

And Who is My Neighbor?: A Faith-Based Argument for Immigration Policy Reform in Welcoming Undocumented Refugees*

JONATHAN C. AUGUSTINE**

When an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as a citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt.†

Abstract

The January 6, 2021 insurrection at the Capitol in Washington, DC, revealed several things about the United States. In addition to revealing that an appropriate national moniker might be the “Divided States of America,” the insurrection also showed that Christian nationalism continues to play a pervasive role in the country. Indeed, in the aftermath of vigilante protestors wearing clothing and proudly waving flags that read, “Jesus is My Savior, Trump is My

* This Essay is dedicated to my daughter, Jillian Claire Augustine, an incredibly bright and talented college student who aspires to become a lawyer and pursue a career in social justice. Immigration policy is a social justice issue that will unquestionably occupy lawyers’ attention for generations to come. It is my prayer that, in blending together her intellect, passion for justice, and Christian faith, Jillian will participate in bringing change for her generation, wherever it is most needed. Special thanks are also extended to the members of the *Howard Law Journal*, for inviting me to participate in the 2022 Wiley A. Branton Symposium, and for the hospitality and professionalism they shared, in association with my visit and presentation, as well as the subsequent editing of this Essay. Any errors that may exist are mine alone.

** Senior Pastor, St. Joseph AME Church (Durham, NC); General Chaplain, Alpha Phi Alpha Fraternity, Inc.; Visiting Assistant Professor, North Carolina Central University Law School; Consulting Faculty, Duke University Divinity School. More information about the author can be found at www.jayaugustine.com. He may also be reached on social media platforms via the handle @jayaugustine9.

† Leviticus 19:33-34 (NRSV) (hereinafter all scriptural references are from the New Revised Standard Version of the Holy Bible, unless specifically noted otherwise).

President,” there has been no shortage of scholarly writings arguing that Christian nationalism is the greatest contemporary threat to American democracy.

Some leading sociologists highlight that Christian nationalism—also often referenced as *white* Christian nationalism—might be a misnomer because it has nothing to do with theology or any religious orthodoxy. Instead, with a basis in racialized power dynamics, it is a political framework that places America on par with the Bible’s nation of Israel, regarding the original United States as manifesting God’s intention for God’s chosen people in God’s chosen land. To therefore remain consistent with America’s *original* power structure of white, Anglo-Saxon, and Protestant dominion, Christian nationalism seeks to restore America’s order, with a particular national animus against Jews, minorities, and—to the focus of this Essay—*immigrants*.

The most recent nationalized animus against Jews has manifested with attempts to use Critical Race Theory as a wedge issue while concurrently attempting to ban books on the Holocaust from public schools and libraries. A nationalized animus has similarly manifested against minorities—especially in the wake of the Supreme Court’s infamous decision in *Shelby County v. Holder* (2013)—as many Southern states have enacted voter suppression laws deliberately targeting African Americans. In *N.C. State Conference of NAACP v. McCrory* (2016), for example, the U.S. Fourth Circuit Court of Appeal found unconstitutional a law from North Carolina that targeted Blacks with “almost surgical precision.” With respect to America’s failed immigration policies—especially since 2017, when the Trump Administration began with its direct appeal to Christian nationalism through its “Make America Great Again” policies—America has taken unabashed anti-Muslim and anti-Hispanic positions.

To support this Essay’s central thesis, that the xenophobia of Christian nationalism must be combatted with a faith-based ethic of welcome and resistance, this Essay limits its immigration policy consideration to the long-term residents I call *neighbors*, the only class of immigrants the United Nations legally classifies as “refugees,” or displaced immigrants legally seeking refuge from another country. Refugees are largely long-term U.S. residents who have lost their resident alien status because they missed the one-year window to apply for asylum. Because of the politics of Christian nationalism, however, along with the accompanying vile rhetoric

that vilifies so many hardworking members of society who contribute to the American economy, Congress has repeatedly failed to pass immigration reform legislation. Consequently, although refugees are meaningfully contributing to America, there is no legal mechanism for them to normalize their status within the country. It's time to pressure Congress to act.

In looking at refugees as neighbors, this Essay calls out the “otherism” and xenophobia of Christian nationalism while relying on the ethics of political theology in using the famed Parable of the Good Samaritan to explore “cosmopolitanism” and “communitarianism,” two divergent social viewpoints that produce divergent immigration politics. Insofar as cosmopolitanism favors open borders, and communitarianism favors border regulation through the sovereignty of nation-states, I urge faith-based leaders to adopt a position that is a synthesis of the two while also arguing for the same scriptural ethic of civil disobedience that has so often successfully been used, to again fight against Christian nationalism and work toward an inclusive and egalitarian society. This Essay calls on morally equipped faith leaders to initiate a rebirth of the 1980s Sanctuary Movement and serve as exemplars in placing pressure on Congress to move past gridlock and act for the good of America.

I. INTRODUCTION

For evangelicals, domestic and foreign policy are two sides of the same coin. Christian nationalism—the belief that America is God’s chosen nation and must be defended as such — serves as a powerful predictor of intolerance toward *immigrants*, racial minorities, and non-Christians.¹

I am both a law professor and an ordained Christian minister. I studied law and had the benefit of both seminary education and subsequent doctoral study. The consequence of my bi-vocational callings and service, to both legal education institutions and the Christian church, is that I see immigration and the United States’ failure to enact meaningful immigration reform laws at a time when they are most certainly needed, through both a legal and faith-based lens. That dual perspective is exactly why this Essay calls out America’s “otherism,”²

1. KRISTIN KOBES DU MEZ, *JESUS AND JOHN WAYNE: HOW WHITE EVANGELICALS CORRUPTED A FAITH AND FRACTURED A NATION* 4 (2020) (emphasis added).

2. I use the term “otherism” as a close derivative of xenophobia, in that it is rooted in a fear of the “Other.” Although otherism acknowledges differences in the social construct of race and social differences, based on sex and/or gender, it should not be confused with either racism

and challenges readers to introspectively pose the question, “And Who is My Neighbor?”

Although I *do not* embrace the myth that America is a “Christian nation,”³ I do believe Scripture should be a moral guide for Christianity’s faith adherents in America.⁴ As Glenn H. Utter writes in *Mainline Christians and U.S. Public Policy*, “Christian denominations express an openness to the immigration of people from other countries and a willingness to help them succeed in the United States. In justifying a humane immigration policy, members note a fundamental Christian value that strangers be made welcome. They cite scripture in support of this position.”⁵ Oddly enough, however, because of the reluctance of so many American pastors to be “political,”⁶ many evan-

or sexism. Otherism is more closely connected with the recently popularized “Great Replacement Theory” or “White Replacement Theory,” whereby some whites have voiced more opposition to Jews, minorities, and immigrants, for fear that said groups are replacing them in America’s social hierarchy and general population. See, e.g., Jonathan C. Augustine, *A Theology of Gumbo for the Divided States of America*, WHAT WENT WRONG (last accessed Jan. 13, 2023), <https://www.whatwentwrong.us/a-theology-of-gumbo-for-the-divided-states-of-america> (hereinafter Augustine, *A Theology of Gumbo*).

3. See, e.g., RICHARD T. HUGHES, MYTHS AMERICA LIVES BY: WHITE SUPREMACY AND THE STORIES THAT GIVE US MEANING 83 (2018) (“Nowhere does the Constitution mention God or any other religious symbol. And when, finally, the First Amendment to the Constitution speaks of religion for the very first time, it makes perfectly clear that ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.’ In other words, while the American people would be free to practice any religion, they would also be free to practice no religion at all.”); see also ANDREW L. SEIDEL, THE FOUNDING MYTH: WHY CHRISTIAN NATIONALISM IS UN-AMERICAN 9 (2019). In making the argument that the United States is *not* a Christian nation, Seidel notes that politicians are especially fond of perpetuating this myth, for political expediency, in riding the wave of Christian nationalism. In relevant part, he writes:

Politicians are some of the most vocal Christian nationalists. Presidential candidates seem particularly fond of repeating Christian nationalism claims. In the run-up to the 2016 election, Donald Trump was asked, point blank, ‘Do you believe that America was founded on Judeo-Christian principles?’ He replied in his prolix, disjointed fashion: ‘Yeah, I think it was . . . I see so many things happening that are so different from what our country used to be.’ . . . As president, he . . . often claimed that ‘in America we don’t worship government, we worship God.’

Id.

4. See generally, ELLEN CLARK CLÉMOT, DISCERNING WELCOME: A REFORMED FAITH APPROACH TO REFUGEES (2022); see also STEPHAN BAUMAN ET AL., SEEKING REFUGE: ON THE SHORES OF THE GLOBAL REFUGEE CRISIS 29 (2016) (providing that for those who profess to be Christians, the top authority on complex topics should be the Bible).

5. GLENN H. UTTER, MAINLINE CHRISTIANS AND U.S. PUBLIC POLICY 55 (2007).

6. With respect to clergy activism, I specifically distinguish between pastors who are “political” and the politics of “partisanship,” by noting that pastors’ engagement in politics is expected in Christian ministry. See, generally, JONATHAN C. AUGUSTINE, WHEN PROPHETS PREACH: LEADERSHIP AND THE POLITICS OF THE PULPIT (2023)(hereafter, AUGUSTINE, WHEN PROPHETS PREACH). Indeed, Jesus began his public ministry with a very *political* declaration:

The Spirit of the Lord is on me, because he has anointed me to proclaim good news to the poor. He has sent me to proclaim freedom for the prisoners and recovery of sight for the blind, to set the oppressed free, to proclaim the year of the Lord’s favor.

Luke 4:18-19. Moreover, in the wake of Martin Luther King, Jr.’s success in leading the Montgomery Bus Boycott, the genesis of the Civil Rights Movement, he addresses the nature of

gelical Christians only see immigration as a political, social or cultural issue, and have not considered the Bible's teachings on the subject as part of their faith journey.⁷ This Essay challenges readers to adopt perspectives on immigration that are consistent with Scripture while simultaneously encouraging faith adherents to engage in civil disobedience or *divine obedience* when the "laws of the land" conflict with the "laws of God."⁸

With a nod toward Jesus's interaction with a fellow Jew, a lawyer, and one of the Bible's most popular discourse's deliberate ambiguity as to the definition of a "neighbor," this Essay applies lessons from the Parable of the (Good) Samaritan to argue that its American readers should be guided by Jesus's teachings and reject the otherism that has become so widespread in America, especially since the emergence of the "Make America Great Again" ("MAGA") political narrative,⁹

Christianity, and impliedly its *political* birth amid Jewish marginalization within the Roman empire, by writing, "[t]he Christian ought to always be challenged by any protest against unfair treatment of the poor, for Christianity is itself such a protest." MARTIN LUTHER KING, JR., *STRIDE TOWARD FREEDOM: THE MONTGOMERY STORY* 93 (2001)(1958). The English word *politics*, as derived from the Greek language, literally means "affairs of the cities." See AUGUSTINE, *supra* note 6, at 19.

