

No. 25-5

IN THE
Supreme Court of the United States

KRISTI NOEM, SECRETARY OF HOMELAND SECURITY, ET
AL.,

Petitioners,

v.

AL OTRO LADO, A CALIFORNIA CORPORATION, ET AL.,
Respondents.

**On Certiorari to the United States Court of
Appeals for the Ninth Circuit**

**BRIEF OF AMICI CURIAE KAIROS CENTER
FOR RELIGIONS, RIGHTS AND SOCIAL JUSTICE
AND RELIGIOUS ORGANIZATIONS
IN SUPPORT OF RESPONDENTS**

KATHERINE B. WELLINGTON	CATHERINE E. STETSON
HOGAN LOVELLS US LLP	<i>Counsel of Record</i>
125 High Street, Ste. 2010	KEENAN ROARTY
Boston, MA 02110	STEVEN HIGGINS
	HOGAN LOVELLS US LLP
	555 Thirteenth Street, N.W.
	Washington, D.C. 20004
	(202) 637-5600
	cate.stetson@hoganlovells.com

Counsel for Amici Curiae

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	iii
INTERESTS OF AMICI CURIAE	1
INTRODUCTION.....	2
ARGUMENT	5
I. UNIVERSAL MORAL TRUTHS HAVE LONG REQUIRED SOCIETY TO PROTECT THOSE FLEEING PERSECUTION	5
A. Christian Tradition	5
B. Jewish Tradition	8
C. Islamic Tradition.....	9
D. Hindu And Buddhist Traditions.....	11
E. Other Global Religions And Spir- itualities.....	12
II. OUR ASYLUM LAWS DRAW FROM MILLENNIA OF HISTORY RECOG- NIZING SOCIETY'S OBLIGATION TO PROVIDE REFUGE TO OUT- SIDERS	14
A. Ancient And Medieval Roots Of Asylum Law.....	15
B. American Colonies Were Refuges For Persecuted Groups.....	19
C. America's Asylum Laws Reflect The Fundamental Religious And Moral Understanding That Soci- ety Has An Obligation To Provide Asylum To Those Who Need It	21
1. <i>American faith-based groups have long provided asylum to</i>	

TABLE OF CONTENTS—Continued

	<u>Page</u>
<i>those fleeing terror and persecution</i>	22
2. <i>Religious groups have played an instrumental role in developing U.S. asylum laws</i>	25
III. THE GOVERNMENT’S THEORY IS ANATHEMA TO OUR SHARED SOCIETAL, MORAL, AND RELIGIOUS VALUES AND ASYLUM HISTORY	28
CONCLUSION	31
ADDENDUM	

TABLE OF AUTHORITIES

	<u>Page(s)</u>
CASES:	
<i>Kelly v. Robinson</i> , 479 U.S. 36 (1986).....	29
<i>Morissette v. United States</i> , 342 U.S. 246 (1952).....	28
<i>Murphy Bros. v. Michetti Pipe Stringing, Inc.</i> , 526 U.S. 344 (1999).....	29
<i>Rubin v. Islamic Republic of Iran</i> , 583 U.S. 202 (2018).....	28, 29
LEGISLATIVE MATERIALS:	
Andorra Bruno, Cong. Rsch. Serv., R45539, Immigration: U.S. Asylum Policy (2019)	27
Andorra Bruno, Cong. Rsch. Serv., R48802, Development of the U.S. Asylum Sys- tem: In Brief (2026).....	27
<i>Refugee Act of 1979: Hearing on S. 643 Be- fore the S. Comm. on the Judiciary</i> , 96th Cong. (Mar. 14, 1979).....	28
OTHER AUTHORITIES:	
‘Abdu’l-Bahá, Abdul-Baha at Bristol, 2 Star of the West, no. 12, 1911.....	13
‘Abdu’l-Bahá, <i>First Tablet to the Hague</i> (1919) (Marzieh Gail trans.)	13
Action of Immediate Witness: Protect the Rights of Immigrants and Asylum Seek- ers (2019).....	13
Laura Alexander, <i>(The Image of) God in All of Us: Sikh and Christian Hospitality in</i>	

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
<i>Light of the Global Refugee Crisis</i> , 47 J. Religious Ethics 653 (2019)	14
Mohammad Alsubaih, <i>The Refugee in Islamic and International Law</i> (Dec. 2021)	10
AMMPARO, Evangelical Lutheran Church in America, https://perma.cc/9TP5-G86L	24
Deborah Anker, <i>Law of Asylum in the United States</i> (2015 ed.)	27
<i>Asylum (etymology)</i> , <i>Oxford English Dictionary</i> (3d ed. 2025)	16
Augustine, <i>Letter 113</i> , in <i>The Works of Saint Augustine: A Translation for the 21st Century, Letters 100–155</i> (Roland Teske trans., New City Press 2003)	17
Augustine, <i>Sermon 302</i> , in <i>The Works of Saint Augustine: A Translation for the 21st Century, Sermons 273-305A</i> (Edmund Hill trans., New City Press 1994)	17
Ignatius Bau, <i>This Ground Is Holy: Church Sanctuary and Central American Refugees</i> (Paulist Press 1985)	16-24
<i>Bhāgavata Purāṇa</i> 10	11
Douglas Boin, <i>Ancient Rome Thrived When the Empire Welcomed Immigrants. We Should Remember What Happened When That Changed</i> , <i>TIME</i> (June 9, 2020)	16
<i>Border Partners</i> , FaithWorks, https://perma.cc/B4UV-R3TV	24

