.

¹⁵³ Ben-Nun, *Seeking Asylum*, 59.

¹⁵⁴ Isaac, *Rubble*, 132.

Some follow MAGA Jesus and build new Towers of Babel seeking white homogeneity by eliminating diversity. Some lawyers will defend unjust policies or file frivolous lawsuits to achieve such ends. But all have a choice. Silence is complicity.¹⁵⁵ The voices of Palestinian Christians and Muslims, whether in the occupied West Bank and Gaza or in the diaspora, along with tenacity of Indigenous Persons and African Americans in the United States, expand our humanity. Asylum seekers reveal the costs and benefits of witnessing to abuses of the rule of law and the corruption of self-interested authoritarian regimes. Their witness in the *ABC* settlement or the criminal conviction of a Salvadoran Colonel rescued the rule of law from itself. From the Sabeel Solidarity Pilgrimage, we have heard the testimonies of Palestinian Christians who have witnessed twenty empires come and go through their land yet reveal resilience and resistance to laws that “deny our existence and our dignity.”¹⁵⁶

In light of the ongoing tragedies, neither the rule of law by itself, nor the testimony of a particular faith community alone, may return justice under law. Those forced to flee from their native lands remain messengers of hope. Acting in solidarity with those messengers sustains the hope that faithfulness to God’s law to be a neighbor will call the nation-state to its purpose of “justice, truth, and human dignity.”¹⁵⁷

155 Albanese, *Sleeps*, xix; see also, McIntosh and Ranawana, *Complicity*, 464.

156 *Kairos I*, Par. 3.2.

157 *Kairos I*, Par. 3.4.3.