7. BAUMAN, ET AL, *supra* note 4, at 29.

8. See generally, Jonathan C. Augustine, *A Theology of Welcome: Faith-Based Considerations of Immigrants as Strangers in a Foreign Land*, 19 CONN. PUB. INT. L.J. 245 (2020) (hereinafter, Augustine, *A Theology of Welcome*); see also Jonathan C. Augustine, *The Theology of Civil Disobedience: The First Amendment, Freedom Riders, and Passage of Voting Rights Act*, 21 S. CAL. INTERDISCIPLINARY L.J. 255 (2012)(hereinafter, Augustine, *A Theology of Civil Disobedience*).

9. Although the "Make America Great Again" (a/k/a "MAGA") narrative is widely associated with the 2016 and 2020 presidential campaigns of Donald Trump, my use of the term is by no means limited to any individual or particular political campaign. See, e.g., AUGUSTINE, *WHEN PROPHETS PREACH*, *supra* note 6, at 18. Instead, my usage describes a socially regressive brand of politics often characterized by discrimination against immigrants, minorities, Jews, with roots in Christian nationalism. See, e.g., OBERY M. HENDRICKS, JR., *CHRISTIANS AGAINST CHRISTIANITY: HOW RIGHT-WING EVANGELICALS ARE DESTROYING OUR NATION AND OUR FAITH* (2021). In specifically identifying the brand of identity politics I describe as Christian nationalism, how it has been coopted by evangelical Christians, and how the same is deeply interwoven within the MAGA political narrative, Hendricks writes:

Christian nationalism not only purveys the myth that America was founded as a Christian nation but also that it should be governed according to the biblical precepts that Christian nationalists themselves identify as germane Thus, Christian nationalism is best understood as a political ideology that holds that America's government is not legitimate, nor can it be, until its laws and policies are thoroughly consistent with the Christian nationalists' narrow, sometimes idiosyncratic, and at times convoluted readings of the biblical text. Thus, while the tenants of evangelicalism essentially comprise right-wing evangelicals' religious beliefs, Christian nationalism is the political ideology that guides and motivates the pursuit of their social interests in the world. The spectacle we see taking place in the public square today is right-wing evangelicals' Christian nationalist convictions taking precedence over their religious beliefs. This is fully reflected in right-wing evangelicals' voter turnout for Donald Trump Indeed, despite his well-earned reputation for racism and moral indecency, those who most enthusiastically supported his candidacy are numbered among the most ardent evangelical believers.

and the resurgence of Christian nationalism,¹⁰ specifically, *white* Christian nationalism.¹¹ Indeed, this Essay's central thesis is that Christian nationalism's xenophobic otherism must be combatted with

Id. at 4. Further, in addressing MAGA's political significance, and the specific demographic it empowers, I also write:

'Make America Great Again,' Trump's 2016 campaign slogan, was aimed squarely at the bloc of voters who viewed the last half century's post-Civil Rights Movement changes as negative Trump promised to turn back the clock to a time when members of the white working class enjoyed greater influence and respect. Moreover, although racial divisions in the United States are anything but new, Trump's incendiary campaign rhetoric capitalized on the racial enmity that was simmering during the Obama presidency.

JONATHAN C. AUGUSTINE, CALLED TO RECONCILIATION: HOW THE CHURCH CAN MODEL JUSTICE, DIVERSITY AND INCLUSION 73 (2022).

10. Sociologists Andrew Whitehead and Samuel Perry argue that the United States currently has several cultural and political issues driving a wedge down the middle of its existence, including immigration reform, mass shootings, and racial injustice. ANDREW L. WHITEHEAD & SAMUEL L. PERRY, TAKING AMERICA BACK FOR GOD: CHRISTIAN NATIONALISM IN THE UNITED STATES ix (2020). In attempting to contextualize Christian nationalism, an often-misunderstood factor that contributes to the country's increasing polarization, the authors write the following:

Though journalists and historians have bandied about the term a good deal in the past decade, we mean 'Christian nationalism' to describe an ideology that idealizes and advocates a fusion of American civic life with a particular type of Christian identity and culture. We use 'Christian' here in a specific sense. We are not referring to a doctrinal orthodoxy or personal piety. (In fact, we find some Christian nationalists can be quite secular.) Rather, the explicit ideological content of *Christian* nationalism comprises beliefs about historical identity, cultural preeminence, and political influence This includes symbolic boundaries that conceptually blur and conflate religion religious identity (Christian, preferably Protestant) with race (white), nativity (born in the United States), citizenship (American), and political ideology (social and fiscal conservative). Christian nationalism, then, provides a complex of explicit and implicit ideals, values and myths—what we call a 'cultural framework'—through which Americans perceive and navigate their social world.

Id. at ix-x (emphasis in original). Further, in *The Flag and the Cross*, the authors write, "[w]e define white Christian nationalism and identify white Christian nationalists using a constellation of beliefs. These are beliefs that, we argue reflect a desire to restore and privilege the myths, values, identity and authority of a particular ethnocultural tribe." PHILLIP S. GORSKI & SAMUEL L. PERRY, THE FLAG AND THE CROSS: WHITE CHRISTIAN NATIONALISM AND THE THREAT TO AMERICAN DEMOCRACY 14 (2022). Moreover, in describing that *particular* tribe (white, Anglo-Saxon Protestants) the authors go on to share that the tribe's political vision privileges it, to the exclusion of others, while putting the other tribes (*i.e.*, immigrants, minorities, and Jews) in their "proper" place. *Id.*

11. Anthea Butler describes this phenomenon of Christian nationalism, and specifically *white* Christian nationalism, as, "the belief that America's founding is based on Christian principles [and that], white [P]rotestant Christianity is the operational religion of the land, and that Christianity should be the foundation of how the nation develops its laws, principles, and policies." Anthea Butler, *What is White Christian Nationalism?*, in CHRISTIAN NATIONALISM AND THE JANUARY 6, 2021 INSURRECTION 4 (FEB. 9, 2022), https://bjconline.org/wp-content/uploads/2022/02/Christian_Nationalism_and_the_Jan6_Insurrection-2-9-22.pdf. Butler also goes on to provide:

Understanding this phenomenon requires an understanding of the basic ways white Christian nationalism has worked as a unifying theme for a particular type of narrative about America. That narrative can be summed up as follows:

1. America is a divinely appointed nation by God that is Christian.
2. America's founders, rather than wanting to disestablish religion as a unifier for the nation, were in fact establishing a nation based on Christian principles, with white men as its leaders.

a faith-based theology of welcome, *not* open borders, that sees immigrants, in general, and refugees, in particular,¹² as fellow human beings who are worthy of humane treatment.¹³

A. The Parable of the *Good Samaritan* and this Essay's Focal Question

In the popular parable, a lawyer—likely a pharisaic theologian who was well-schooled in Mosaic law, also known as the Torah—tries to trick Jesus with a question about how he would go about inheriting eternal life.¹⁴ While deliberately not directly answering the lawyer's question, Jesus tells him about three passersby who meet a man left for dead on the side of the road.¹⁵ Two of the passersby, a priest and a Levite, are both Jewish, just as is presumed about the wounded man in desperate need of assistance.¹⁶ They each go to the other side of the road to avoid any contact with their fellow wounded Jew.¹⁷ The third passerby, however, a *Samaritan* — someone of a different race and/or ethnicity—is moved to action.¹⁸

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3. Others (Native Americans, enslaved Africans, and immigrants) would accept and cede to this narrative of America as a Christian nation and accept their leadership.
 4. America has a special place not only in world history, but in biblical Scripture, especially concerning the return of Christ.
 5. There is no separation between church and state.

Id. at 4-5.

12. Within the United States' immigration system, there are five broad categories used to classify people: (1) a United States citizen; (2) a lawful permanent resident; (3) a nonimmigrant; (4) an undocumented or unauthorized foreign national; and (5) a refugee. AYODELE GANSALLO & JUDITH BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE 3 (2d ed. 2020). Within the foregoing classifications, a *refugee* is specifically categorized as:

[A] foreign national who faces persecution in his or her home country and has been granted protection so that s/he does not have to return there. Those who enter the United States as refugees receive their status while outside the country; individuals already physically present in the United States who seek protection apply for asylum and, if granted, are known as asylees. Refugees and asylees are expected to apply for lawful permanent resident status after one year of the grant of their protective status and eventually can apply to become citizens.

Id. There is also an ethical issue of disconnect worth noting. The United Nation's Convention on the Status of Refugees of 1951 assures refugees seeking asylum in another nation-state that they will not be returned to the country from which they fled. Under the United States' policies, however, an unauthorized resident seeking asylum *is not* considered a refugee for purposes of applying the Convention. CLÉMOT, DISCERNING WELCOME, *supra* note 4, at 9 (internal citations omitted).

13. For a more comprehensive exploration of why Christian ministers are called to the work of social justice, through prophetic leadership, especially in responding to America's current immigration crisis. *See generally*, AUGUSTINE, WHEN PROPHETS PREACH, *supra* note 6, at 83-98.

14. *Luke* 10:25.

15. *Luke* 10:30-33.

16. *See Id.*

17. *Id.*

18. *See Luke* 10:33-35.

Considering the well-known differences between Jews and Samaritans, Jesus was obviously trying to prove a point about moving past otherism and unconscious bias and embracing an ethic of empathy. With this famous parabolic discourse, Jesus also recontextualizes what it means to be a “neighbor” to someone in need. Consider the following:

Just then a lawyer stood up to test Jesus. ‘Teacher,’ he said, ‘what must I do to inherit eternal life?’ He said to him, ‘What is written in the law? What do you read there?’ He answered, ‘You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind; and your neighbor as yourself.’ And he said to him, ‘You have given the right answer; do this, and you will live.’

But wanting to justify himself, he asked Jesus, ‘And who is my neighbor?’ Jesus replied, ‘A man was going down from Jerusalem to Jericho, and fell into the hands of robbers, who stripped him, beat him, and went away, leaving him half dead. Now by chance a priest was going down that road; and when he saw him, he passed by on the other side. So likewise a Levite, when he came to the place and saw him, passed by on the other side. But, a Samaritan, while traveling, came near him; and when he saw him, he was moved with pity. He went to him and bandaged his wounds, having poured oil and wine on them. Then he put him on his own animal, brought him to an inn, and took care of him. The next day he took out two denarii,^[b] gave them to the innkeeper, and said, ‘Take care of him; and when I come back, I will repay you whatever more you spend.’ Which of these three, do you think, was a neighbor to the man who fell into the hands of the robbers?’ He said, ‘The one who showed him mercy.’ Jesus said to him, ‘Go and do likewise.’¹⁹

Rather than directly responding to the lawyer’s question, Jesus creates a space for introspective reflection on the duty people of faith have in responding to those in need. Indeed, Martin Luther King, Jr. addressed this parable while speaking the night before his assassination in Memphis, Tennessee, noting that although the priest and the Levite asked the question, “If I stop and help this man, what will happen to me?”, the Samaritan appropriately reversed the question, “If I *do not* stop and help this man, what will happen to him?”²⁰

19. *Luke* 10:25-37.

20. MARTIN LUTHER KING JR., *I See the Promised Land*, in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR.* 285 (James M. Washington ed., 1986) (emphasis added).

