

HUMAN LAW and the CONSCIENCE of BELIEVERS



a statement of
The American Lutheran Church

A statement adopted Oct. 20, 1984, by the Twelfth General Convention of The American Lutheran Church (GC84.20.31-32): Introduction and Parts I, II, and III as a statement of comment and counsel expressing the views of the Convention to the congregations of The ALC and their members for their consideration and such action as they deem appropriate; Part IV as a statement of policy and practice of The ALC. Ballot vote tally for Introduction and Parts I-III: Yes 883 (94.4%), No 50 (5.4%), Abstain 2 (0.2%); for Part IV: Yes 828 (90.9%), No 78 (8.6%), Abstain 5 (0.5%).

Be subject for the Lord's sake to every human institution, whether it be to the emperor as supreme, or to governors as sent by him to punish those who do wrong and to praise those who do right. (1 Peter 2:13-14)

But Peter and the apostles answered, "We must obey God rather than men." (Acts 5:29)

But if . . . the temporal power and authorities . . . would compel a subject to do something contrary to the command of God, or hinder [one] from doing what God commands, obedience ends and the obligation ceases. In such a case [one] has to say what St. Peter said, "We must obey God rather than men" . . . [It is] as if a prince desired to go to war, and his cause was clearly unrighteous; we should neither follow nor help such a prince, because God had commanded us not to kill our neighbor or do him a wrong. (Martin Luther in *Treatise on Good Works*, 1520)

INTRODUCTION

1. *Summary of this Paper.* The paper treats the requirements of human law and the requirements of the faith-informed conscience of Christians living in a constitutional democracy. It sees obedience to law as normal behavior

for Christians and change in law as coming through judicial and electoral means. The paper says that disobeying civil law can be done only as a last resort, nonviolently, and with willingness to pay the required penalty. Finally the paper says that individual Christians who choose in good conscience to break a law—to keep peace with their conscience, to raise an important issue to public view, or to seek a change in that law—may expect the ministry of the faith community to be available to them. This is true even though others in the faith community may disagree strongly with the law violator's stand or action.

2. *Situation Addressed by this Paper.* Conflicts between the requirements of laws and the demands of Christian conscience have been present from the beginning of the church's history. In this country during recent years the issues at conflict have included use of public funds for abortions, state-required certification of religious schools, payment of social security taxes for church employees, denial of tax exemption for certain ministries of the churches. Within the American Lutheran Church, specific calls for a responsible address to law/conscience conflicts have come to the national church body from:

- a. congregations considering an appropriate ministry to undocumented persons who are present in their communities;
- b. persons considering violation of trespass laws as part of a visit at military or defense-industry locations (a formal request for study in this area has also come from National Lutheran Campus Ministry);
- c. persons considering conscientious objection to payment of taxes for certain military purposes (the matter of conscientious objection to military conscription has been addressed frequently by The ALC during the past two decades).

3. *Purposes of the Paper.* The following discussion seeks to respond seriously to such requests by:

- a. reviewing the biblical and theological tradition of Lutheran Christians on the call to gospel discipleship and the role of human law;
- b. exploring the options to be considered when one believes a conflict exists between legal duty and the call of conscience;
- c. assisting the thinking of the community of believers in some specific areas which pose problems of conscience for some members of the church today.

4. Human beings yearn for an ordering of society which they can view as fair and secure. Human beings also experience brokenness and disorder in

the societies they fashion. Since we are not perfect beings, we neither fashion perfect social systems nor obey perfectly those we do fashion.

5. And yet, human laws, particularly when developed through processes which reflect the will of the people, are to be seen as honorable and responsible tools for enabling us all to live together in socially constructive ways. Thus, accepting both the principle of rule by law and the practice of obedience to specific laws is welcomed as the norm by believers who live in modern, democratic societies such as ours. We see human law, including its elements of restraint and punishment, as valid and essential framework for the benefits which we all derive from living together in complex social environments.

6. There are occasions, however, when particular laws, even in the best of societies, present problems of conscience for believers. ("Conscience" may be defined as "that sense of right or wrong within a person which produces a feeling of obligation to do the right thing as one understands it." Believers whose consciences are formed by their faith in God seek to be faithful to the will of God as they understand it.) This paper explores the dilemma of conflict between requirements of human government and the calling of God as some believers may hear that call.

I. THE GOSPEL AND LAWS OF HUMAN SOCIETIES

A. *The Bible on God's Authority and Human Authority*

1. As Christians we affirm the gospel—God's gift of gracious acceptance offered to sinful people who create imperfect social orders—as the essential context in which we live as redeemed persons. The gospel empowers us to live in the new reality of God's kingdom, marked by a higher righteousness than that of the normal human order, the new mandate to love our neighbors, including those called "enemy."