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
Samuel Cheung, <i>Religious Foundations of Asylum and the Challenges of Contemporary Practice</i> , 6 J. Hum. Rts. 13 (2011).....	12, 15
Hiroimi Chiba, <i>The Role of the Protestant Church in the U.S. Refugee Resettlement Program during the Early Cold War Era: The Methodist Case</i> , in <i>Religion, Migration and Identity: Methodological and Theological Explorations</i> (Martha Frederiks & Dorottya Nagy eds., Brill 2016).....	23, 26, 27
<i>Deuteronomy 1</i>	9
<i>Exodus 3</i>	9
<i>Exodus 22</i>	8
<i>Faith in Action: How Religious Communities Have Historically United to Welcome Refugees</i> , Church World Service, https://perma.cc/PD3D-L8UJ	23, 28
Maura Jane Farrelly, <i>Papist Patriots: The Making of an American Catholic Identity</i> (Oxford Univ. Press 2012)	19
Teresa Field, <i>Biblical Influences on the Medieval and Early Modern English Law of Sanctuary</i> , 22 Ecclesiastical L.J. 222 (2020).....	18
Jack Forbes, <i>Indigenous Americans: Spirituality and Ecos</i> , 130 Daedalus 283 (2001).....	12

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
J. William Frost, <i>Religious Liberty in Early Pennsylvania</i> , 105 Pa. Mag. Hist. & Biography 419 (1981)	19
<i>Fugitive Slave Acts</i> , History (May 28, 2025), https://perma.cc/M4JM-TSUA	22
<i>Genesis</i> 1	8
<i>Genesis</i> 12	9
<i>Genesis</i> 45	9
<i>Genesis</i> 46	9
<i>Genesis</i> 47	9
Haim Genizi, <i>America’s Fair Share: The Admission and Resettlement of Displaced Persons, 1945–1952</i> (Wayne State Univ. Press 1993)	26
Scott Douglas Gerber, <i>Law and Religion in Colonial America: The Dissenting Colonies</i> (Cambridge Univ. Press 2023)	19
<i>Haggadah</i> (Rabbi Jacob Schochetat trans.)	9
<i>History</i> , Church of the Brethren, https://perma.cc/27GG-4TMM	20
<i>History</i> , United Church of Christ, https://perma.cc/F49Q-MY2G	20
<i>Immigrant & Refugee Advocacy Clinic</i> , Columbus Sch. of Law, Catholic Univ. of Am., https://perma.cc/GYP5-786W	24
<i>Jeremiah</i> 22	8
Christine Kilby, <i>The Global Refugee Crisis and the Gift of Fearlessness</i> , 26 J. Buddhist Ethics 307 (2019)	12

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
<i>Lawh-i-Maqsúd</i> (Habib Taherzadeh trans.)	13
<i>Leviticus</i> 19.....	2, 8
Livy, <i>The Early History of Rome: Books I–V</i> (Aubrey de Sélincourt trans., Penguin Books 1960)	16
<i>Maha Upanishad</i> VI (A.G. Krishna Warriar trans.)	11
<i>Matthew</i> 2	5
<i>Matthew</i> 25	2, 6
Muhammad Munir, <i>Refugee Law in Islam</i> , 4 J. Soc. Scis. 1 (2011).....	10
J. Bruce Nichols, <i>The Uneasy Alliance: Reli- gion, Refugee Work, and U.S. Foreign Policy</i> (Oxford Univ. Press 1988).....	27, 28
<i>Numbers</i> 35.....	15
<i>Operation Safe Haven: The Hungarian Ref- ugee Crisis of 1956</i> , U.S. Citizenship & Immigration Servs., https://perma.cc/A6G4-BHXG	23
<i>Partners Work Together for Asylum Seekers</i> , United Methodist Church, https://perma.cc/9HPK-7PZY	24
Geralyn Passaro and Janet Phillips, <i>Sanc- tuary: Reconciling Immigration Policy with Humanitarianism and the First Amendment</i> , 18 U. Miami Inter-Am. L. Rev. 137 (1986).....	23

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
Peter Phan, <i>Deus Migrator—God the Mi- grant: Migration of Theology and Theol- ogy of Migration</i> , 77 <i>Theological Stud.</i> 845 (2016)	7
<i>Quran</i> 8	10
<i>Quran</i> 9	11
Linda Rabben, <i>Sanctuary and Asylum: A Social and Political History</i> (Univ. of Wash. Press 2016)	13, 15-19, 21, 22, 24
<i>Roots</i> , The United Methodist Church, https://perma.cc/Z4BD-Q55X	20
<i>Ruth</i> 1	9
<i>Sanhedrin</i> 37a	8
Todd Scribner, “ <i>Pilgrims of the Night</i> ”: <i>The American Catholic Church Responds to the Post-World War II Displaced Persons Crisis</i> , 124 <i>Am. Catholic Stud.</i> 1 (2013)	27, 28
Rhonda Shapiro-Rieser, <i>The Sanctuary Movement: A Brief History</i> , Ctr. for Reli- gious and Spiritual Life at Smith Coll. (Mar. 1, 2017), https://perma.cc/YF8Z- SNLD	20-22
Arafat Madi Shoukri, <i>Refugee Status in Is- lamic Concepts of Protection</i> (2013)	10
<i>Sunan al-Tirmidhi</i> (Sh. Abu Amina Elias trans.)	3, 10
<i>Taittirīya Upanishad</i> , I (Adi Sankaracharya trans.)	3, 11