As the *Howard Law Journal* 2022 Wiley A. Branton Symposium illustrates, so many immigrants are in the same position as the nameless man, “left for dead,” in that they desperately need assistance, too. Moreover, because of the parable’s background—the cultural and ethnic differences that existed between Jews and Samaritans—Jesus is also giving a lesson on human commonality and the necessity that we move past social constructs, like race, to help one another, as fellow members of the human race. As an action item, therefore, this Essay also urges readers to contact their respective congressional representatives and demand that Congress exercise its plenary authority to enact meaningful immigration reform laws that are guided by a spirit of welcome for both documented and undocumented refugees,²¹ people in American communities who are already living as our “neighbors.”²²

B. This Essay’s Structural Organization

To support this Essay’s thesis, that the xenophobia of Christian nationalism must be combatted with a faith-based ethic of welcome and resistance, this Essay structurally proceeds in five parts. In building upon the foundation established in this Introduction, Part II contextualizes the xenophobic ideology of Christian nationalism by first looking at its most popular recent example, the January 6th insurrection, an illustration of how Christian nationalism attempts to preserve the status quo in America, with white Protestantism at its core. Further, with fear as a focal point, Part II also looks at America’s practice of (un)welcome, in how immigrants have been treated in recent years,

21. In the American context, “Immigrants are typically classified as either documented or undocumented people who are nationals of another country but are living in the United States.” Augustine, *A Theology of Welcome*, *supra* note 8, at 253. This Essay deliberately focuses on “refugees,” a subset of immigrants. See AYODELE GANSALLO & JUDITH BERNSTEIN-BAKER, *UNDERSTANDING IMMIGRATION LAW AND PRACTICE* 3 (2d ed. 2020). As Clémot makes clear, although refugees are a particular class of immigrants named by the United Nations, they have often engaged in the American *polis* as employees, taxpayers, and literal neighbors.

Refugees who are long-term residents in the US, without authorized resident alien status, are typically people who have overstayed their immigrant visas. These refugees want to apply for asylum. They want to become naturalized, legally documented residents as fully members of society. But there is no legal mechanism to normalize their legal status. They often fly into the US from great distances and are initially given access to the country legally, and temporarily, as tourists. But many non-English-speaking refugees arriving in the US are not aware of the one-year window to apply for asylum—or fail to understand the procedures to follow when their tourist visas expire. If arriving refugees follow the procedure on how to be recognized as ‘legal’ refugees upon arrival, or soon thereafter, they could be on a pathway to US citizenship. But many refugees make tragic procedural missteps upon their arrival in the US, with irreversible consequences.

CLEMOT, *DISCERNING WELCOME*, *supra* note 4, at xiv-xv.

22. *See id.*

partially because of economic fears and the MAGA narrative's race-based politics.

In building upon Part II's contextualization of *white* Christian nationalism, Part III pivots to explore examples of the practice of welcome evidenced in Scripture, with Jesus as the ultimate example of an immigrant refugee. Part IV transitions from a scriptural to historical perspective, providing a high-level overview of America's legal history in immigration, while also highlighting the racial and ethnic discrimination that has always existed within the American immigration system, to emphasize that only Congress can enact meaningful reform laws in response to America's dire need for the same. Part V serves as a synthesis by revisiting Jesus's lesson, in response to the lawyer's question, "Who is my neighbor?" by encouraging all to welcome those refugees already living in America, while also urging readers to contact their congressional representatives to demand that Congress act.

II. THE OTHERISM WITHIN WHITE CHRISTIAN NATIONALISM SEEKS TO PRESERVE THE STATUS QUO AND KEEP IMMIGRANTS OUT OF AMERICA

A. America's Two Perspectives on Immigration

The United States has two very different perspectives on immigration.²³ Inasmuch as both perspectives are literally as old as America itself, both perspectives also have a very relevant place, in terms of today's political dichotomy of attitudes towards immigrants. Consider the following:

The history of the United States immigration policy reflects the tension of the two Americas that has been a part of the national debate since the founding of the country. As some colonists frowned upon German speakers, others attacked Catholics and Quakers. By the time the nation's second president, John Adams, took office, the debate was on between the two visions of America—one nativistic and xenophobic, the other embracing of immigrants. . . . As such,

23. The United States has a well-documented history of treating different immigrants—based on race, ethnicity, and socioeconomic status—*differently*. As the authors of *Immigration Law and Social Justice* remind us:

There have always been two Americas. Both begin with the understanding that America is a land of immigrants. One America has embraced the notion of welcoming newcomers from different parts of the world, although depending on the era, even this more welcoming perspective may not have been open to people from certain parts of the world or different persuasions.

BILL ONG HING ET AL., *IMMIGRATION LAW AND SOCIAL JUSTICE* 12 (2d ed. 2022).

the country has generally moved forward with policies that fall somewhere in the middle.²⁴

I respectfully argue that at the center of these divergent perspectives — acting almost like a line of demarcation—is the Bible’s perspective(s) on immigration.²⁵

One American perspective of “enlightenment and welcome” has been supported by progressive, faith-based policies that seek commonality with geographic neighbors, especially those fleeing religious persecution from their countries of origin.²⁶ This perspective sees America as a place that provides refuge and hope to nationals of other lands, especially those who immigrate to America’s borders in search of opportunity. Indeed, George Washington is reported to have said, “[t]he bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions.”²⁷

In yesteryear, as people began populating America in specific waves, and as those waves became associated with discernable racial and ethnic groups, this enlightenment and welcome perspective lent itself to the popular cliché that America is a “melting pot.” As a physical reminder of this perspective, Ellis Island’s Statute of Liberty, dedicated as a gift from France in 1886, includes the following words, from the Jewish-American poet, Emma Lazarus, as defined at the statute’s base:

Give us your tired, your poor,
Your huddled masses yearning to
breathe free,
The wretched refuse of your teeming shore,
Send these,
the homeless, tempest-tost to me.
I lift my lamp beside the golden
door!²⁸

24. *Id.* at 13.

25. As an irony, the Bible also depicts two different perspectives on immigration, in the books of *Genesis* and *Exodus*, as Egypt was under the leadership of two different pharaohs. In *Genesis*, when Joseph’s Hebrew father and brothers fled famine and sought refuge in Egypt, that pharaoh welcomed the Israelite immigrants and offered them the best of the land. *See Genesis* 47:6. Conversely, however, the pharaoh depicted in *Exodus* believed that Joseph’s Hebrew descendants had “become far too numerous” and consequentially presented risks to national security. *See Exodus* 1:9. The same fear articulated by the *Exodus* pharaoh is the fear undergirding the White Replacement Theory’s anti-immigrant bias, *see, e.g.*, Augustine, *A Theology of Gumbo*, *supra* note 2, and the xenophobia behind Trump’s immigration policies. *See generally*, Augustine, *A Theology of Welcome*, *supra* note 8, at 247-48.

26. *See, e.g.*, CLÉMOT, DISCERNING WELCOME, *supra* note 4, at xi (introducing readers to Roby, an Indonesian refugee who fled religious persecution and was active as a member of the congregation Clémot serves, until Immigration and Custom Enforcement agents arrested him after dropping his daughter off at her New Jersey high school).

27. HING ET AL., *supra* note 23, at 11 (internal citations omitted).

28. *Id.*

With respect to that figurative golden door of entry into the United States, there is indeed a popular expression that provides, “America is a nation of immigrants.”²⁹

As a sharp contrast, however, the other perspective is one of (un)welcome. It is supported by a brand of *white* Christian nationalism that sees America as “set apart” by divine order and operating independently from the Jews, minorities, and immigrants who want to live in the American neighborhood where only *real* Americans are welcome. Based on my argument of how *white* Christian nationalism influences the immigration debate, consider the following:

‘[W]ho is American’ has been defined and redefined throughout our history. When restrictionists—the standard bearers of the Eurocentric real American concept—have had their way, exclusionist rationales have been codified reflecting negative views toward particular races or nationalities, political views (e.g., communists or anarchists), religions (e.g., Catholics, Jews, Muslims), or social groups (e.g., illiterates, homosexuals). Those grounds for exclusion are every bit about membership in a Eurocentric American standard that requires that undesirables be kept out.³⁰

Inasmuch as white Christian nationalism seeks to maintain the status quo of God’s “intended order” for America, its most popularized example is arguably the infamous January 6, 2021 insurrection. It exemplifies the same politics of fear that undermine America’s anti-immigrant animus.

29. This general statement must be qualified, from an African American perspective, because America’s foundational system of chattel slavery laid a foundation for the country’s racially infused immigration system. Professor Rhonda V. McGee addresses this reality by writing: [S]lavery was, in significant part . . . an immigration system of a particularly reprehensible sort: a system of state-sponsored forced migration human trafficking, endorsed by Congress, important to the public fisc as a source of tax revenue, and aimed at fulfilling the need for a controllable labor population in the colonies, and then in the states, at an artificially low economic cost.

Rhonda V. Magee, *Slavery as Immigration?*, 44 U.S.F. L. REV. 273, 277 (2009). Professor Magee goes on to posit a compelling perspective that should be considered along with the popular saying that “America is a nation of immigrants.”

[V]iewing immigration as a function of slavery reveals an important irony: that with respect to immigration, slavery—our racially based forced migration system—laid a foundation for both a racially segmented, labor-based immigration system, and a racially diverse (even if racially hierarchal) ‘nation of immigrants’ . . .

Id. at 298.

30. HING ET AL., *supra* note 23, at 12.

B. The Politics of Fear: The January 6 Insurrection Was About Maintaining Power

In the aftermath of the November 2020 national elections—where more people voted than any time in American history—violent and vigilante MAGA loyalists stormed the Capitol, seeking to prevent certification of the presidential election results.³¹ Their common ground was a passion fueled by Trump’s unfounded allegations that the election was stolen.³² Although Trump gave an incendiary speech to a mob of supporters just prior to the actual insurrection,³³ his allegations originated months and months before early voting began.³⁴

Several of the insurrectionists were photographed in the crowd, either wearing clothing or holding up flags that read, “Jesus is My Sav-

31. While serving as vice president of the United States during the Trump administration, Mike Pence presided over the January 6, 2021 certification of Electoral College ballots, as mandated by the Twelfth Amendment. “The President of the Senate *shall*, in the presence of the Senate and House of Representatives, open all the certificates and the votes *shall* be counted” U.S. CONST. amend. XII (1804) (emphasis added). Then-President Trump put pressure on Pence to reject the election results, calling him a vulgar obscenity that suggested Pence lacked the courage to do something that wasn’t within his discretion in the first place. Peter Baker et. al, *Pence Reached His Limit with Trump. It Wasn’t Pretty: After Four-Years of Tongue Biting Silence that Critics Say Enabled the President’s Worst Instincts, the Vice President Would Not Yield to the Pressure and Name-Calling from His Boss*, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/12/us/politics/mike-pence-trump.html>. Without apparently reading the Constitution, Capitol insurrectionists were rallied by Trump’s baseless election fraud claims and attempted to “take back” the country and “take out” the vice president while they were at it. Dan Berry et. al, *Our President Wants Us Here’: The Mob That Stormed the Capitol*, N.Y. TIMES (Jan. 9, 2021), <https://www.nytimes.com/2021/01/09/us/capitol-rioters.html?auth=Login-google1tap&login=Google1tap>.

