

THE PROTECTION OF REFUGEES UNDER JEWISH LAW: A SHORT INTRODUCTION

1. On November 11, 2012, during his keynote address to the General Assembly of the Jewish Federations of North America, the leader of the Union of Reform Judaism¹, Rabbi Rick Jacobs, underscored that “Repairing the World” (*Tikkun olam*) is a core tenet of Judaism and to engaging in Jewish life. In so doing, Rabbi Jacobs posed the rhetorical question: “Which is the ‘more Jewish’ act: welcoming the Sabbath...or welcoming the refugee who has fled persecution?”

2. Within Jewish law, few tenets are repeated as much as the commandment; “When a stranger resides with you in your land, you shall not wrong him. The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the Land of Egypt. I am the Lord your God.” (Leviticus 19:33-34). This tenet is repeated no less than 36 times in the Torah, the first five books of the Bible which were given to Moses, to the Jewish people, and to all humanity, by God.

3. The biblical principle of welcoming and protecting the stranger was not without historical context as, according to Joshua (9:3-27) and throughout Jewish history, Jewish refugees have been joined by non-Jews also fleeing drought, famine, slavery, persecution, and invaders. The duty of protecting strangers vulnerable to xenophobic violence was an important principle for Jews during biblical times and remains so today. As Rabbi Hillel, the great teacher of the first century A.D. replied when accepting a challenge from a non-Jew to recite the entire Torah while standing on one foot, “What is hateful to you do not do to others. That is the whole Torah, all the rest is commentary.”

4. Jewish law dating back to biblical times also established cities of refuge to offer asylum for exiles, with Deuteronomy 19:3 requiring that the route to cities of refuge be obvious and well-marked. The pre-eminent scholar of Jewish law, Moses Maimonides, wrote in the 12th century A.D. that the roads to the cities of refuge must be 32 yards wide, level, and be provided at all forks with signs including the word *miklat* (“asylum”). Cities of refuge may have been the

¹ The Union of Reform Judaism is the organization that supports the Reform movement of Judaism, which has more than 1.5 million followers and 900 congregations across the United States and Canada.

first formal “asylum system”. However, this differed from the modern concept of asylum, in that the cities were designed primarily for those who inadvertently committed manslaughter and were seeking refuge from blood vengeance.

5. The principle of non-*refoulement*, the cornerstone of the 1951 Convention relating to the Status of Refugees, is also an important tenet of Jewish law, which holds that, even under pain of one’s own death, a Jew may not surrender any person when the surrender is likely to result in the person’s death, unless the person is wanted for a serious crime: “A man who is laden with the blood of any person shall hasten his steps to the pit; none will support him. Who so walketh uprightly shall be saved.” (Proverbs 28:17-18).

6. Over the last millennium, many Jewish communities from 1100 to the early 1900s developed a controversial (even within their own communities) system of immigration regulation known as *Herem Hayyishub* (a “ban on settlement”), which limited the migration of foreigners, including foreign Jews, into communities commensurate to that community’s economic ability to absorb newcomers. *Herem Hayyishub* was not unlike the immigration laws now in place in most countries throughout the world. In most places where this immigration regulation was in place, however, refugees were exempt from the ban, though sometimes they were only permitted to remain as long as was necessary for their protection, and were allowed to engage in no more trade than was necessary for their subsistence.

7. In contrast to *Herem Hayyishub*, however, through the first half of the 20th century, state immigration restrictions made no such exception for refugees fleeing persecution. As a result, six million Jews, and millions of other political dissidents, sexual, ethnic and religious minorities, were murdered while trapped inside the “paper walls” surrounding Nazi-occupied Europe, with no place to flee.

8. Out of the ashes of the Holocaust, however, the United Nations developed the 1951 Refugee Convention to ensure that all roads to refuge would once again be clear and well-marked. Today, HIAS is honored to work as the American Jewish community’s partner with the United Nations High Commissioner for Refugees (UNHCR), working to fulfill the biblical commandments of protecting and welcoming refugees, as we were refugees ourselves, many times over.

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