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
<i>The Displaced Persons Act of 1948</i> , Truman Library Institute, https://perma.cc/2MF2-9L94	26
Lauren Turek, <i>The Religious Activism Behind U.S. Refugee Policy</i> , ARC Mag. (Aug. 3, 2021), https://perma.cc/ZT3M-YZGZ	28
Unitarian Universalist Bylaws, Art. II.	13
U.S. Dep’t of Homeland Sec., Off. of Homeland Sec. Stat., <i>Yearbook of Immigration Statistics: FY 2022 39 (2023)</i>	28
<i>Voyage of the St. Louis</i> , United States Holocaust Memorial Museum, (June 18, 2024), https://perma.cc/32BY-ND23	25
George Washington to Francis Adrian Vander Kemp (May 28, 1788), https://perma.cc/NY58-3YU3	21
Roger Williams, <i>Letter to the Town of Providence</i> (1655).....	20
<i>Yoma</i> 85b	8

INTERESTS OF *AMICI CURIAE*¹

Amici are a coalition of dozens of religious organizations, institutions, and interfaith networks representing some of the most prominent religious groups in the United States. A full list of *Amici* is included in the addendum to this brief. *Amici* represent faith traditions that have guided hundreds of millions in their spiritual and moral obligations to help the vulnerable, displaced, and persecuted. Many of these faith traditions are practiced across every country on Earth and have roots stretching back thousands of years. All make safeguarding the stranger a core component of faith, a duty obligatory upon not just the individual but upon society as a whole.

Amici unite to voice this shared moral truth and ensure our asylum laws are not interpreted in a manner anathema to their purpose and history. *Amici* are uniquely well-positioned to explain the origins and development of asylum. The history and tradition of asylum is rooted in faith beliefs and existed since our earliest recorded history, remaining tied to faith through millennia. *Amici* and other faith communities were instrumental in passing our modern asylum laws and responsible for resettling refugees during large periods of U.S. history, and are thus uniquely situated to explain the important religious, moral, and historical origins of asylum that are reflected in U.S. law.

¹ No party or counsel for a party authored this brief in whole or in part. No party, counsel for a party, or person other than *amicus curiae* or its counsel made any monetary contribution intended to fund the preparation or submission of this brief.

Our shared faiths' sacred texts and traditions teach that every human being possesses inherent worth and dignity, including (and especially) those who are persecuted and forced to flee their homes. These texts and traditions teach that society is obligated to help the persecuted stranger. And they teach that nonresidents like refugees and immigrants should be treated humanely and afforded the standards of basic universal human rights. This shared moral and societal understanding forged thousands of years of asylum practice both inside and outside of the United States. *Amici* accordingly submit this brief to explain that the U.S. Government's position in this case is fundamentally at odds with history and tradition.

INTRODUCTION

When a stranger sojourns with you in your land, you shall not do him wrong. You shall treat the stranger who sojourns with you as the native among you, and you shall love him as yourself, for you were strangers in the land of Egypt. [*Leviticus* 19:33-34 (English Standard Version).²]

Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me. * * * [W]hatever you did not do for one of the least of these, you did not do for me. [*Matthew* 25:40, 25:45.]

² All Biblical translations are from the New International Version unless otherwise noted.

Whoever grants respite to someone in difficulty or relieves him, Allah will shade him on the Day of Resurrection when there is no shade but His. [*Sunan al-Tirmidhi* 1306 (Sh. Abu Amina Elias trans.).]

May the guest be to thee a god. [*Taittirīya Upanishad*, I.11.2. (Adi Sankaracharya trans.).]

Asylum is a core religious and moral tenet of our society, with a history as old as humanity itself. Ancient enslaved people sought asylum in temples on the mouth of the Nile. The Greeks and Romans built sanctuaries for the oppressed, persecuted peoples of other lands. Major faith traditions across the world made welcoming and protecting the foreigner a core component of faith. And our very Nation arose from the politically and religiously oppressed seeking refuge in lands other than where they were from.

Amici are an interfaith group of 31 religious groups, traditions, and coalitions representing major faith traditions practiced by billions worldwide. They write to highlight how extreme, and untenable, the Government's interpretation of our asylum laws is from a historical, religious, and social perspective. The Government's interpretation would allow it to block asylum seekers who reach the border from lawfully seeking protection from persecution. That position is incompatible with our Country's foundational understanding of society's moral obligation to protect persecuted outsiders, an obligation reflected in our most sacred traditions and embodied in our asylum system.

Our Country's major faiths make protecting the stranger a core value. Protecting and welcoming the stranger is one of Jesus's first and most powerful teachings, among the highest moral commands of the Hebrew Bible, a well-recognized right within Islamic law and theology, a fundamental Hindu and Buddhist tenet, and part of Native American spiritual teachings. That society has an obligation to provide for persecuted outsiders is a universally shared belief among the faiths observed by hundreds of millions of people in our Country, and billions worldwide.

This core moral understanding has in turn inspired centuries of religious and social asylum practice, from ancient civilizations to the American colonists. This belief drove faith groups to play key roles in the Underground Railroad providing refuge to Southern enslaved individuals. And our modern asylum laws were directly forged from the advocacy of faith-based groups operating from the shared moral understanding that society has an obligation to provide refuge to outsiders fleeing persecution.