32. The 2020 Democratic ticket of Joe Biden, vice president in the administration of Trump’s predecessor, Barack Obama, and Kamala Harris, then-serving as a United States senator from California, won several states that Trump carried four-years earlier, in 2016. Included among them was Georgia, a state Democrats had not carried since 1992, when Bill Clinton and Al Gore defeated George H.W. Bush and Dan Quayle. See, e.g., *1992 Presidential Election*, 270 TO WIN, https://www.270towin.com/1992_Election. Although Trump alleged Georgia was one of the states that was stolen because of election fraud, Georgia’s Republican secretary of State definitively rebuked Trump’s allegation as baseless. Quinn Scanlan, “*We’ve Never Found Systemic Fraud, Not Enough to Overturn the Election*”: Georgia Secretary of State Raffensperger Says, ABC NEWS (Dec. 6, 2020), <https://abcnews.go.com/Politics/weve-found-systemic-fraud-overturn-election-georgia-secretary/story?id=74560956>.

33. As a result of his incendiary January 6th speech to the Capitol insurrectionists, Trump was impeached, *for a second time*, by the United States House of Representatives. VICTORIA F. NOURSE, *THE IMPEACHMENTS OF DONALD TRUMP: AN INTRODUCTION TO CONSTITUTIONAL INTERPRETATION* 189 (2021). Trump’s lawyers defended his actions, in a trial before the United States Senate, by arguing that in addition to being denied due process, his underlying remarks were protected by the First Amendment as free speech. *Id.* at 258 (citing 167 Cong. Rec. S667-S682 (daily ed. Feb. 12, 2021)).

34. Steve Inskeep, *Timeline: What Trump Told Supporters Months Before They Attacked*, NPR (Feb. 8, 2021), <https://www.npr.org/2021/02/08/965342252/timeline-what-trump-told-supporters-for-months-before-they-attacked>.

ior, Trump is My President.”³⁵ Such items show both dual allegiances and conflated ideology, causing sociologists to categorize such people as (white) Christian nationalists. Although some argue the term *Christian* nationalism is a misnomer in that the identity politics of a “cross and country” conflation has nothing to do with any church-related orthodoxy, well-respected scholars recognize the practice as emanating from a national theology that regards America as God’s chosen people.³⁶

Further, in the eyes of some, any threat to God’s “original” establishment of the hierarchy of America—including the inclusion of *immigrants*, minorities, and non-Christians as part of America’s sociopolitical order—is antithetical to God’s intention for God’s “chosen nation.”³⁷

Although the most visible act of Christian nationalism is arguably the insurrection, the basis of its origins runs deep in America’s social fabric.³⁸ In *The Flag and the Cross*, the authors explain the fear that

35. See, e.g., Nathan Empsall, *Rejecting the January 6 Attack in Christ’s Name*, *Opinion*, NEWSWEEK (Jan. 5, 2022), <https://www.newsweek.com/rejecting-january-6-attack-christs-name-opinion-1666103>.

36. English Protestants had long drawn a parallel between England and ancient Israel and, in the new colonial territory that would become the United States, the parallel was made even more compelling. Just as some believed God led the Israelites out of Egypt, in crossing the Red Sea and into the Promised Land, some drew a connection to the Puritans’ journey out of England and across the Atlantic Ocean, into another “promised land.” HUGHES, *MYTHS AMERICA LIVES BY*, *supra* note 3, at 42.

37. Butler, *What is White Christian Nationalism?*, *supra* note 11, at 4.

38. The Puritans, a group of late sixteenth and seventeenth century English Protestants, regarded the English Reformation as incomplete and came to the American colonies seeking to “purify” the Church of England and society itself. In noting their cultural influence, consider the following:

To the Puritans, the new land was not just a place where they could freely exercise their religion. It was literally the New Israel, the Promised Land on which the faithful could build a holy commonwealth unencumbered by Old World corruption. The Puritans called their mission an ‘Errand in the Wilderness’ and saw it as divinely ordained. To use the celebrated Puritan phrase, America was to be a ‘city upon a hill,’ a light to all nations. This sense of the nation’s providential destiny has infused many aspects of American politics, from the ‘manifest destiny’ of westward expansion to various initiatives by presidents.

ALLEN D. HERTZKE ET AL., *RELIGION AND POLITICS IN AMERICA: FAITH CULTURE AND STRATEGIC CHOICES 2* (2019). In *The Flag and the Cross*, the authors also argue that, although white Christian nationalism’s roots run deep, it was largely obscured until the January 6 insurrection. In discussing the forces Trump was able to tap into in sparking the insurrection, they write, “[w]hite Christian nationalism is a ‘deep story’ about America’s past and a vision for its future. It includes cherished assumptions about what America was and is, but also about what it *should* be.” (emphasis in original). The authors illustrate their “should be” by contrasting a place where, although they have been patiently waiting in line and working toward the American dream, politicians like Barack Obama and Hillary Clinton are helping immigrants, minorities, and other people who haven’t paid their dues jump to the front of the line. GORSKI & PERRY, *THE FLAG AND THE CROSS*, *supra* note 10, at 3-4.

dominates and sometimes fuels Christian nationalism, especially as it relates to democratic structures in the United States.³⁹ Gorski and Perry argue that demographic changes are a key factor. In relevant part, they write:

As white Christians approach minority status, white Christian nationalists are starting to turn against American democracy. After all, the basic principle of democratic government is majority rule. So long as white Christians were in the majority and could call the shots, they were willing to tolerate a certain amount of pluralism, provided that ‘minorities’ did not insist too much on equality. Now, faced with the prospect of minority status themselves, some members of the old white majority are embracing authoritarian policies as a means of protecting their ‘freedom.’⁴⁰

Just as the underlying fear of white Christian nationalism motivated the insurrectionists, the same fear motivates America’s *(un)welcome* toward immigrants, too.

C. The MAGA Practice of (Un)welcome: How Xenophobic “Otherism” Fuels the Immigration Debate

In a day and age when many Americans are justifiably concerned about the economy, the politics of white Christian nationalism can use economic fears as a basis to practice *(un)welcome* policies towards immigrant refugees. Indeed, many Americans have been influenced by political rhetoric that immigrants not only drain the economy but are taking away American jobs.⁴¹ “The presumption at the root of these concerns is that resettling refugees means a net *cost* to the national economy of the country that receives them. Interestingly, while many Americans believe that refugees and immigrants more broadly are a ‘drain’ on the economy, economists almost universally reach a different conclusion.”⁴² Research instead shows that immigrants have a *positive* impact on the economy of the country that receives them, partly because they are consumers, paying rent, buying food, cars, gas

39. *See id.*

40. *Id.* at 8 (internal citations omitted); *see also* ROLAND S. MARTIN, *WHITE FEAR: HOW THE BROWNING OF AMERICA IS MAKING WHITE FOLKS LOSE THEIR MINDS* 1 (2022) (“a 2018 Pew Research Study showed that almost half (49 percent) of post-millennials (ages six to twenty-one) are Hispanic, African American, and Asian. By 2043, these growth trends among people of color will continue, and it is expected that less than 47 percent of the country will be White Americans.”).

41. BAUMAN ET AL., *SEEKING REFUGE*, *supra* note 4, at 66-67.

42. *Id.* at 66 (emphasis in original).

cell phones, et cetera, and their purchasing power leads to profits for American businesses that go on to hire more people.⁴³

In specifically addressing the economic issue of immigration, and debunking the credibility of popular cultural fears that immigrants take away from the American economy, the authors of *The Everyday Crusade: Christian Nationalism in American Politics* document:

In 2017, the Bureau of Labor Statistics estimated foreign-born workers constituted 16.9 percent of the American labor force. The nation would be unable to meet its economic needs without the presence of immigrants who fill a variety of occupations requiring either a certain skill level or that are undesirable to native-born workers. Immigrants have taken on physical labor occupations, such as farming and construction.⁴⁴

Moreover, “[m]ost economists also agree that the average American-born worker actually sees their wages *positively* impacted by the presence of immigrants, because most immigrants tend to work in fields that *complement*, rather than compete with, the work that most Americans are either willing or able to do.”⁴⁵ This shows that immigrants play a positive part in contributing to the American economy.

The fear of losing power, as exemplified by the January 6, 2021 Insurrection, along with economic fears, are only two aspects of America’s historic practice of (un)welcome. As part of the United States’ perspective of (un)welcome, immigrants have always been vilified in American culture.

Immigrants become easy targets for harsh treatment because they have a distinctly negative image in popular culture [T]he emotion-laden phrase ‘illegal aliens’ figures prominently in popular debate over immigration. ‘Illegal aliens,’ as their moniker strongly implies, are law-breakers, abusers, and intruders, undesirables we want excluded from our society. The very use of the term ‘illegal aliens’ ordinarily betrays a restrictionist bias in the speaker. By stripping real people of their humanity, the terminology helps rationalize the harsh treatment of undocumented immigrants⁴⁶

43. *Id.* at 66-67.

44. ERIC L. MCDANIEL ET. AL., *THE EVERYDAY CRUSADE: CHRISTIAN NATIONALISM IN AMERICAN POLITICS* 114 (2022).

45. BAUMAN, ET AL, *supra* note 4, at 67. It also bears noting that, “[e]conomists also find that immigrants positively impact the fiscal well-being of the nation that receives them, paying more in taxes than they receive in benefits.” *Id.* (citing Organization for Economic Cooperation and Development, “Is Migration Good for the Economy?”, available at <https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf> (May 2014)).

46. HING ET AL., *IMMIGRATION LAW AND SOCIAL JUSTICE*, *supra* note 23, at 14.

This part of America's history, rooted in xenophobic otherism, was arguably never more pronounced than with the emergence of the MAGA political narrative and the presidential candidacy of Donald Trump.⁴⁷

As part of Trump's 2016 presidential campaign rhetoric, he vilified Mexicans as "rapists and murders,"⁴⁸ and subsequently separated migrant children from their families at the US/Mexico Border.⁴⁹ As a central part of his 2016 campaign, Trump also promised to build a border wall, which was a promise that spoke to a specific segment demographic. "[A]s Americans more closely connect Christian identity with America civil belonging, they become more likely to believe that immigrants undermine American culture and increase crime rates. Unsurprisingly, they are also all the more eager to reduce immigration into the United States."⁵⁰ Indeed, in addressing MAGA's impact on white evangelical Christians, Kristen Kobes Du Mez writes, "[w]hite evangelicals are more opposed to immigration reform and have more negative views of immigrants than any other religious demographic; two-thirds support[ed] Trump's border wall."⁵¹

In *When Prophets Preach*, I describe what some of the (un)welcome immigrants have experienced, certainly because of Trump, but more importantly because of the white Christian nationalism that was so heavily interwoven into Trump's MAGA politics:

47. According to the authors of *Welcoming the Stranger*, most immigrants living in the United States—regardless of their classification, see GANSALLO & BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE, *supra* note 12, at 3—are legally in the country. "Of an estimated 44.7 million people born outside but living inside the United States, about twenty million are already naturalized US citizens, and roughly twelve million are Lawful Permanent Residents . . . Most foreign-born individuals—about three out of four—are present lawfully." MATTHEW SOERENS & JENNY YANG, WELCOMING THE STRANGER: JUSTICE, COMPASSION & TRUTH IN THE IMMIGRATION DEBATE 23 (revised & expanded) (2018).

48. See, e.g., Michelle Ye Hee Lee, *Donald Trump's False Comments Connecting Mexican Immigrants and Crime*, THE WASHINGTON POST (July 8, 2015), <https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime>.