2. The struggle of Christian discipleship is to live on the terms of the New Age while the Old Age continues, we in it and it still in us. Here, governing authorities and law enter and command the allegiance of Christians. Civil law has a provisional—but essential—place as part of God's patient preservation of broken and fallen creation.

3. Biblically, God's law is understood to be given to the covenant people. God demands more of God's people than any human power can properly require: namely, total allegiance. The first commandment reads, "I am the Lord your God, . . . you shall have no other gods before me" (Exodus 20:2-3). The people of God's New Covenant are asked in the New Testament for an equally total response of allegiance to Jesus Christ (see Mark 8:34-38). That response will always be in some tension with those realities called "principalities and powers," which include such human structures as gov-

ernments, family, ethnic loyalties, economic systems, national interests, etc. (See Romans 8:38-39; Ephesians 6:10-20; Colossians 1:15-17.) Powers and principalities are, on the one hand, created by God; on the other hand they are part of fallen creation and wish to claim the priority which can only be accorded to God. Thus, we cannot live without them, and we cannot live in total comfort with them.

4. When any human government asks total allegiance of its people, as do certain states throughout the world today—East and West, North and South—Christians are compelled to refuse and resist. But it is not just in totalitarian systems that conflicts exist between Christian discipleship and the laws of human governments. How does the biblical record help us to view such conflicts?

5. The Old Testament frequently provides examples of disobedience to human authority when it is seen as conflicting with the purposes of God. An early example is the Pharaoh's order to the Hebrew midwives to kill every newborn Hebrew son. The midwives "feared God" and disobeyed (Exodus 1:16-17). Pharaoh's daughter also disobeyed her father's order as a way of saving the infant Moses. Even after the Moses-led Israelites succeed in establishing their own nation, decades later, there are problems for those who would follow God rather than their earthly kings. The prophets, speaking for God, at times disagree with the kings of Israel, affirming the divine purpose rather than courses of action sought by human rulers. (See Isai. 30:1-5 and 31:1-3; Jeremiah 21:8-10 and 27:12-15.)

6. By the time of New Testament, the covenant people are living under an occupying government, that of the Roman Empire. Jesus on one occasion is asked about the matter of allegiance to the emperor. He confounds those who seek to trap him by advising them to give to Caesar what is Caesar's and to God what is God's (Mark 12:13-17). His response has been traditionally understood as supporting payment of taxes, even to governments not ruling by will of the people, since the coin of the realm bears the image of Caesar. Jesus' point most likely includes that meaning, but also goes beyond it: that is, the ultimate allegiance of people must be to God their Maker, since human beings do not bear the image of a human ruler but of God.

7. Throughout his earthly ministry, our Lord declares it is the law of God (the Torah) which he comes to fulfill. In doing so, he often challenges the Torah interpreters of his day—the scribes and Pharisees—and gives the Torah an interpretation other than the conventional view of what it requires. He identifies for them the heart of the law, which is love, and elevates that over the letter of the law. See his attitude toward the Sabbath law (Mark 2:23-28) and the sentence of capital punishment for adulterers (John 8:3-11). Jesus' point is that God's law, properly understood, is on the side of love and justice for the neighbor.

8. In virtually identical words, Paul and Peter counsel believers to "be subject to" human institutions (Romans 13:1 and 1 Peter 2:13-14). They are here asking believers to be obedient to the legal requirements of the Roman Empire. Yet, the early Christians did not hear that advice as requiring them to worship Caesar (which *was* expected by the Caesars at certain periods in the early centuries of Christianity). Nor did most Christians in the first three centuries agree to serve as soldiers in the Roman armies.

9. Paul and Peter themselves disobey specific laws of the empire and find themselves in trouble with its local authorities, often going to prison for such violations (see Acts 5, 16, 19, 21). Yet, Paul certainly valued the Roman legal system, even insisting on his rights of "due process" as a Roman citizen (Acts 16:37-39; 22:25-29; 25:11).