Amici strongly agree with Respondents that the Government's interpretation of the asylum laws is insupportable as a matter of statutory text, structure, context, and history. *Amici* seek to emphasize that the Government's interpretation is also anathema to our Country's faith-based heritage and thousands of years of asylum practices, including the civilizations whose practices inspired our Nation's moral and legal codes. From the first days of its Founding, this Country has welcomed the stranger

fleeing persecution. Stopping outsiders at our border and preventing them from lawfully seeking asylum is contrary to our civilization's longstanding understanding of asylum and antithetical to asylum's understood role in a moral, democratic society. When this Court interprets our asylum laws, it should read those laws in harmony with our longstanding historical, religious, and moral traditions, rather than as undermining those traditions. As the many faiths practiced by this Country's citizens teach, a society that does not protect the least among us is a failed society.

ARGUMENT

I. UNIVERSAL MORAL TRUTHS HAVE LONG REQUIRED SOCIETY TO PROTECT THOSE FLEEING PERSECUTION.

Texts held sacred by religions in the United States and around the world instruct society to welcome and protect the stranger. This moral teaching is not a peripheral part of these religions—it is forged into their very foundations.

A. Christian Tradition

Providing asylum for the persecuted is not only an act of Christian love—it is embedded in Christianity's foundation. Jesus Christ of Nazareth was a child refugee. *Matthew* 2:13–15. Jesus and his family fled from Judea to Egypt to escape state-sponsored violence under King Herod, who sought the child's death. *Id.* Jesus's birth, childhood, and life situate the experience of forced displacement, refuge, and survival at the center of the Christian faith.

The foundational Christian moral command to “welcome the stranger” is perhaps best captured in the Gospel of Matthew. Jesus teaches that a day will come when he will sit on the throne and divide all the nations into two: “the sheep on his right and the goats on his left.” *Matthew 25:31-33*. Jesus will welcome those at his right hand into eternal life:

For I was hungry and you gave me something to eat; I was thirsty and you gave me something to drink; I was a stranger and you invited me in; I needed clothes and you clothed me; I was sick and you looked after me; I was in prison and you came to visit me.

Then the righteous will answer him, “Lord, when did we see you hungry and feed you, or thirsty and give you something to drink? When did we see you a stranger and invite you in, or needing clothes and clothe you? When did we see you sick or in prison and go to visit you?”

The King will reply, “Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.”

Id. 25:35-40. And then, Matthew teaches, the Lord will turn to his left and send those individuals to eternal punishment:

For I was hungry and you gave me nothing to eat; I was thirsty and you gave me nothing to drink; I was a stranger and you did not invite me in; I needed clothes and you did not clothe me; I was sick and in prison and you did not look after me.

They also will answer, “Lord, when did we see you hungry or thirsty or a stranger or needing clothes or sick or in prison, and did not help you?”

He will reply, “Truly I tell you, whatever you did not do for one of the least of these, you did not do for me.”

Id. 25:42-45. Jesus’s commandment to “the nations” instructs Christians to organize society in a way that provides for the stranger. Through Matthew’s haunting, mirroring language Christians are called to build a society providing love and refuge for oppressed peoples.

Millennia of Christian history and tradition reflect its close relationship to the practice of asylum—both seeking it and offering it. Christians were persecuted for centuries before Christianity became the official religion of the Roman Empire, and many early Christians sought safety in new lands. See Peter Phan, *Deus Migrator—God the Migrant: Migration of Theology and Theology of Migration*, 77 *Theological Studs.* 845, 850-851 (2016). For over a thousand years, churches have also served as inviolable sanctuaries where all could seek refuge from harm. See *infra* pp. 16-18. Many of Christianity’s denominations were persecuted religious groups, with many of their number fleeing to safety in new lands in Europe and America. See *infra* p. 7. Christian groups have remained an important force behind America’s modern asylum laws, contributing to the passage of key asylum acts and seeking resettlement for millions of refugees throughout American history. See *infra* pp. 22-28.

B. Jewish Tradition

One of the highest moral commandments in all of Judaism is to welcome and protect the stranger. This command is repeated 36 times in the Torah, more than any other commandment. Jeremiah counsels believers to “[d]o no wrong or violence to the foreigner.” *Jeremiah* 22:3. Psalms teaches that “the Lord watches over the foreigner.” *Psalms* 146:9. And Leviticus commands that we “treat the stranger who sojourns with you as the native among you” and to “love him as yourself.” *Leviticus* 19:33-34 (English Standard Version); see also *Exodus* 22:21 (“Do not mistreat or oppress a foreigner, for you were foreigners in Egypt.”). These verses guide all followers of the Hebrew Bible—both Christians and Jews.

This obligation to protect the stranger is at its strongest when it comes to saving a stranger’s life. The Hebrew Bible teaches that all humanity is created *B’tzelem Elohim* (in God’s image) and thereby divinely endowed with inherent dignity and respect. *Genesis* 1:27. The Talmud teaches that “whoever saves a single life is considered by scripture to have saved the entire world.” *Sanhedrin* 37a. An individual who saves a stranger thus saves the world. And this obligation to save life overrides all other Jewish scriptural and Talmudic commands. See, e.g., *Yoma* 85b (saving a life overrides observing the Sabbath).