49. While exploring some of the Trump administration's policies, and its MAGA governance, the popular evangelical author Jim Wallis writes, regarding the separation of migrant children from their families at the U.S/Mexico border:

This inhumane practice was directly and admittedly part of the new administration's 'zero tolerance' immigration policy, designed to deter immigrant families from coming to America, and to systematically decrease immigration in the United States—not just undocumented immigrants but legal immigration too—especially from nations of color. All this derived from their overall white nationalist agenda, which appeals to their select political base

JIM WALLIS, CHRIST IN CRISIS: WHY WE NEED TO RECLAIM JESUS 34 (2019).

50. WHITEHEAD & PERRY, TAKING AMERICA BACK FOR GOD, *supra* note 10, at 92-93.

51. DU MEZ, JESUS AND JOHN WAYNE, *supra* note 1, at 4.

Trump's campaign promised to build a border wall to prevent (illegal) immigration and ultimately stop the continued growth of the United States' immigrant population., which spoke to the worst impulses of a specific American demographic that longed for a return for the 'white rule' of yesteryear. Indeed, such rhetoric emboldens those white nationalists who embrace the so-called replacement theory, a fear that immigrants, minorities, and Jews are replacing white Protestants in America's social hierarchy. With a foundation supported by beliefs in the United States' 'manifest destiny,' such language of *unwelcome* goes hand in hand with the rise of white Christian nationalism in the United States.⁵²

This is the type of rhetoric that goes to the heart of group polarity, as it capitalizes on fear to drive wedges of division between racial and ethnic groups in America.

In September 2017, during the Trump administration's first year, the government announced its intent to wind down the Deferred Action for Childhood Arrivals Program, popularly known as DACA.⁵³ Even more polarizing, however, before the administration's six-month mark, in July 2017, Trump was looking for a list of how many immigrants had received visas to enter the United States, after his outspoken campaign promises to limit immigration while arguing immigrants from Nigeria would ever "go back to their huts," only to be followed by a discussion on protections for immigrants from Haiti, El Salvador, and Africa, wherein Trump questioned "Why are we having all these people from shithole countries here?"⁵⁴

Further, an August 2019 issue of *The New York Times* also highlights how Trump's immigration policies were disproportionately targeted at Mexican nationals.⁵⁵ Considering that the longest government shutdown in American history resulted from Trump's demand for \$5.7 billion dollars to build a U.S.-Mexico border wall, it is safe to say that immigration was one of his administration's most controversial matters.⁵⁶ Most notably, the shutdown had little to do with na-

52. AUGUSTINE, *WHEN PROPHETS PREACH*, *supra* note 6, at 90 (emphasis in original).

53. *Id.* at 92 (internal citations omitted).

54. JOHN SIDES ET AL., *IDENTITY CRISIS: THE 2016 PRESIDENTIAL CAMPAIGN AND THE BATTLE FOR THE MEANING OF AMERICA 201* (2018) (internal citations omitted).

55. Michael D. Shear et al., *Trump's Policy Could Alter the Face of the American Immigrant*, *THE NEW YORK TIMES* (Aug. 14, 2019), <https://www.nytimes.com/2019/08/14/us/immigration-public-charge-welfare.html>; *see also* Claire Klobucista et al., *The U.S. Immigration Debate*, *THE COUNCIL ON FOREIGN RELATIONS* (July 25, 2019), <https://www.cfr.org/backgrounder/us-immigration-debate-0>.

56. Tessa Berenson, *Here Are the White House's Latest Demands to End the Shutdown*, *TIME* (Jan. 7, 2019) <https://time.com/5496179/mike-pence-donald-trump-border-wall-proposal->

tional security. It was instead a consequence of Trump's race-based 2016 campaign rhetoric that was targeted at Mexican nationals and Muslims.⁵⁷

By August 2019, immigration authorities raided seven food processing plants in small towns outside Jackson, Mississippi, leading to arrests of 680 mostly Latino workers.⁵⁸ Jackson's mayor, Chokwe Antar Lumumba, called on his city's churches and faith communities to provide sanctuary for immigrant neighbors.⁵⁹ This was not the first time Mayor Lumumba defied the Trump administration on the issue of immigration. In 2017, then-Attorney General Jeff Sessions referred to Jackson and 28 other localities as "sanctuary cities" because they offered protection to so many undocumented immigrants. Sessions also threatened Jackson, and other such cities, with losing eligibility to seek some \$4.1 billion available in federal grant funding.⁶⁰ With these examples of how immigrants have been made unwelcome in the United States, I now pivot to explore only a few of the many examples of immigration in Scripture, the ultimate guide for how immigrants should be made welcome, and a moral authority that should play heavily into America's immigration debate.

III. A Theology of Welcome in Scripture: What Does the Bible Say About Immigration?

Although some sociopolitical issues *are not* directly addressed in Scripture, the Bible repeatedly speaks to immigration. "The Hebrew word *ger*—translated variously into English as *foreigner*, *resident alien*, *stranger*, *sojourner*, or *immigrant*—appears ninety-two times in the Old Testament. Many of those references mention God's particular concern for the foreigner"⁶¹ The Bible is a sacred narrative of

shutdown-democrats ("The White House is holding firm in its request for \$5.7 billion for a border wall to end the shutdown, while also demanding billions of dollars more to address other priorities at the southern border, according to a proposal it gave Congressional Democrats").

57. See generally, ALAN I. ABRAMOWITZ, *THE GREAT ALIGNMENT: RACE, PARTY TRANSFORMATION, AND THE RISE OF DONALD TRUMP* 125 (2018).

58. Justin Victory, "Dehumanizing": Jackson Mayor Slams ICE Raids Asks Churches to Become Safe Havens, MISSISSIPPI CLARION LEDGER (Aug. 7, 2019), <https://www.clarionledger.com/story/news/politics/2019/08/07/immigration-raids-jackson-mayor-calls-church-leaders-shelter-immigrants/1946239001/>.

59. *Id.*

60. See generally, NBC NEWS AND THE ASSOCIATED PRESS, *AG Sessions Threatens 'Sanctuary Cities,' Mayors Fight Back*, (Mar. 27, 2017, 6:25 PM), available at <https://www.nbcnews.com/news/us-news/ag-sessions-threatens-sanctuary-cities-mayors-fight-back-n739171> (last updated).

61. BAUMAN ET AL., *supra* note 4, at 30.

God's interaction with humanity wherein migrants play key roles in an unfolding story. "Throughout Scripture God has used the movement of people to accomplish his greater purposes. Like immigrants today, the protagonists of the Old Testament left their homelands and migrated to other lands for a variety of reasons."⁶²

A. Brief Considerations of Immigration in the Old Testament

"In Genesis 11, Abram, later Abraham, is introduced as an immigrant from Ur to Haran, later journeying to Canaan, with a stay in Egypt."⁶³ "[His] decision to leave Ur, and bring his family to Canaan, parallels the stories of many immigrants who leave [their homelands to] cross borders, [based on their faith.]"⁶⁴ Indeed, Abraham's immigrant faith journey—"a direct parallel to so many that have been detained and or deported under United States policies—is a critical foundation of America's three most popular religions, Christianity, Judaism, and Islam, all considered Abrahamic faith traditions."⁶⁵

Additionally, the Genesis 18 narrative also shows Abraham extending hospitality and welcome to foreigners (immigrants). When three strangers arrived at his home, little did Abraham know they were messengers from God. He was simply eager to be hospitable. Consider the following:

The Lord appeared to Abraham by the oaks of Mamre, as he sat at the entrance of his tent in the heart of the day. He looked up and saw three men standing near him. When he saw them, he ran from the tent entrance to meet them, and bowed down to the ground. He said, 'My lord, if I find favor with you, do not pass by your servant. Let a little water be brought, and wash your feet., and rest yourselves under the tree. Let me bring a little bread, that you may refresh yourselves, and after that you may pass on—since you have come to your servant.' So they said, 'Do as you have said.' And Abraham hastened into the tent to Sarah, and said, 'Make ready quickly three measures of choice flour, knead it, and make cakes.' Abraham ran to the herd, and took a calf, tender and good, and gave it to the servant, who hastened to prepare it. Then he took curds and milk and the calf that he had prepared, and sent it before them; and he stood by them under the tree while they ate.⁶⁶

62. SOERENS & YANG, *supra* note 47, at 43.

63. Augustine, *supra* note 8, at 254.

64. *Id.*

65. *Id.*

66. *Genesis* 18:1-9.

Abraham's ready welcome to foreigners was no doubt the consequence of his own experiences as an immigrant. This dynamic is like modern-day immigrants in the United States being embraced by those who came before them, helping new immigrants to acclimate and orient to the American culture.

In further following the Genesis narrative, by chapter 37, Joseph, Abraham's great-grandson, also became an immigrant.⁶⁷ Unlike Abraham, however, Joseph's journey as an immigrant *was not* by choice. Much like the many enslaved Africans who began America's immigration system as victims of human trafficking,⁶⁸ Joseph was sold into slavery by his brothers.⁶⁹ This parallels the many Africans who came in shackles to what is now the United States. From an African American perspective, therefore, Joseph's forced immigrant journey parallels the origins of the Black entry into America.⁷⁰

In *Exodus*, God used Moses to lead the Israelites from an oppressive dictatorial governmental rule in Egypt, essentially as migrant refugees, who were promised eventual habitation of the land of Canaan.⁷¹ "The Israelites, under Moses' leadership, became refugees fleeing persecution in Egypt and escaping, with God's help, to a new land where, like many refugees today, they found new challenges."⁷² In drawing a parallel between the Scriptures referenced herein and America's current immigration posture, it's apparent that many migrants also face significant challenges in the United States.

B. A Brief Consideration of Jesus, as a New Testament Refugee, and a Summary of Other Select Refugee Heroes from the Old Testament

As Canada was famously receiving a host of resettling Syrian refugees, in December 2015, an Anglican church in Newfoundland posted a sign that read, "Christmas: a Story About a Middle East Family Seeking Refuge."⁷³ That sign was a reminder that before Jesus's ministry began—a ministry rooted in an ethic of social jus-

67. See *Genesis*: 37:12-36.

68. See Magee, *supra* note 29, at 277.

69. *Genesis* 37:27-28.

70. Jake Silverstein, *Introduction*, in *THE NEW YORK TIMES MAGAZINE: THE 1619 PROJECT* 4 (Nikole Hannah-Jones ed., 2019).

71. *Exodus* 3:7-8.

72. SOERENS & YANG, *supra* note 47, at 44.

73. BAUMAN ET AL., *supra* note 4, at 31 (internal citations omitted).

tice,⁷⁴ given his status as an ethnically marginalized Jew, living under the Roman Empire's totalitarian regime — Jesus was born to refugee parents who were forced to flee their land of occupation. Their flight from persecution is the often-untold part of the Christmas story.

When [the magi] had gone, an angel of the Lord appeared to Joseph in a dream. 'Get up,' he said, 'take the child and his mother and escape to Egypt. Stay there until I tell you, for Herod is going to search for the child to kill him.'