B. Proper Respect for Human Institutions

1. How shall we carry the biblical witness to God's activity in and through human order into our own quite different situation today? What are the limits to the authority of human institutions and what constitutes proper respect for such institutions? Four principles can be stated:

a. God works through human institutions that are part of the ordering of creation. God is active in all structures that bless and sustain ordinary life, including those that seem far from explicit faith content. That is, societal elements such as family and government are God-ordained just as much in cultures which lack the biblical tradition—or deny and reject it—as in those which recognize publicly the God of the Scriptures. There is no biblical support for separating faith from public life (the institutional separation of religious organizations from government is quite a different matter). In their statement to Emperor Charles V at Augsburg on June 25, 1530, German political representatives who followed Martin Luther included these words:

The Gospel does not overthrow civil authority, the state, and marriage but requires that all these be kept as true orders of God . . . Accordingly, Christians are obliged to be subject to civil authority and obey its commands and laws in all that can be done without sin. But when commands of the civil authority cannot be obeyed without sin, we must obey God rather than men (Acts 5:29).
—from Augsburg Confession, Article 16

b. God expects government to be the kind of authority which rewards good behavior and punishes evil. As Paul writes, "Rulers are not a terror to good conduct but to bad" (Romans 13:3 RSV). And Peter defines governors as people who are sent by God "to punish those who do wrong and to praise those who do right" (1 Peter 2:14). Governing authorities and civil laws are God's servants to preserve order and promote justice in this Old Age. This means that no state is God, for all states are estab-

lished to be servant to God's purposes and so are accountable to God, whether or not they recognize God's authority. There is no separate, autonomous political realm free from divine moral judgment.

c. *Having respect for the institution of government as ordained of God does not imply acceptance of every specific policy of particular governments.* There are times when one's sense of God's will for one's life may lead—as with Peter, or Paul, or Martin Luther, or Martin Luther King Jr., or Rosa Parks (of the Montgomery bus boycott), or Bonhoeffer, or Dorothy Day, or Ruth Youngdahl Nelson, or any number of other deeply faith-filled persons—to disobedience of a particular governmental demand. Christians in the early centuries regularly refused to take part in the military service demanded of them by the Roman government, for which they paid a heavy price of persecution. Luther often quoted the conclusion of Peter when facing the council of Israel (Acts 5:29), "We must obey God rather than [human authorities]"—if the two conflict.

d. *"Governing authorities" as used in Romans 13 is not limited to local, state, and national governments.* The nation-state as we know it today is a development of the last several centuries and likely will not be the ultimate stage in the evolution of human political structures. Today the world recognizes certain elements of international order: agreements governing warfare and weaponry, the law of the seas, the covenants concerning treatment of refugees, the judgments of international courts. These have been given a measure of authority by national governments. It is clear that nation-states have a monopoly on the legitimate use of coercive force and thus the structures of international order we do have are functional only as *nations* choose to honor or enforce them. Still, they are an emerging element, beyond the nation-state, with some characteristics of "governing authority." Further, when international agreements are adopted by a government such as ours they become a part of that nation's own body of law; our government as well as our citizens can be expected to abide by them as such.

II. CHALLENGES TO HUMAN LAW

A. The Priority of Legal Resorts

1. In a democratic society such as ours, respect for the law itself is accepted as a high value. Laws are assumed to be created through an exercise of the will of the citizenry and, when that is questioned, they can be challenged in the courts or changed through the electoral power of the people. This is in a constitutional democracy, of which the United States is an example, the rule of law properly has high status. Believers, along with all citizens, will normally give properly adopted legislation their obedience—even if they should find specific laws personally inconvenient or annoying or contrary to their political preferences.

2. Believers who see particular laws as wrong or inappropriate or counter-productive are obliged to join with others in testing such laws in the courts or in seeking their repeal through elected representatives.

3. While it is true that certain laws may be wrong, unjust, or corrupt, it is equally true that the consciences of persons, including Christians, can be long, misguided, affected by our sinful condition. It must also be remembered that faithful Christians can and do differ in understandings of what the gospel (or God's will) requires in the response of discipleship. These cautions apply to any discussion of law and conscience.

B. When Disobedience Is Contemplated

1. Even in a democracy that functions smoothly and fairly most of the time, some persons, in conscientiously held conviction, may feel obliged to challenge a particular law through disobedience. Indeed, the only way of testing the constitutionality of a specific law may be deliberately to violate it. Lutheran church agencies have recently done precisely that as a way of challenging federal law interpretations (Internal Revenue Service attempts to define narrowly the church's mission, excluding social services from the functions for which a church agency may claim an exemption from filing annual informational tax returns).

2. There may also be occasions in which preservation of life leaves one no alternative but to break a law which is considered valid even by the law-breaker. An example would be a situation in which, trying to save a life, an automobile driver will deliberately break a speed law. The driver recognizes the law's validity, but will break it under extraordinary circumstances.