The obligation to protect the life of a stranger is not only among the most deeply ingrained of Jewish moral teachings; it is among the most personal to the Jewish people. The history of the Jewish people in the Hebrew Bible is that of migration and escape to

new lands. Moses led the Jewish people from slavery and persecution under the Pharaoh to freedom and the promised land of Canaan. *Exodus* 3:7-10; 12:31-42; *Deuteronomy* 1:25. Abraham and his family migrated throughout Canaan and Egypt. *Genesis* 12:6-20. Jacob's family migrated to Egypt to escape famine, *Genesis* 45:9-11; 46:1-7; 47:4, and Naomi's family in the Book of Ruth migrated to Moab, *Ruth* 1:1-2. Through generations of Jewish history, the Jewish people have known what it means to be an itinerant people seeking safety, most notably culminating in the refuge sought during and after the Holocaust, and extending to the present day.

These historical experiences of migration remain lived experiences for those of Jewish faith, even for those who have never migrated or emigrated themselves. Each year during Passover, Jews read aloud from the Haggadah a passage instructing that "in every generation a person is obligated to regard himself as if he had come out of Egypt." *Haggadah* (Rabbi Jacob Schochetat trans.). Through this sacred recitation mirroring the historic and contemporary experience of Jewish people fleeing persecution, Jews maintain a personal connection to the plight and struggle of migrants, and the continuing societal imperative to provide freedom and safety for all.

C. Islamic Tradition

Like Judaism and Christianity, Islam instructs its followers to safeguard the stranger. As the Prophet Muhammad taught, "Whoever grants respite to someone in difficulty or relieves him, Allah will shade him on the Day of Resurrection when there is

no shade but His.” *Sunan al-Tirmidhi* 1306 (Sh. Abu Amina Elias trans.).

Like their ancestors in the Jewish and Christian Scriptures, the Prophet Muhammad and his companions were refugees and migrants. Persecuted for preaching monotheism in a land of idolatry, they fled their home city of Mecca and sought refuge in Medina. See Mohammad Alsubaih, *The Refugee in Islamic and International Law* 39 (Dec. 2021). This migration—known in Islam as “the Hijrah”—is one of the most important moments in Islamic history and marks the beginning of the Islamic calendar. *Id.*

Muslims hold these early migrants (the Muhajirun) in the highest esteem and regard them as among the most honored figures in Islamic history. See Arafat Madi Shoukri, *Refugee Status in Islamic Concepts of Protection* 41 (2013). Those who sheltered these early refugees—known as “the Helpers”—are similarly blessed. *Id.* Because emigration is a severe ordeal, and those who help such individuals in need are correspondingly rewarded, the Quran teaches that “those who believed and emigrated, and struggled for God’s cause, and those who gave refuge and help: they are the true believers and they will have forgiveness and generous provision.” *Quran* 8:74 (Saheeh International trans.).

Classical Islamic law adopted a broad theory of asylum known as *aman* (literally, “protection”). See Muhammad Munir, *Refugee Law in Islam*, 4 *J. Soc. Scis.* 1, 4 (2011). Any citizen of a Muslim state—Muslim or non-Muslim, free or enslaved, male or female—could grant *aman* to any individual outside the Muslim state, thereby affording that individual

protection and residency. *Id.* The practice of *aman* was personally affirmed by the Prophet Muhammad, who warned that God and his angels curse those who harm protected individuals. *Id.* at 5. Indeed, the Quran commands that even the war enemies of a Muslim state are entitled to asylum if they seek it—“if anyone from the [warring] polytheists asks for your protection, grant it to them so that they may hear the Word of Allah, then escort them to a place of safety, for they are a people who have no knowledge.” *Quran* 9:6.

D. Hindu And Buddhist Traditions

Asylum plays a crucial role in the faith traditions of Hinduism and Buddhism. As the Upanishads teach, the divine exists in all of us—Hinduism commands that “the guest be to thee a God.” *Taittiriya Upanishad, Shikshavalli* I.11.2 (Adi Sankaracharya trans.). And “the entire world constitutes but a family.” *Maha Upanishad* VI-72-73a (A.G. Krishna Warriar trans.).

As with the Abrahamic traditions, sacred figures in Hindu beliefs and practices were forced to flee from unjust conditions. According to the Bhagavata Purana, the Hindu deity Krishna was born in prison and fled from the evil king Kamsa. *Bhāgavata Purāṇa* 10.3-4. Krishna crossed natural borders to find refuge in another land. *Id.* 10.3-4. Because of the safety he received, Krishna managed to overcome and eventually destroy Kamsa. *Id.* 10:44.

Both Buddhist and Hindu teachings uphold the practice of *abhayadana*—which includes, among other things, providing “protection or security to those who fear threatened or inflicted violence.”

Christine Kilby, *The Global Refugee Crisis and the Gift of Fearlessness*, 26 *J. Buddhist Ethics* 307, 311-312 (2019). In Buddhism, “taking refuge is one of the few practices common to all schools of Buddhism, whether meaning to shelter or to protect through sanctuary or meaning inner and outer refuge.” Samuel Cheung, *Religious Foundations of Asylum and the Challenges of Contemporary Practice*, 6 *J. Hum. Rts.* 13, 16 (2011). And in Hinduism, *abhayadana* is emphasized as a moral obligation placed upon the king of a land. Kilby, *supra*, at 311-312. Hindu dharmaśāstra traditions provide that “the king should * * * save anyone who comes to him for refuge,” *id.*, and the Mahabharata exhorts a king’s “sacred duty” to refuse to surrender a refugee to an enemy, Cheung, *supra*, at 16. These teachings obligate a nation’s ruling entity to provide safety to those fleeing persecution.

E. Other Global Religions And Spiritualities

Most, if not all, other major faiths and spiritualities command society to welcome and protect the stranger.