So he got up, took the child and his mother during the night and left for Egypt, where he stayed until the death of Herod.⁷⁵

Although this text provides no details about their journey, from Bethlehem to Egypt, or about how the refugee family was treated after arrival, "[i]f human history is an indicator . . . some would have met them with welcome and hospitality and others would have seen them as a threat."⁷⁶

If they were perceived as a threat, as so many refugees have been in the United States, consider the following: "Were they able to find food and shelter? . . . Did local carpenters complain that Joseph would take work that they otherwise would have?" Were they harassed, as a fashionable exercise of the dominant culture?⁷⁷

Although Jesus is unquestionably the most important example of a refugee in Scripture, many other biblical figures were forcibly displaced, too.

Jacob fled his homeland under the threat of violence from his brother, Esau (Gen. 27:42-44). Moses fled from Egypt to Midian, initially because Pharaoh sought to kill him (Ex. 2:15). When being persecuted unjustly by King Saul, David escaped on multiple occasions to the land of the Philistines, where he sought asylum under King Achish (1 Sam. 21:10; 27:1). Similarly, the prophet Elijah evaded the persecution of the evil King Ahab and Queen Jezebel by traveling out into the wilderness; so desperate he was in his situation that he 'prayed he might die (1 Kings 19:1-4). In the New Testament, we see how persecution in Jerusalem forced the earliest

74. See Luke 4:18-19 (highlighting biblical text often regarded as Jesus's inaugural sermon); see also OBREY M. HENDRICKS, JR., *THE POLITICS OF JESUS: REDISCOVERING THE TRUE REVOLUTIONARY NATURE OF JESUS' TEACHINGS AND HOW THEY HAVE BEEN CORRUPTED* 4 (2006) (discussing the oppressive political influences on Jesus and how his ministry began as a call for social justice).

75. *Matthew* 2:13-15.

76. BAUMAN et al., *supra* note 4, at 32.

77. *Id.*

followers of Jesus to scatter—and also how God ultimately used this evil for good, as those apostles took the gospel with them and planted some of the earliest churches (Acts 8:1, 4-5).⁷⁸

Indeed, with Scripture as a moral guide for both personal and social governance, I urge this Essay's readers to adopt a policy of welcome, with respect to refugees who are already living in the United States and contributing to the economy.

As we move now, to look broadly at some of the respective immigrant groups who have come to America, against the scriptural backdrop of welcome, please consider America's historic practice of (un)welcome. History shows that certain racial and ethnic groups that are considered subordinate to white, in terms of Christian nationalism's hierarchal ranking of "place" in America (who belongs and who does not), has been victimized by legalized discrimination in America's immigration history. Moreover, with the distinction between racial and ethnic discrimination drawn below,⁷⁹ it's easier to see the historic impact white Christian nationalism has, especially regarding the popular myths about the American existence.⁸⁰

IV. A High-Level Overview of America's Legal History in Immigration

The United States Constitution is clear that only Congress has the plenary power to pass immigration laws. "Congress shall have the power to establish a uniform Rule of Naturalization . . ."⁸¹ In recognizing and elaborating upon this vast power, Professor Erwin Chemerinsky writes, "Congress has been accorded broad power to regulate immigration and citizenship. Indeed, the Court has held that 'over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.'"⁸² Professor Chemerinsky goes on to highlight that, "Congress has thus been recognized as having plenary power to set the conditions for entry into the country, the circumstances under which a person can remain, and the rules for becoming a citizen."⁸³ Congress has proven to use this constitution-

78. *Id.* at 32-33.

79. *See infra* note 84.

80. *See* HUGHES, *supra* note 3, at 83; *see also* SEIDEL, *supra* note 3, at 9.

81. U.S. CONST. art. 1, § 8, cl. 4.

82. ERWIN CHEMERINSKY, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES 289 (4th ed. 2011) (citing *Fiallo v. Bell*, 430 U.S. 787, 792 (1977)) [hereinafter CONSTITUTIONAL LAW].

83. *Id.*

ally enumerated plenary power in ways that discriminate based on both race *and* ethnicity.⁸⁴

A. The Discriminatory Origins of Congress' Plenary Power Over Immigration

Before the infamous Chinese Exclusion Act of 1882,⁸⁵ Congress proved to engage in racial discrimination as early as 1790, with the Naturalization Act. “Scholars generally trace the beginning of racially restrictive U.S. immigration policies to laws directed at various immigrant groups. Prior to 1870, the subordination of people of African descent was further underscored by the fact that people from Africa *could not* become U.S. citizens through naturalization.”⁸⁶ Conversely, however, “[t]he Naturalization Act of 1790 established procedures for free *white* persons to achieve citizenship after just two years of residency, which later became five.”⁸⁷

Further, only eight years after the Naturalization Act of 1790, wherein Congress engaged in *racial* discrimination, it responded to perceived threats by foreign powers, particularly France, by engaging in *ethnic* discrimination.⁸⁸ Congress passed a series of individual laws, including the Naturalization Act of 1798, the Alien Friends Act, the Alien Enemies Act, and the Sedition Act (collectively known as the Alien and Sedition Acts of 1798),⁸⁹ that made it more difficult for immigrants to become U.S. citizens, while increasing the residency requirement to 14 years.⁹⁰ In elaborating on this history, Professor Gabriel Chin writes, “[t]he first naturalization act, in 1790, permitted only free white persons to become naturalized citizens; persons of Af-

84. See AUGUSTINE, WHEN PROPHETS PREACH, *supra* note 6, at 68-70 (citations omitted) (explaining the difference between racial discrimination and ethnic discrimination). Congress has engaged in both racial and ethnic discrimination, with respect to its sordid history in immigration. As I have previously highlighted, race is a social construct and discrimination based on race is based on immutable characteristic (*e.g.*, the Jim Crow segregation Blacks were forced to endure, in the American South, because of skin color). Ethnic discrimination, however, is different. Rather than being based on immutable characteristic, ethnic discrimination might be based on culture, religion, or national origin; see *also id.* at 70 (“To illustrate the difference between race and ethnicity, consider both the similarities and differences between whites and Jews in Nazi Germany. At face value, both groups shared common *racial* characteristics. Jews, however, shared certain distinct cultural and religious traits.”) (emphasis in original).

85. Chinese Exclusion Act of 1882, H.R. 126, 47th Cong. (1st Sess. 1882) [hereinafter Chinese Exclusion Act].

86. HING ET AL., *supra* note 23, at 32 (emphasis added).

87. GANSALLO & BERNSTEIN-BAKER, *supra* note 12, at 5 (emphasis added).

88. Naturalization Act, 1 Stat. 103 (1790).

89. *Id.*

90. See GANSALLO & BERNSTEIN-BAKER, *supra* note 12, at 5 (internal citations omitted).

rican nativity and descent were added in 1870. When person of ‘races indigenous to the Western Hemisphere’ were added in 1940, only members of Asian races could not naturalize.”⁹¹ At face value, therefore, the genesis of American immigration law was rooted in both racial *and* ethnic discrimination.⁹²

Inasmuch as Congress’s enumerated power over naturalization has become recognized as “plenary,”⁹³ congressional power of the admission of aliens into the United States is absolute.⁹⁴ It comes from the Supreme Court’s infamous ruling in *Chae Chan Ping*, also known as “The Chinese Exclusion Case,”⁹⁵ an opinion that is regarded as “the fountainhead of immigration law’s plenary power doctrine.”⁹⁶ The Supreme Court also further solidified the doctrine in *Fong Yue Ting v. United States*,⁹⁷ another racially troubled case that further complicates immigration law’s history in the United States.

Immigration restrictions based on immutable characteristics began to build by 1875.⁹⁸ In 1882, Congress passed the Chinese Exclusion Act with language that excluded, “idiots, lunatics, convicts, and persons likely to be a public charge.”⁹⁹ This language resulted in the first efforts to restrict Chinese migration.

Chinese nationals arrived in America to work in gold mines, agriculture, or to build the western railroads and were considered legal residents. However, economic, cultural, and racial tensions related to the success and number of Chinese immigrants began to build, culminating in the Chinese Exclusion Act of 1882, which created a 10-year moratorium on Chinese labor immigration. It also denied citizenship to Chinese citizens already in the United States.¹⁰⁰

Although migration from China was encouraged under the Burlingame-Steward Treaty of 1868, under the Chinese Exclusion Act, Chi-

91. Gabriel J. Chin, *Segregation’s Last Stronghold: Race Discrimination and the Constitutional law of Immigration*, 46 UCLA L. REV. 1, 13 (1998) (internal citations omitted) [hereinafter *Segregation’s Last Stronghold*]; see Chinese Exclusion Act, *supra* note 84 (highlighting Congress’s racialized discrimination against Asians that was the subject of the Chinese Exclusion Act of 1882 and its upholding in *Chae Chan Ping v. United States*).

92. See AUGUSTINE, WHEN PROPHETS PREACH, *supra* note 6, at 69-70.

93. See CHEMERINSKY, CONSTITUTIONAL LAW, *supra* note 81, at 289.

94. See, e.g., Chin, *Segregation’s Last Stronghold*, *supra* note 80, at 5.

95. *Ping v. United States*, 130 U.S. 581, 604 (1889).

96. David A. Martin, *Why Immigration’s Plenary Power Endures*, 68 OKLA. L. REV. 29, 30 (2015).

97. *Ting v. United States*, 149 U.S. 698, 705 (1893).

98. See The Page Act of 1875, Pub. L. No. 43-141, 18 Stat. 477 (1875).

99. GANSALLO & BERNSTEIN-BAKER, *supra* note 12, at 6 (internal citations omitted).

100. *Id.*

nese immigrants were no longer welcomed.¹⁰¹ This law was challenged by Chae Chan Ping, a Chinese immigrant who came to the United States under the 1868 treaty.¹⁰²

Chae Chan Ping lived legally in San Francisco for many years and only briefly went back to China for a visit.¹⁰³ Although he possessed a lawful certificate that entitled him to reentry into the United States, Congress voided all such certificates, without exception, as he was sailing.¹⁰⁴ When Ping challenged the constitutionality of the Chinese Exclusion Act, the Supreme Court infamously upheld the law, ruling that Congress had exclusive authority to prohibit the immigration of people of Chinese ancestry.¹⁰⁵

Four years later, in *Fong Yue Ting*,¹⁰⁶ the Court emphasized the plenary power doctrine by discriminately upholding a requirement that only Chinese residents of the United States register with the federal government upon pain of deportation.¹⁰⁷ Specifically, the Court held as follows:

The question whether, and upon what conditions, these aliens shall be permitted to remain within the United States being one to be determined by the political departments of the government, the judicial department cannot properly express an opinion upon the wisdom, the policy, or the justice of the measures enacted by Congress to in the exercise of the powers confirmed to it by the Constitution over this subject.¹⁰⁸

Accordingly, as the Court determined aliens could in fact be deported solely because of their race, *Chae Chan Ping* and *Fong Yue Ting* are both important cases. They firmly demonstrate the government's potential to engage in racial discrimination, through immigration law and policy, while justifying discriminatory treatment as an exclusive

101. The following social and demographic analysis is of particular importance, in highlighting the racialized nature of this portion of America's immigration history:

The discovery of gold in California in 1848 contributed to an influx of Chinese immigrants until 1882, when the Chinese Exclusion Act was passed. From 1851 to 1800, 228,899 Chinese entered, but this still represented less than 3 percent of the total (7.7 million) number of immigrants during that period which remained dominated by Europeans (88 percent). Obviously, after Chinese laborers were excluded in 1882, the number of Chinese entering declined; from 1891 to 1900, less than 15,00 entered out of a total of 3.7 million immigrants for the decade.