3. The more common situations which some Christians have seen as calling for conscientious violation of law—what is called "direct civil disobedience"—fall under situations such as the following:

a. When the intent or effect of a law leads to a pattern of discrimination against particular groups within a society. (Examples: in U.S. history, laws that have denied justice and freedom to persons because of their race, national origin, or gender.)

b. When the law's requirements may lead, for some citizens, to severe violation of what they believe God requires them to do. (Examples: demand that church schools meet state certification requirements; taxation for certain military purposes; use of tax dollars to pay for abortions; conscription of the selective objector to a particular military activity; state-enforced provision of medical procedure, such as a blood transfusion, against one's religious convictions.)

c. When the implementation of a law is understood to cause great human danger. (Examples: required return of escaped slaves in the

mid-19th century; deportation which may result today in people being sent to a life-threatening situation in their country of origin.)

4. In the above examples, when a particular law itself stands in the way for persons who believe Christian discipleship justifies or requires their doing a certain deed, violation of that law is called *direct* disobedience. A violator may have either of two attitudes towards such a law: (a) it is a law one cannot personally obey in good conscience, but the violator does not claim the law is one that should be changed or repealed; (b) it is a law that is wrong for everyone and should thus be changed or repealed. An example of the first attitude would be that of a selective conscientious objector who accepts a draft as legitimate for those who can in good conscience bear arms, but cannot himself enter armed service in a specific circumstance. An example of the second would be that of the person who sees *any* conscription law as illegitimate under any circumstances, believing governments never have a right to compel people to bear arms against their will.

5. In contrast to direct civil disobedience, there are situations in which citizens choose to violate a law, not in itself a problem, in order to make a public statement on another concern. Such violations are called *indirect* disobedience. The violation becomes the vehicle for protesting something else. Breaking antitrespass laws at military bases or defense plants to protect military preparations or policies would be examples. There is an obvious distinction between direct and indirect disobedience. In the former, people believe they have no choice, since to obey the law would require them to go against conscience. The latter does *not* involve such a dilemma; people choose to break a law to make a witness on a matter they consider serious, but if they had chosen to obey that particular law there would have been no conscience violation resulting from that specific obedience.

6. Acts of civil disobedience such as those noted—both direct and indirect—have a long, honored history in Western societies. The rationale for such acts can be traced to Greek philosophers before the time of Christ. In U.S. history, acts which were at one time illegal were part of the process of gaining full religious liberty, ending slavery, securing the vote for women, recognizing labor's right to organize, legalizing conscientious objection to combatant service, securing civil rights of minority groups. The idea of achieving social change and greater justice through civil disobedience has been developed over many centuries. When social change is the goal, the disobedience must appeal to a rationale which is accessible to public discussion and reflection, that is, based on reasonable societal values and not those solely of a particular religious or philosophical viewpoint.

7. Principles such as these are central to the theory of civil disobedience. If undertaken, it must be done:

a. *Only as a last resort.* Persons will have differing definitions of what, for them, is "last resort," but legal means of changing an unjust law, or of calling attention to a social problem of injustice, shall have been tried first, when at all possible.

b. *Only by nonviolent means,* intent on avoiding harm to persons or property.

c. *Always for the sake of the larger community,* not simply to satisfy a personal or selfish desire.

d. *Always with respect for the consciences of those who disagree* with the planned disobedience. (See Paul's regard for the consciences of others, 1 Corinthians 10.)

e. *Always with willingness to accept the legal consequences* for violation of law—which is a way of affirming the legitimacy of a system of law itself. This is one way that a civil disobedient is distinguished from a criminal. A criminal actively seeks to avoid getting caught and paying any penalty for his or her action. But, by being public and willing to accept the consequences, the civil disobedient demonstrates respect for the system of law while breaking one particular law.

8. Finally, Christians will recognize always that conscience also is tainted by sin, and can be wrong. They will therefore give the utmost consideration to the counsel of fellow believers, and will contemplate disobedience with prayer and study in Christian community.

C. Individual and Collective Disobedience

1. Within the family of believers, we may speak of three situations in which disobedience has implications for the faith community. First, the action of an individual believer, who is convinced that faithfulness to divine law requires violation of human law. When considering disobedience, such a person can be expected to seek guidance from Scripture and the church's tradition. Within that search, the counsel of the person's worship community, including its pastoral care, should be central.

2. Second, the response of persons and groups toward those believers who engage in civil disobedience. The believing community, especially the congregation, is called to help individuals to struggle with any decision of conscience, in the light of biblical witness. That community is also called to support such persons through prayer, counsel, pastoral care, and acts of love, even when the community cannot agree with a stance of law violation which they take.

3. Third, an action done by or in the name of a group of believers such as a congregation. It is important to keep some distinction between what is

TWC RELATED RESOLUTIONS

The Twelfth General Convention of The American Lutheran Church adopted two resolutions related to issues addressed in "Human Law and the Conscience of Believers."