Among indigenous spiritualities, “[p]erhaps the most important aspect of” Native American cosmic beliefs is “the conception of creation as a living process, resulting in a living universe in which a kinship exists between all things.” Jack Forbes, *Indigenous Americans: Spirituality and Ecos*, 130 *Daedalus* 283, 283 (2001). Native American spiritualities teach that all are worthy (and deserving) of respect, care, and safety. *See id.* at 284-287. Because of the shared interrelationship between all things, Native

American tribes commonly offered asylum (and adoption into their tribes) to persecuted outsiders seeking a home. Linda Rabben, *Sanctuary and Asylum: A Social and Political History* 35 (Univ. of Wash. Press 2016).

In the Bahá'í faith, one of the central tenets commanded of all believers is to believe in the unity of mankind—“[t]he earth is but one country, and mankind its citizens.” *Lawh-i-Maqsúd* (Habib Taherzadeh trans.). Believers must “think of all humankind as their friends; regard[] the alien as an intimate, the stranger as a companion.” ‘Abdu’l-Bahá, *First Tablet to the Hague* (1919) (Marzieh Gail trans.). Pursuant to this shared moral ethos, Bahá'ís are commanded to “shelter the refugees.” ‘Abdu’l-Bahá, *Abdul-Baha at Bristol*, 2 Star of the West, no. 12, 1911, at 8.

At the heart of the Unitarian Universalist covenantal faith tradition is the mutual commitments members and congregations make to one another to live out shared religious values, including that “every person is inherently worthy and has the right to flourish with dignity, love, and compassion.” Unitarian Universalist Bylaws, Art. II., Sec. C-2.2. These commitments compel Unitarian Universalists to act for justice and protect human rights. Since the early 1960s, Unitarian Universalists have resolved to offer sanctuary for refugees, end inhumane raids and unjust deportation, and “protect and assist immigrants and asylum seekers in their attempts to lawfully enter and/or remain in the United States.” Action of Immediate Witness: Protect the Rights of Immigrants and Asylum Seekers (2019).

In Sikhism, believers are “mandated to perform selfless service on a regular basis by showing hospitality to all people—especially those outside one’s own religious, cultural, or ethnic group.” Laura Alexander, *(The Image of) God in All of Us: Sikh and Christian Hospitality in Light of the Global Refugee Crisis*, 47 J. Religious Ethics 653, 663 (2019). Because “God is in all people, no one is a stranger to God.” *Id.* Sikhs are active globally in providing support, resources, and safety to refugees worldwide. *See generally id.* at 663-664. And “Sikh tradition teaches that [this] hospitality and generosity are to be practiced at a structural and systemic level,” not merely an individual one. *Id.* at 664.

Many other faiths and traditions embrace similar beliefs, demonstrating the foundational importance of providing refuge as both a religious and moral value.

II. OUR ASYLUM LAWS DRAW FROM MILLENNIA OF HISTORY RECOGNIZING SOCIETY’S OBLIGATION TO PROVIDE REFUGE TO OUTSIDERS.

Our asylum laws are the modern embodiment of a deeply rooted religious, cultural, and historical heritage that has consistently affirmed society’s obligation to provide refuge for those seeking safety. Asylum reaches back to some of the earliest moments of recorded human history. It was practiced throughout the ancient civilizations that forged the foundation of Western society. This tradition can also be found in the form of church sanctuary asylum, a mainstay of European culture for over a millennium.

Our very Nation began as a haven for persecuted political and religious minorities. This tradition is present throughout our history, from the practices of Native Americans to the Underground Railroad to modern times. Congress adopted our current asylum laws in significant part due to the efforts of faith-based groups seeking to uphold deeply held societal, moral, and cultural principles.

A. Ancient And Medieval Roots Of Asylum Law

“[A]sylum is as old as humanity itself.” Cheung, *supra*, at 15. Early humans regarded places like waterfalls, caves, and temples as sacred and inviolable—spaces where all could seek shelter and none could be harmed. *Id.* Enslaved people sought asylum in the temples of Osiris and Amon, and at the temple of Toth at the mouth of the Nile River. *Id.* The ancient Israelites established six cities of refuge. *Numbers* 35:9-29; Rabben, *supra*, at 31. Ancient African societies regarded sanctuary as a “sacred institution” and designated shrines and streams as safe grounds for the persecuted. Rabben, *supra*, at 35. Indigenous North American tribes established “peaceable towns” for refugees, and the Seneca “gave sanctuary to indigenous people of diverse origins.” *Id.* Treaties between second-millennium B.C. Hittite kings affirmed that “[w]hen a refugee comes from your land into mine he will not be returned.” Cheung, *supra*, at 15.

The Greeks and Romans continued this practice. Asylum is Latin for “sanctuary for refugees,” and its etymology traces from the Greek word *asylos*, mean-

ing “inviolable.” *Asylum (etymology)*, *Oxford English Dictionary* (3d ed. 2025); Rabben, *supra*, at 32. The Greeks established temples as sanctuaries for “the oppressed and the persecuted.” *Id.* at 33 (internal quotation marks omitted). It was believed that severe punishment would befall anyone who harmed a refugee sheltered in a temple. *Id.*

The Romans similarly treated temples as sanctuaries and established their own asylum practices. *Id.* Romulus, the mythical founder of Rome, reportedly made the slope of Capitoline Hill an asylum for fugitives. Livy, *The Early History of Rome: Books I–V* 42-43 (Aubrey de Sélincourt trans., Penguin Books 1960). This place of asylum, dedicated to an unknown god, attracted refugees from Rome’s neighbors, providing refugees with a fresh start and Rome with adequate numbers to defend herself. *Id.*; Rabben, *supra*, at 33 (citation omitted). The Romans continued this practice throughout their history, which bolstered their ranks and weakened their rivals. See Douglas Boin, *Ancient Rome Thrived When the Empire Welcomed Immigrants. We Should Remember What Happened When That Changed*, *TIME* (June 9, 2020).