HING ET AL., *supra* note 23, at 11.

102. *See* *Ping v. United States*, 130 U.S. 581, 604 (1889).

103. *Ping*, 130 U.S. at 582.

104. *Id.*

105. *Id.* at 596.

106. *See* *Ting v. United States*, 149 U.S. 698, 718-19.

107. *Id.* at 732.

108. *Id.* at 731.

power reserved to the legislative, and by extension executive branches, as political arms of government.¹⁰⁹ Equally important, since those two decisions, the Supreme Court has affirmed its position that Congress' plenary power in immigration includes the right to exclude aliens based on race.¹¹⁰

B. Restrictions on Immigration Led to Discernable “Waves” of Immigrants

History recounts that prior to the other immigration restrictions detailed below, the white Christian nationalism undergirding America's immigration policy set the stage for debate as to who were “real Americans,” considering the racialized demographics of those “original” immigrants to a land that was populated by Native Americans,¹¹¹ and the forced immigration of African peoples who were enslaved.¹¹² The initial wave of immigrants to America lasted until about 1803, bringing white, predominately English-speaking, and mainly Protestant Europeans.¹¹³ The next wave, however, which began in the 1820s and lasted until the immigration restrictions detailed below, was more ethnically diverse and consequentially more controversial for “real Americans.” There were “more Catholics and Jews, more Southern Europeans, and non-English speakers.”¹¹⁴ The stage

109. *Ping*, 130 U.S. at 606 (“The government, possessing the powers which are to be exercised for protection and security, is clothed with authority to determine the occasion on which the powers shall be called forth; and its determination, so far as the subjects affected are concerned, are necessarily conclusive upon all departments and officers.”).

110. *See, e.g., Harisiades v. Shaughnessy*, 342 U.S. 580, 589 (1952); *see also Yamataya v. Fisher*, 189 U.S. 86, 97 (1903); *see also United States v. Toy*, 198 U.S. 253, 261 (1905).

111. *See generally* Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Traders Chronicle as Racial History*, 34 *ST. LOUIS U. L. J.* 425 (1990) (highlighting America's sordid history with respect to its treatment of multiple Native American groups, including the Cherokees, Seminoles, Creeks, Choctaws, and Chickasaws. For an excellent but succinct chronicling of this history, with a particular emphasis on the Cherokee Nation's treatment in the Southeastern part of the United States, in comparison to the treatment of Chinese and Mexican migrant workers).

112. Dorothy Roberts, a law professor and sociologist, shares her thoughts on the racial dynamic of what it meant to be Black in early America by writing:

In the early days of colonial America, the vast majority of people compelled to work for landowners were vagrant children, convicts, and indentured laborers imported from Europe. The wealthy settlers who benefited from their unfree labor did not at first distinguish between the status of European, African, and Indigenous servants. But as the slave trade mushroomed, Africans began to be subjected to a distinct kind of servitude: they alone were considered the actual property of their enslavers.

Dorothy Roberts, *Race, in THE 1619 PROJECT: A NEW ORIGIN STORY* 49 (NIKOLE HANNAH-JONES et al., eds., 2021).

113. *See HING ET AL., supra* note 23, at 12.

114. *Id.* at 11.

was therefore set for prejudice and discrimination in Congress' exercise of its plenary power in immigration.¹¹⁵

The next wave, however, which began in the 1820s and lasted until the immigration restrictions detailed below, was more ethnically diverse and consequentially more controversial for "real Americans."¹¹⁶ There were "more Catholics and Jews, more Southern Europeans, and non-English speakers."¹¹⁷ The stage was therefore set for prejudice and discrimination in Congress' exercise of its plenary power in immigration.¹¹⁸

From the late 1800s into the 1920s, over 22 million immigrants entered the United States, during a time when the country experienced major industrial growth. During the twentieth century's first two decades, as southern and eastern Europeans entered the United States in large numbers, "60 percent were from Italy, Austria, Hungary, and the area that became the Soviet Union."¹¹⁹ As the xenophobic politics of fear became an issue, divisions also began to cement between whites and non-whites, as a part of *ethnic* discrimination. "As immigrant populations from eastern and southern Europe swelled, resistance also grew to new groups considered to be inferior, uneducated and economic competitors."¹²⁰ This resistance was arguably at least in part to the ethnic discrimination ingrained in white Christian nationalism.

In looking at population waves, and noting certain groups that were (un)welcome, the authors of *Understanding Immigration Law and Practice* note the following:

In 1907, the Dillingham Commission, a bi-partisan congressional group, was formed to study the impact of immigration on the United States. The commission's work, which was completed in 1911, concluded that immigrants from Eastern and Southern Europe were a major threat to the United States economy and culture and proposed limiting immigrants from these regions. One vehicle to achieve this was a new literacy requirement that was enacted into law in the immigration Act of 1917.¹²¹

115. *See supra* notes, 82 & 110.

116. HING ET AL., *supra* note 23, at 12.

117. *Id.*

118. *See supra* note 82.

119. HING ET AL., *supra* note 23, at 12.

120. GANSALLO AND BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE, *supra* note 12, at 7.

121. *Id.* (internal citations omitted).

Congress also passed the Emergency Quota Act in 1921,¹²² limiting the number of immigrants from any region to three percent of that population already living in the United States in 1910. The impact of this legislation was to favor Northern and Western Europeans who were present in the United States in the largest numbers at the time.

Further, because of the Immigration Act of 1924, most Asian nationals *could not* immigrate to the United States.¹²³ Moreover, Asian nationals already in the country were barred from becoming citizens.¹²⁴ With passage of the Immigration and Nationality Act of 1952, although Congress lifted the absolute bars to the immigration and naturalization of Asians, it established “quota systems” for Asian countries.¹²⁵

During this same time, things were very different, with respect to *temporary* migrant workers from Mexico.

[I]n 1942, the United States negotiated a treaty with Mexico in the form of the Labor Importation Program, providing for the use of Mexicans as temporary workers in U.S. agriculture. The Labor Importation Program is more commonly referred to as the Bracero Program, a colloquial allusion to the men of strength . . . Braceros were tied to American private employers by contracts guaranteed by the federal government . . . The treaty, supplemented and slightly amended by subsequent legislative acts and international agreements with Mexico, governed the emergency farm and industrial program through December 31, 1947 . . . From 1947, when the special wartime legislation expired, until 1951, when Public Law 78 was passed, the temporary workers program continued unabated . . .¹²⁶

In 1964, following the program’s termination, many migrant farm workers from Mexico neither had permission to be in the United States nor authorization for employment. The continuing need for

122. Emergency Quota Act of 1924, Pub. L. No. 67-5, § 42 Stat. 5, 2(a) (1921).

123. See Immigration Act of 1924, Pub. L. No. 139, § 43 Stat. 153 (1924).

124. See generally Immigration Act of 1924, Pub. L. No. 139, § 43 Stat. 153 (1924).

125. See generally Immigration and Nationality Act of 1952, ch. 477, § 201(a), 66 Stat. 163, 175. Popularly known as the McCarran-Walter Act, Pub. L. No. 82-14 (1952), this legislation was a particle response to concerns about communists being present in the United States. It permitted the exclusion or deportation of noncitizens who were deemed to be subversive and engaged in activities that could be detrimental to the public interest. President Harry S. Truman regarded the 1952 legislation as discriminatory and it passed, over Truman’s veto. See GANSALLO AND BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE, *supra* note 12, at 8.

126. HING ET AL., *supra* note 23, at 18-19.

farm workers, however, resulted in large numbers of undocumented migrants who were unable to secure legal status.¹²⁷

By 1965, during the height of the Civil Rights Movement, Congress eliminated the last vestige of anti-Asian racial policy with the passage of the Immigration and Nationality Act Amendments of 1965, a law that also eliminated quota systems.¹²⁸ In highlighting the significant effect of the 1965 amendments, while also cautioning readers and advocates, Professor Chin writes as follows:

Under current law, no races are explicitly favored in the awarding of immigrant or nonimmigrant visas, and many believe that no particular nations are advantaged or disadvantaged as an indirect means of racial preference. Yet, the power to select immigrants on the basis of race is said to remain at the ready. *Chae Chan Ping* and *Fong Yue Ting* continue to be cited in modern decisions of the Supreme Court; because all constitutional immigration law flows from these cases, even decisions that do not cite them must rely on cases that do.¹²⁹

It is therefore obvious that, given the impact of American immigration law's racialized and discriminatory history—a history rooted in the “us v. them” of white Christian nationalism—policy advocates must consider whether America's current policies are still undergirded by an anti-immigrant bias. If the question's answer is affirmative, it's obviously beyond time to call Congress to task and demand that lawmakers act to provide meaningful immigration reform legislation to recognize the humanity of all people, especially America's refugee neighbors.

C. The Post-1965 Diversity of Immigrants Who Entered America and the Xenophobic Politics of Fear

After the repeal of immigrant quota systems in 1965, the racial and ethnic backgrounds of immigrants to the United States became

127. GANSALLO AND BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE, *supra* note 12, at 9.

128. Immigration and Nationality Act Amendment of 1965, Pub. L. No. 89-236, § 79 Stat. 911 (codified as amending several sections in 8 U.S.C.). Even the 1965 amendments were still “discriminatory” in that they retained per-country limits. See Immigration and Nationality Act § 202 (a)(2), 8 U.S.C. § 1152 (a)(2); see also Howard F. Chang, *Immigration Policy, Liberal Principles, and the Republican Tradition*, 85 GEO. L.J. 2105, 2108 (1997). At the law's signing ceremony, President Lyndon Baines Johnson is reported to have said, that the new law “corrects a cruel and enduring wrong in the conduct of the American nation.” GANSALLO AND BERNSTEIN-BAKER, UNDERSTANDING IMMIGRATION LAW AND PRACTICE, *supra* note 12, at 9.

129. Chin, *Segregation's Last Stronghold*, *supra* note 77, at 15 (internal citations omitted).

much more diverse. Indeed, rather than maintaining the status quo of the racial and ethnic minorities already in the United States, the Immigration and Nationality Act of 1965 opened the door for foreign nationals from all over the world to immigrate to the United States.

[O]f all [United States] immigrants in in fiscal year 2000, 65 percent were from Asia and Latin America. The 2000 census found that one-third of the foreign-born population in the United States was from Mexico or another Central American country, and a quarter was from Asia. Fifteen percent were from Europe. As a result of the immigration policies since 1965, including new refugee laws in 1980 and a legalization (or amnesty) program for undocumented immigrants in 1986, the ethnic makeup of the country is changing.¹³⁰

This demographic information is clearly part of what underlies the subject matter of Roland Martin's book, *White Fear*.¹³¹

Some argue the Immigration and Nationality Act of 1965's primary purpose was to reunite families, a purpose that became the driving force for increasing ethnic diversity, as more and more groups left their home countries to resettle in the United States.¹³² The legislation also allowed immigration into the United States based on special work-related skills and refugee status, thereby contributing to the United States' current racial and ethnic composition. Indeed, since 1965, many more Asian immigrants came to America, including large numbers of Southeast Asian refugees in 1975, prompting fears about maintaining the "American way of life."¹³³ In order for the United States to meet its international law obligations, Congress passed the Refugee Act of 1980,¹³⁴ wherein it created a uniform method for new refugee immigrants to be admitted to the United States, while also creating a system for refugees already in the country to apply for asylum and seek protection from persecution.¹³⁵ 1980 was also the year that Ronald Reagan defeated Jimmy Carter to become president of the United States.

