

MAY 30, 1986

Should Jews be breaking the law on sanctuary

The current flap about providing "sanctuary" in churches and synagogues raises an ancient question — which has precedence, religious conscience or civil law?

The first recorded instance of this debate occurred about four-and-a-half millenia ago, according to the first chapter of Exodus. When the Egyptian Pharaoh told the Hebrew midwives to kill all Hebrew male infants, "the midwives feared God and did not as the king of Egypt commanded them." That was the first recorded instance of civil disobedience.

The latest episode in this 4,000-year-old controversy involves the churches and synagogues which are now providing "sanctuary" from the American law enforcement agencies for refugees from Guatemala and El Salvador. Some of the religious leaders involved have recently been convicted of



Raab

breaking the law, and have protested their conviction.

Although they say that the devil can quote scripture — in which one can find support for every possible position on most political issues — there does seem to be some clear Jewish tradition on this point. In Ecclesiastes, there is this key line: "I counsel you, keep the king's command. Only if you are enjoined to annul the Torah, then refuse to obey."

Over and over again, in scriptural and rabbinical writings, we are told to obey the civil law as strictly as possible. For the rabbis, it was at the least a practical matter: "Be sure that thou prayest for the well-being of the government, for it is respect for [civil] authority that saves men from swallowing up each other alive."

But the requirement that we respect the civil law is qualified, as Ecclesiastes points out. Like those Hebrew midwives, we cannot violate our fundamental religious commandments. But by what criteria do we decide that, in a given case, our religious conscience warrants the violation of civil law? One guideline is relatively simple: In a democracy, particularly, is there an alternative to breaking the law; can the law be changed in a timely fashion? Civil disobedience should be a last resort.

The other criterion is tougher: Is this really a matter of religious conscience? In a way, we are each the final arbiter of that, but let's not kid ourselves about it. In the case of Central American refugees fleeing from political imprisonment or execution, we must certainly break the law — if changing it won't work — in order to save their lives.

But in the case of Central American refugees fleeing from economic deprivation, we should probably not break the law. This would not be a religious decision but a political decision. Opening the United States to unlimited immigration — as distinct from raising the ceiling in a measured and orderly way — would not solve the problem of poverty, but might intensify the problem for the whole hemisphere. It might also radically destabilize politics to the point where a lot more lives and freedoms might be lost.

Most specifically, if we allow the distinction to be blurred between political and economic refugees, we will probably be endangering the future ability of the United States to directly save the lives of many political refugees. And there are a number of observers who suggest that the sanctuary movement is blurring that distinction. The point, however, is that such an evaluation is a matter of political assessment, not of

religious conscience, and therefore presumably not above the law.

But there is one final qualifier. Suppose someone does consider all those factors, and decides that in a given case it is warranted for him to break the law and give some other law-breaker sanctuary. Should the sanctuary-giver be exempt from prosecution on religious or other grounds? To the contrary, the sanctuary-giver should probably insist on being prosecuted and penalized under the law in order to make his point that the law is bad and should be changed.

Earl Raab is executive director of the Jewish Community Relations Council of San Francisco, the Peninsula, Marin and Sonoma.