Early European societies likewise created places of asylum, embodied by the Catholic Church’s practice of church sanctuary. From Catholicism’s very beginning, churches were treated as sanctuaries for the oppressed and persecuted. Ignatius Bau, *This Ground Is Holy: Church Sanctuary and Central American Refugees* 131 (Paulist Press 1985). Once an individual sought shelter in a church, they could not be harmed.

The practice of church sanctuary was formalized by the Theodosian Code of 392, and early Church leaders “personally protected fugitives and preached on the inviolability of churches.” Rabben, *supra*, at 39-41. Saint Augustine called upon Catholics to protect church sanctuaries. Augustine, *Sermon 302*, in *The Works of Saint Augustine: A Translation for the 21st Century, Sermons 273-305A* 310-311 (Edmund Hill trans., New City Press 1994). Saint Augustine’s Letter 113 demonstrates how religious leaders protested when the institution of sanctuary was violated. See Augustine, *Letter 113*, in *The Works of Saint Augustine: A Translation for the 21st Century, Letters 100–155* 97 (Roland Teske trans., New City Press 2003) (interceding on behalf of an individual seized from a church). As Saint Augustine explained, church sanctuary was a “common refuge of all” and protected all who needed it. See *Sermon 302, supra*, at 310-312.

Church sanctuary went far beyond providing mere physical shelter. Clergy would play an active role in adjudicating disputes after an individual sought refuge. Bishops had authority to “examine all sanctuary seekers” and intercede on their behalf. Rabben, *supra*, at 40; Bau, *supra*, at 132. Bishops ascertained the credibility of asylum seekers, including enslaved people who sought refuge in a church after complaining of ill-treatment. Bau, *supra*, at 132. Church officials thus became intermediaries between alleged wrongdoers and their accusers, creating a religious justice system serving as a predecessor for modern asylum law. Rabben, *supra*, at 40.

The practice of church sanctuary was further institutionalized by medieval European governments. The first Christian kings in England codified the practice. See Bau, *supra*, at 134-143. They established stiff penalties for entering a church to seize or harm a refugee, and enacted laws governing how sanctuary operated in the country. Rabben, *supra*, at 43-44. Over time, church sanctuary became “one of the most powerful and important medieval institutions.” *Id.* at 48. Church sanctuary was an integral, established component of English criminal law, Bau, *supra*, at 144, and was regularly used to resolve conflicts of all kinds both inside and outside the criminal justice system, Rabben, *supra*, at 48. Church sanctuary played a vital role in defining the “boundaries of the law and the sacred meaning of justice” in medieval England. *Id.*

As the English monarchy exercised more control over church sanctuary, the power and influence of the Catholic Church in England gradually eroded. Teresa Field, *Biblical Influences on the Medieval and Early Modern English Law of Sanctuary*, 22 *Ecclesiastical L.J.* 222, 225 (2020); Rabben, *supra*, at 52. The English Reformation effectively ended the practice of sanctuary in England. Field, *supra*, at 225. But the practice endured in many other Catholic countries in Europe. See Rabben, *supra*, at 53-54 (describing how the Catholic Church “preserve[d] sanctuary in predominantly Catholic countries such as France”).

B. American Colonies Were Refuges For Persecuted Groups

From the earliest days of the American colonies, persecuted religious and political communities from overseas found refuge in America. *See* Bau, *supra*, at 158-159 (noting that America “was viewed as a sanctuary, a refuge from the upheaval in the aftermath of the Protestant Reformation and the Catholic Counter-Reformation”). The Pilgrims fled to New England to escape religious and social oppression. *Id.*; Rabben, *supra*, at 56. Maryland was founded in part as a “haven for Catholics” persecuted by the English Crown. Scott Douglas Gerber, *Law and Religion in Colonial America: The Dissenting Colonies* 22-23 (Cambridge Univ. Press 2023). And Pennsylvania was settled by Quakers escaping religious persecution abroad. J. William Frost, *Religious Liberty in Early Pennsylvania*, 105 Pa. Mag. Hist. & Biography 419, 423 (1981).

Presaging the later-adopted First Amendment, many American colonies sought to enshrine religious toleration in their laws. Maryland adopted “the first act of religious toleration in the British world.” *See* Maura Jane Farrelly, *Papist Patriots: The Making of an American Catholic Identity* 63 (Oxford Univ. Press 2012) (noting that Maryland adopted that law in part to protect its Catholic population). Rhode Island and Pennsylvania soon followed, embedding religious freedom in their foundational legal documents. *See* Frost, *supra*, at 423 (noting that William “Penn’s tracts on [religious] toleration were designed for immediate problems of

persecution of his fellow Quakers”); Roger Williams, *Letter to the Town of Providence* (1655).

Because of these laws, the American colonies became a haven for the oppressed religious groups of Europe. Persecuted groups fled to America in large numbers, founding many of the churches and denominations that have joined this brief as *amici curiae*. See, e.g., *History*, Church of the Brethren, <https://perma.cc/27GG-4TMM> (explaining that “[d]ue to growing persecution and economic hardship,” the Church of the Brethren immigrated to Pennsylvania from Germany); *History*, United Church of Christ, <https://perma.cc/F49Q-MY2G> (tracing the United Church of Christ’s history to the Pilgrims); *Roots*, The United Methodist Church, <https://perma.cc/Z4BD-Q55X> (explaining that “Methodism in America began without authorization or support from England, as lay Methodists immigrated to America”).