In 1986, with Reagan as president, Congress began to take an anti-immigrant position of (un)welcomeness toward foreign nationals from certain countries, as "the nation turned away refugees fleeing

130. HING ET AL., *supra* note 23, at 18-19 at 12-13.

131. *See generally*, MARTIN, *WHITE FEAR*, *supra* note 40.

132. GANSALLO AND BERNSTEIN-BAKER, *UNDERSTANDING IMMIGRATION LAW AND PRACTICE*, *supra* note 12, at 9.

133. HING ET AL., *supra* note 23, at 18-19 at 17.

134. *See generally* Refugee Act of 1980, Pub. L. No. 96-212, § 94 Stat. 102 (1980).

135. GANSALLO AND BERNSTEIN-BAKER, *UNDERSTANDING IMMIGRATION LAW AND PRACTICE*, *supra* note 12, at 9.

Haiti, Guatemala, and El Salvador while accepting similarly situated Cubans and Nicaraguans.¹³⁶ These very controversial and discriminatory actions led faith leaders to provide sanctuary to immigrant refugees in the form of a 1980s Sanctuary Movement, which was a direct response to Reagan-era policies making political asylum difficult for Central Americans fleeing civil conflict.¹³⁷ As part of a prophetic call to renew the Sanctuary Movement, consider the following:

In March 2007, Alexia Salvatierra, executive director of Clergy and Laity United for Economic Justice and [a pastor in the Evangelical Lutheran Church in America] announced that religious leaders from various denominations, including the Catholic Lutheran, Methodist, and Presbyterian churches, were planning to revive the sanctuary movement to provide illegal immigrants with shelter and help them avoid deportation.¹³⁸

What is a person of faith called to do when conflicted by civil laws they morally deem to be unjust? I argue that in the context of discriminatory and inhumane treatment toward immigrant refugees, the answer *must be* to engage in the type of civil disobedience that was typical in both the 1980s Sanctuary Movement and the 1950s and 60's Civil Rights Movement.¹³⁹

V. And Who Is My Neighbor?: Synthesizing the Lawyer's Question, from the Parable of the Good Samaritan, While Exploring the Inherent Issues Presented by America's Discriminatory History in Immigration

Inasmuch as I have been clear in advocating for civil disobedience in the image of Martin Luther King, Jr.'s prophetic leadership,¹⁴⁰

136. HING ET AL., *supra* note 23, at 18-19 at 1-2.

137. See generally Judith McDaniel, *The Sanctuary Movement, Then and Now*, in RELIGION & POLITICS (Feb. 21, 2017), available at <https://religionandpolitics.org/2017/02/21/the-sanctuary-movement-then-and-now>; Richard H. Feen, *Church Sanctuary: Historical Roots and Contemporary Practice*, 7 IN DEFENSE OF THE ALIEN 132, 133, 135 (1984) (tracing the origins of what we call "sanctuary cities," detailed in the Holy Bible's book of Leviticus as Levitical cities, wherein priests were designated as arbitrators and protectors of those seeking refuge. Feen also uses this Old Testament foundation to explain the development of "sanctuary" with respect to church-state relations in the New Testament's Greco-Roman world. This background helps underscore the clergyperson's unique position in the prophetic advocacy of civil disobedience, particularly with respect to providing sanctuary to immigrant refugees).

138. UTTER, MAINLINE CHRISTIANS AND PUBLIC POLICY, *supra* note 5, at 58-59 (internal citations omitted).

139. See generally AUGUSTINE, WHEN PROPHETS PREACH, *supra* note 6, at 93-98; see also Augustine, *A Theology of Welcome*, *supra* note 8, at 262-69.

140. Augustine, *A Theology of Civil Disobedience*, *supra* note 8, at 268-70. I discuss King's unwillingness to obey an "unjust" law, in 1963, after Birmingham, Alabama Police Commis-

I also deeply respect a similar position of advocacy taken by Ellen Clark Clémot. In *Discerning Welcome*, although Clémot arguably embraces the “spirit” of civil disobedience, she advocates for a more nuanced political theology of discernment that supports welcoming refugees as neighbors.¹⁴¹

I believe the ethical discernment for which Clémot advocates is critically important because, much in the spirit of King’s direct-action campaigns during the Civil Rights Movement, civil disobedience in welcoming immigrant refugees—through very deliberate discernment—should be designed to compel the government to respond by acting. Moreover, the action I hope for from Congress is meaningful immigration laws, that will welcome refugees.

As part of her political theology of discernment, Clémot outlines two competing perspectives, *cosmopolitanism* and *communitarianism*, as well as a *new cosmopolitanism* that is a hybrid of the two perspectives.¹⁴² I believe the hybrid is arguably the most palatable position at this point in the American chronology, considering the staunch divisions that have arisen as a result of the rise in white Christian nationalistic ideals. In considering the literal and figurative borders undergirding white Christian nationalism, in this synthesizing section, I call on readers to ask themselves the question at the heart of the parabolic discourse, “And who is *my* neighbor?”

Cosmopolitanism makes the case for “no borders,” from both the ethical perspective, that all human beings should be treated with dignity and have access to other nation-states, and a Christian perspective, grounded in a Catholic Social Teaching that sees all refugees in the image of the Christ Child, who was also a refugee, as his family

sioner Eugene “Bull” Connor refused to issue King a parade permit to protest against Birmingham’s discriminatory treatment of Blacks. Rather than obey a law he deemed to be *morally* unjust, King decided to protest anyway. He was arrested and incarcerated on Good Friday and over Easter Weekend, in April 1963, he wrote the famous “Letter From Birmingham City Jail,” a treatise on civil disobedience, wherein he cites the Holy Bible’s *Daniel 3* example of civil disobedience of the famed three Hebrew Boys. In relevant part, King writes:

Of course, there is nothing new about this kind of civil disobedience. It was seen sublimely in the refusal of Shadrach, Meshach, and Abednego to obey the laws of Nebuchadnezzar because a higher moral law was involved. It was practiced superbly by the early Christians who were willing to face hungry lions and the excruciating pain of chopping blocks before submitting to certain unjust laws of the Roman Empire.

MARTIN LUTHER KING, JR., *Letter From Birmingham Jail*, in *THE AUTOBIOGRAPHY OF MARTIN LUTHER KING, JR.* 194 (Clayborne Carson, ed. 1998).

141. CLÉMOT, *DISCERNING WELCOME*, *supra* note 4, at xiii.

142. *Id.* at 6-26.

fled governmental persecution shortly after his birth.¹⁴³ Consider the following:

The *magna carta* on migrant welcome under Catholic Social Teaching came in the aftermath of World War II with the release of Pope Pius XII's constitutional document *Exsul familia*, promulgated in 1952. *Exul familia* (Exiled Family) gives instructions for the pastoral care of migrants. Its title refers to the Holy Family fleeing from Herod's rule to find safety in Egypt after the Christ child's birth. For the Catholic Church, the plight of the Holy Family became the archetype of every refugee family.¹⁴⁴

The great irony is that in elevating Catholic Social Teaching, the 1952 *Exsula Familia* Clémot cites was issued the same year Congress passed the discriminatory Immigration and Nationality Act of 1952 (a/k/a the McCarran-Walter Act) over President Truman's veto.¹⁴⁵

From the exact opposite perspective, *communitarianism* favors nation-state sovereignty and embraces the independence of each nation-state to regulate entry into its *polis*, or "city-state," as derived from Greek. "In our world of nation-states and bordered territories, every sovereign nation has established entrance policies toward migrants in order for the nation-state to maintain its culture, religion, and politics. Here lies the challenge for the refugee seeking a safe haven."¹⁴⁶ Several Christian ethicists who advocate for *communitarianism* also recognize an ethical quagmire the position creates: the nation-state must be able to set rules and policies that lead to protection, while this sense of protection, is exactly what draws immigrant refugees.¹⁴⁷ The inherent conflict to be resolved, therefore, is how the nation-state can support human flourishing by a safe place wherein relationships can be grown, in social solidarity.¹⁴⁸ Further, I most certainly agree that there must be limits on how many refugees a nation-state can admit to its membership to maintain its stability.

A hybrid perspective, falling somewhere between *cosmopolitanism* and *communitarianism* is the "welcoming wall" of *new cosmopolitanism*.¹⁴⁹ This "welcoming wall," or "porous wall," must go to the heart of identifying who is a neighbor. In a post-9/11 existence, the

143. *Id.* at 20-21; see also, SOERENS & YANG, *supra* note 47, at 61.

144. CLÉMOT, DISCERNING WELCOME, *supra* note 4, at 12 (internal citations omitted).

145. *Ting v. United States*, 149 U.S. 689, 718-19.

146. CLÉMOT, DISCERNING WELCOME, *supra* note 4, at 22.

147. *Id.* at 23.

148. *Id.*

149. *Id.* at 24.

reality is that the world is comprised of bordered nation-states. New Cosmopolitanism acknowledges the reality of borders, while also permitting space for welcome, along with the value of affirmed humanity that refugees seek through their presence in the United States. Indeed, “[a]dopting ‘borders that welcome’ remind us that the true end of humanity is not for a protected society, but rather the possibility of human flourishing in communion with God.”¹⁵⁰

Inasmuch as I believe *civil disobedience* should be done to comply with *divine obedience*, such actions should also be targeted to prompt Congress to act and pass meaningful immigration reform legislation, especially considering the current reality of the American state. Is there room for compromise? Given the rise of white Christian nationalism, and how it has most recently influenced American politics, I believe civil disobedience to help immigrant refugees is necessary to place pressure on Congress to act in the interest of America.

VI. Conclusion

The rise of xenophobic Christian nationalism in the United States, unquestionably embedded in the country’s history and obviously exasperated by the Make America Great Again political narrative, has reinforced a culture of “us vs. them.” The “us,” or the “in crowd,” has largely been white and Protestants. The “them,” however—the proverbial Other—is comprised of minorities, Jews, and immigrants, the focus of this Essay.

By inviting readers to introspectively ask themselves the parabolic question, “And *who* is my neighbor?”, I have expressly shared that, while rejecting the myth that America is a “Christian nation,” I do embrace Christian teachings that foster human flourishing and create a space of welcomeness for immigrant refugees who are already living in America, as “neighbors,” while paying taxes and contributing to the American economy. Indeed, the position of Catholic Social Teaching embraces a penchant for the poor, and those likely be to the most necessitous state, just like the unnamed and unidentified (presumably Jewish) man who received help from the *good Samaritan*.

I hope we will all answer the parabolic question by recognizing that, although all of humanity is our neighbor, for the purpose of a palatable action item, we should call on members of Congress to enact meaningful immigration reform legislation designed to offer pathways

150. *Id.*

to citizenship for the many refugee neighbors who are already living in our neighborhoods.