1. The Church's Position on "Human Law . . ."

Resolved, that The American Lutheran Church in convention reiterate and affirm its respect for government as ordained by God; and be it further

Resolved, that nothing in the statement "Human Law and the Conscience of Believers" should be construed as condoning disrespect for government and law; and be it further

Resolved, that this convention reaffirm and emphasize Section II, Paragraph B-7, and Section IV, Paragraph 1.

2. Central Americans in the United States.

Resolved, that The American Lutheran Church at its 1984 General Convention:

- 1) offer support and encouragement to congregations that have chosen to become refugee sanctuaries;
- 2) urge its member congregations to consider how they can respond to the problems faced by Central American refugees;
- 3) urge members of congregations to express this position on refugee sanctuary to the United States President, Congress, State Department, and Immigration and Naturalization Service; and
- 4) urge members of congregations to write to their representatives in the United States Congress asking that Central American refugees be granted extended voluntary departure status; and be it further

Resolved, that The American Lutheran Church increase its financial support to the Central American Concerns Program of Lutheran Immigration and Refugee Service in the amount of \$50,000 and urge the other participating Lutheran church bodies to do the same.

possible for individuals and what is possible for institutional expressions of the church. Violation of law in the name of a corporate entity, such as a congregation, will have legal implications for all members; thus all members should be involved in any decision about a proposed disobedient act. It is wise to make such a decision by consensus.

4. A special word must be spoken about the role of parish pastors. There may be times when a pastor believes his/her Christian faith is leading him/

her to an act of disobedience *as a believing individual*. Yet, the congregation may vehemently object, on grounds that *their* consciences do not lead them the same way and their pastor is to be a public example of the faith we are all called to exhibit, as well as to be a public representative of that congregation in the eyes of the community. There is need for great caution and understanding on both sides of such a disagreement. If a satisfactory resolution cannot be reached, it may be necessary for a pastor to resign rather than violate conscience on a matter of deep conviction.

D. *The American Lutheran Church and Civil Disobedience*

1. The ALC, through general conventions, has addressed issues of civil disobedience on two occasions.

a. The 1966 convention, in the midst of numerous activities protesting U.S. racial injustice, commended a statement on civil disobedience "to the earnest study and discussion of pastors and congregations . . ." Included was this paragraph:

He who decides that the Lord requires him to become involved in civil disobedience, fully expecting to take the consequences of his decision, is to be honored as much as the one who decides, before the Lord, against such involvement. To be pitied, however, are those who refuse to face the issue with its stark alternatives or who allow "what will people think?" to decide the case for them.

b. The 1970 convention committed The ALC to stand by those who conscientiously refuse combatant service in the military as selective objectors and find themselves in violation of law thereby. This position was reaffirmed by the 1982 convention. Both the 1970 and 1982 actions are statements of official policy and practice for the church. (The two conventions also affirmed support for those who conscientiously choose to serve as combatants or seek general conscientious objector status—both of which are legal positions. The ALC in 1971 joined others in urging Congress to legalize selective objection to combatant service, but without success.)

2. Two dilemmas face the organized expressions of the church. One is the need for communities of faith not to abandon persons who, in obeying consciences that are shaped by the church's own teaching on questions of ethics, find themselves in conflict with a law. Even though a majority of the faith community may disagree with one member's choice, it is simply not responsible or just to ignore or shun that person who believes he/she is following a faith-formed conscience. The other dilemma is to try to say anything helpful about the role of the conscience of believers without the statement itself being heard as binding the consciences of believers! The goal is to affirm conscientious Christian civil disobedience, according to the principles summarized above, without excluding those who disagree. Thus, we repeat: in seeking to respond to the conscientious actions of those who feel compelled to acts of civil disobedience, the church must be equally concerned about respecting the conscientiously held convictions of all who hold another view (Section B-7-d above). It is necessary, though difficult, to seek to maintain an overriding unity within a community of believers in the face of deep disagreements over particular strategies for seeking justice in our world.

III. THREE CURRENT AREAS OF TENSION

A. *Governmental Regulatory Requirements*

1. *Tax regulations.* Some Christians and some congregations believe they cannot conscientiously pay social security taxes for their lay employees (clergy are considered self-employed and have none of their social security paid by employing institutions). Certain congregations are challenging the law by refusing to make such payments, which are required under a recent revision of the federal tax code. Other Christians are distressed by tax regulations which seem to define narrowly what are proper functions of religious organizations—that is, limiting them to worship and education endeavors but excluding the church's role in social ministries. Some of these narrow interpretations have been challenged by church organizations which refuse to file required information, in hopes of having the interpretations overturned by the courts.

2. *Certification of Church Schools.* Certain states ask all private schools, including those of the churches, to meet certification requirements of those states. Some churches have refused to comply and their leaders have been willing to face jail sentences because of their conscientious belief that government has no right to make such a demand of religious schools.

3. *Points for Consideration of Protest to Regulatory Requirements.*

a. Those who are opposed to tax or other regulations and their impact on churches may consider filing a civil case which will seek a judicial decision on the regulation in question.

b. Opponents may also work to have the law or regulation changed by legislative action.

c. Opponents may consider violating the law as a way of compelling a judicial review as to constitutionality, consistency with the powers granted to the government agency making the interpretation, or fairness of the regulation at issue.

B. *U.S. Military Policies*

1. *Conscription.* The U.S. military draft law continues to present problems of conscience for some who are touched by it. Our law does not recognize selective participation/objection, which is the obvious consequence of adherence to the official Lutheran ethic on peace and war, the just/unjust war criteria. Even during the present period of no inductions, the registration requirement in itself is a problem for some young men, since the registration procedure defers the time at which the individual may state a conscientious-objection claim.

2. *Taxes for Military Purposes.* Some Christians conscientiously oppose paying taxes for military purposes in general, or for specific weapon systems (e.g., nuclear, chemical) or military activities they consider immoral. Short of voluntary poverty, there are no legal ways of avoiding participation with one's federal tax payments in our government's military enterprise, just as one cannot choose whether to support the cost of the postal service or food stamps. There are proposals, such as the World Peace Tax Fund Act, which if adopted by Congress would allow taxpayers to specify that their tax money not be used for military purposes. (The military would still receive the full amount appropriated by Congress but peace-oriented efforts specified by Congress would gain.)* Without such a provision, those choosing to refuse payment of taxes for military purposes will be in violation of law. ALC members choosing to make a witness as military tax resisters in good conscience, who also accept any penalty the law requires, may legitimately look for counsel, prayers, and pastoral care from their fellow believers, even when others in the faith community disagree with the action taken.

3. *Protest of Military Preparations.* This area is not as well defined as the issues of conscripting people or their money into military service. It is not a matter of opposing a law which demands an action in violation of one's conscience (*direct* civil disobedience). It is rather a matter of acting to protest a process or system one believes will have evil results, such as military preparations or production of weapons of mass destruction. This indirect civil disobedience seeks to awaken public awareness and to have impact on public policy, through nonviolent, public, symbolic, illegal actions, taken only after regretfully concluding that less drastic actions have proved insufficient. Again, the faith community is obliged to help explore the pros and cons of *all* available options with those contemplating such disobedience, and to offer counsel, prayer and acts of love to those who conscientiously choose such actions, even when most of that community may not favor the strategy.

4. *Points for Consideration of Protest to Military Policies.* Individuals and congregations may wish to reflect on these considerations:

- a. When faced by conscription or draft registration law, consider stating a claim as a general conscientious objector and being willing to give legal service (if called) in a non-combatant role. For persons who do not qualify as all-war objectors, pastors and congregations should provide help in

*The World Peace Tax Fund Act would amend the Internal Revenue Code to provide that a taxpayer conscientiously opposed to participation in war could have that portion of his/her taxes equal to the military share of the federal budget designated for a special trust fund, which would finance specific non-military, peace-related activities (such as a national peace academy or retraining of workers displaced by conversion of industry from weapons production). In 1984 the chief Senate sponsor was Mark Hatfield (R-OR) and the bill had some 50 House co-sponsors.

thinking through the pros and cons of selective objection, particularly the traditional Lutheran understanding of the criteria for unjust warfare.*

- b. Consider lawful means of protesting payment of taxes for military purposes, including voluntary reduction of income and increase in charitable contributions, sending letters of protest to the President and to members of Congress, and working for legislative changes such as World Peace Tax Fund Act.

- c. Pursue lawful kinds of witness against military preparations, including political advocacy, dialogue with leaders of companies holding weapons contracts, efforts to change public attitudes, and (if appropriate) organizing legal economic pressures such as giving consumer patronage to companies whose priorities one favors.

C. *U.S. Immigration Policies*

1. In recent years, groups of American Christians, on occasion entire congregations, have declared their church buildings to be sanctuaries where undocumented persons who lack legal status in this country may find safe haven. The idea of holy space as public sanctuary is an ancient one. In the Old Testament we read that there were holy places where persons guilty of crimes such as manslaughter were given protection (Exodus 21:12-14). There were also entire cities designated as refuges (Numbers 35:9-34), wherein acts of vengeance were prohibited. The Israelites, moreover, were told repeatedly that they would be judged by their treatment of the stranger within their gates, and were reminded that they themselves had been sojourners in a foreign land (Exodus 22:21; 23:9).

2. Sanctuary was written into medieval church law and English common law, providing safety for the accused while due process was undertaken or letting the accused leave the country safely. The idea has never been part of U.S. law, but the practice was quite common during slavery, when church buildings and church people alike became important links in the "underground railway" for fugitive slaves. During the Vietnam War a few congregations provided sanctuary to military deserters while their cases were being adjudicated.

3. Helping undocumented persons to live is not illegal. Helping them to avoid arrest or deportation may be, however, whether by providing them sanctuary or by aiding their escape from authorities. Those who feel compelled to help undocumented persons, particularly within the U.S. religious

*Traditional criteria say a war, to be justifiable, may be entered only (1) for a just cause (e.g., defense); (2) as a last resort; (3) upon declaration by lawful authority; (4) if there is reasonable prospect of achieving the just goals. Further, war to be justifiable may be prosecuted only (5) by means proportionate to the ends sought; (6) in ways that insure the immunity of non-combatants; (7) with promise of mercy to a vanquished enemy.

“Sanctuary is . . . a two-way partnership, educating North Americans while empowering those who seek asylum.”
(The Minneapolis Star and Tribune photo)

community, have typically cited justifications like these:

a. First and most important, they believe those who need protection may well be in danger of imprisonment, torture, even death, if forced to return to their country of origin. Some may have entered exile as political opponents of vengeful governments. Others who need protection may not be opponents of their government but are simply victims of well-documented arbitrary violence. Many who flee such forms of terror are apolitical, but they do have a “well-founded fear of persecution” (the internationally accepted definition of what makes one a refugee, which the U.S. Immigration Act of 1980 has also accepted).

b. Second, they view U.S. immigration law itself as law unjustly administered, when it fails to give protection to those who face life-threatening situations in their country of origin. That law may be administered in what its critics consider violation of international covenants concerning the rights of refugees, as when persons from countries whose governments we disfavor receive refugee status but those from countries whose governments we favor do not. When immigration and refugee law is turned to serve our foreign policy goals in disregard of the basic humanitarian values of our society, there is reason to protest. Currently it is people from Central America and the Caribbean, especially El Salvadorans, Guatemalans, and Haitians, who are in our country in large numbers without legal standing and who fear for their well-being if forced to return to their home countries at this time.

c. Third, they argue that churches are, by definition, places of sanctuary in a religious sense. Anyone in need should be able to find there a safe haven—physically as well as spiritually. In this reasoning, churches cannot vote whether or not to be sanctuaries: they simply are that, if they are churches. Let the governing authorities do what they must, but the churches are called to be faithful to their mission of sanctuary and hospitality, even if that involves some risks.

d. Finally, churches that have considered this issue claim that offering public sanctuary makes two unique contributions. It is, of course, an act of compassion and an act of resistance to what is considered an unjust application of a law (though there are other ways to express compassion and resistance). More distinctly, it is an occasion for education and empowerment. Public sanctuary brings the voice of suffering peoples into the heart of North American churches and communities, in the person of the refugee, turning statistics and reports into living relationship. Public



sanctuary also empowers the refugee. No longer in hiding, the refugee can tell his or her story and take an active role in the future of fellow refugees and their home countries. Public sanctuary is thus not a one-way service, but a two-way partnership, educating North Americans while empowering those who seek asylum.

4. The number of congregations which have formally offered sanctuary is small (some 150 across the country through the fall of 1984). But the issue has raised generally in the churches an awareness of (1) the historic role of faith communities in protecting politically, socially, and economically vulnerable people; (2) the intricacies of the provisions and implementation of U.S. immigration laws; (3) the relationship between people of Central America and of the U.S.

5. *Points for Consideration of Sanctuary.* In contemplating declaration of sanctuary, local churches may wish to weigh these points:

a. The most important activity to undertake, on the long term and systemic issue of refugees, is to address the *reasons* that sanctuary for aliens must even be contemplated. Most people anywhere in the world would prefer to remain in their land of birth. Further, it is neither possible nor desirable for the United States to receive all of those who may seek refuge here. Therefore, let us ask what our nation could do to help insure that people are not forced into refugee conditions in the first place. Second, let us ask what our nation could do to give those who come legal status, either on a permanent basis or, at the very least, until they may safely return. Both questions will lead us into public-policy discussion and action, proper alternatives to meeting immediate needs of threatened persons through giving unlawful asylum.

b. Seek to distinguish between persons who are fleeing a homeland for political reasons ("a well-founded fear of persecution") and those who have left for economic reasons. Often, making such distinctions is not easy. But U.S. law and honesty in the discussion require that the distinction be maintained. Not all who would claim "refugee" status are able to qualify as politically endangered.

c. Give all possible *legal* support to undocumented persons who are among us. Learn from them about the causes of their flight from home and provide them with a caring community while their cases are in process. Help them with material support and social services. And advocate for them as they seek to legalize their status in the U.S. and to avoid deportation.

d. Before seeking a decision on sanctuary, give thoughtful attention to questions such as these:

1) Has careful study of sanctuary been done, giving opportunity for participation by the full membership in the study and decision?

2) Have all legal courses of action been exhausted for the protection of undocumented persons in our community before turning to an act of civil disobedience?

3) Is there readiness to accept the consequences of violating U.S. law (penalties may include such results as a fine of up to \$2,000, a sentence of up to five years in prison, plus the confiscation of any vehicle used in transporting undocumented persons)?

4) Would sanctuary be declared primarily in order to safeguard human beings who are endangered, or to make a dramatic statement against U.S. immigration or foreign policy? (There may be more appropriate ways to make the policy statement.)

IV. POLICY AFFIRMATIONS

1. The American Lutheran Church asserts its commitment to government of human societies by law. Challenges to or changes in specific laws will normally be pursued through judicial or electoral channels. Disobedience of a law, for purposes of seeking greater social justice or keeping faith with one's conscience, is justifiable only within a framework of respect for our society's system of governance through law, which means the conditions under which civil law may be broken (Section II-B-7 above) are always to be honored.

2. The American Lutheran Church further asserts its commitment to the claims of discipleship in the Gospel, which in particular circumstances may call believers to disobedience of a civil law they consider to be in clear violation of established Christian commitments to the sacredness of life, to peace, to justice, to freedom, or to the independence of religious organizations from improper government regulation.

3. The American Lutheran Church promises to remain in ministry with* those who, having seriously reviewed all the points above, make decisions of Christian conscience to undertake actions of civil disobedience—without implying corporate agreement with particular stands taken. This affirmation includes actions of individual Christians, groups, pastors, and congregations.

4. The American Lutheran Church promises to remain in ministry with* persons who, with regard to military service, conscientiously choose to do combatant service, to refuse combatant service at any time (general consci-

*To "remain in ministry with" implies (1) no breaking of the fellowship of the faith community because of disagreement over particular acts of civil disobedience; (2) support through prayer, counsel, pastoral care, and acts of love on behalf of those who may be in violation of law; (3) no commitment on the part of The American Lutheran Church to provide financial or legal support for persons who engage in acts of civil disobedience.

entious objection) or to refuse combatant service in particular circumstances on the basis of just/unjust war criteria (selective conscientious objection). To remain in ministry with* persons choosing any of these options does not imply corporate agreement with particular stands taken. The ALC also reaffirms its pledge to stand by persons in the military who refuse to use weapons of mass destruction in combat, on the grounds that they are prescribed under the criteria of the just/unjust war ethic (see *Mandate for Peacemaking*, 1982 ALC General Convention statement, Sections A-10, B-1-a, B-2-a).

5. The American Lutheran Church promises to remain in ministry with* persons who struggle with other decisions of conscience in the war-peace arena, based on their understanding of biblical ethics, without implying corporate agreement with particular stands taken. Examples would be behavior with regard to payment of taxes for weapons of mass destruction or nonviolent protests against production and deployment of such weapons.

6. The American Lutheran Church recognizes that giving public sanctuary is, by definition, a *local* decision, since it can be done only by a particular congregation or sanctuary group in a particular community. The ALC therefore leaves the decision on the giving of public sanctuary to each congregation. The ALC reminds all congregations of the biblical call to care for the sojourner and stranger in our midst and commends those congregations which seriously pursue justice and compassion for any persons who seek haven among us. Such commendation is equally proper whether a congregation chooses to offer public sanctuary or finds other ways to be faithful to the call of the gospel in ministering among undocumented persons. The ALC encourages all of its members to petition the federal administration and their members of Congress to grant (1) a stay of deportation on humanitarian grounds or (2) extended voluntary departure status to persons who have emigrated to this country and remain under threat of deportation to life-threatening situations in their countries of origin.

The printing and distribution of this document by the:

Office of Church in Society
The American Lutheran Church
422 South Fifth Street
Minneapolis, Minnesota 55415

has been authorized by the General Secretary of The American Lutheran Church.

Additional copies are available from
AUGSBURG PUBLISHING HOUSE

30¢ per copy; \$2.40 per doz.; \$18.00 per 100

Printed in U.S.A.

11-84-20M