The colonies also served as a sanctuary for political refugees. See Rhonda Shapiro-Rieser, *The Sanctuary Movement: A Brief History*, Ctr. for Religious and Spiritual Life at Smith Coll. (Mar. 1, 2017), <https://perma.cc/YF8Z-SNLD>. One famous example involved two regicides—members of the court that tried King Charles I and sentenced him to death following the defeat of the Royalists by Oliver Cromwell—who later sought refuge in the New Haven Colony to escape an indictment issued by King Charles II following the Restoration. Bau, *supra*, at 159. When British officers arrived in New Haven to arrest the two men, colonists hid them in a cave, while a Puritan pastor “preached a sermon

to the officers in support of sanctuary.” Rabben, *supra*, at 56. The colonists’ efforts thwarted the British officers’ search, and the fugitives were allowed to live out their natural lives in the colony. Bau, *supra*, at 159. This was only one (particularly dramatic) episode of many; seeking political refuge in the colonies was common. See Shapiro-Rieser, *supra*. Episodes like these reflected a broader reality: protecting the persecuted and oppressed outsiders was a deeply-rooted, shared value of colonial America.

These values carried on into the Founding. As George Washington expressed, America sought “that this land might become a safe and agreeable asylum to the virtuous and persecuted part of mankind, to whatever nation they might belong.” See George Washington to Francis Adrian Van der Kemp (May 28, 1788), <https://perma.cc/NY58-3YU3>.

C. America’s Asylum Laws Reflect The Fundamental Religious And Moral Understanding That Society Has An Obligation To Provide Asylum To Those Who Need It

Our asylum system grew out of this millennia-old heritage. America’s modern asylum history and laws are the product of decades of efforts by faith-based groups and communities to engrain in our legal system the principle that our society has an obligation to provide a place of safety to asylum seekers.

1. *American faith-based groups have long provided asylum to those fleeing terror and persecution*

As described above, throughout American history, religious communities have treated the protection of the persecuted and oppressed as a basic societal obligation. This enduring commitment has placed them at the center of our Nation's history of providing asylum to those who need it.

In the decades leading up to the Civil War, faith communities across multiple traditions not only publicly condemned slavery as anathema to their beliefs and values, Bau, *supra*, at 160, but also played key roles in the Underground Railroad. See Shapiro-Rieser, *supra*. Church and religious community leaders served as organizers for the Railroad, creating a network capable of transporting enslaved people "across hundreds of miles of unfriendly territory to safety." Rabben, *supra*, at 70-73. Churches and church communities were sanctuaries along this pathway to freedom. Bau, *supra*, at 160. The Underground Railroad expanded significantly following the enactment of the Fugitive Slave Act of 1850, a law that mandated the return of escaped enslaved individuals to Southern slaveholders. *Fugitive Slave Acts*, History (May 28, 2025), <https://perma.cc/M4JM-TSUA>. Religious groups which helped enslaved people escape to safety in the North now helped them obtain refuge in Canada. *Id.* These communities risked their own liberty based on the shared moral value that

communities have a duty to safeguard oppressed peoples and deliver them to safe lands.³

In the twentieth century, churches and faith communities played a central role in resettling refugees displaced by war and strife. Religious organizations aided in resettling hundreds of thousands of refugees admitted to the United States after World War II.⁴ Religious organizations resettled persecuted Cubans after Fidel Castro rose to power in 1959, Chiba, *supra*, at 67; they resettled Hungarians fleeing brutal Soviet oppression in 1956.⁵ Religious groups also resettled more than 10,000 refugees in the 1970s, during and after the Vietnam War.⁶

In the 1980s, hundreds of religious communities provided sanctuary to Central American refugees fleeing civil war and violence. Geralyn Passaro and Janet Phillips, *Sanctuary: Reconciling Immigration Policy with Humanitarianism and the First*

³The Fugitive Slave Act of 1850 also prohibited harboring or assisting fugitive slaves. Bau, *supra*, at 160.

⁴Hiromi Chiba, *The Role of the Protestant Church in the U.S. Refugee Resettlement Program during the Early Cold War Era: The Methodist Case*, in *Religion, Migration and Identity: Methodological and Theological Explorations* 64 (Martha Frederiks & Dorottya Nagy eds., Brill 2016); see Bau, *supra*, at 45.

⁵*Operation Safe Haven: The Hungarian Refugee Crisis of 1956*, U.S. Citizenship & Immigration Servs., <https://perma.cc/A6G4-BHXG>.

⁶*Faith in Action: How Religious Communities Have Historically United to Welcome Refugees*, Church World Service, <https://perma.cc/PD3D-L8UJ>.

Amendment, 18 U. Miami Inter-Am. L. Rev. 137, 139 (1986). Religious leaders across the Country organized the use of church buildings as public sanctuaries—just as in medieval Europe—where Central American asylum seekers could access food, shelter, and legal advice.⁷ *Id.* Over 150 churches across the Country helped thousands of refugees. Bau, *supra*, at 12.

Religious groups, including many which have signed this brief as *amici curiae*, remain at the forefront of refugee resettlement today. *Amici* have established migrant shelters on both sides of the U.S.-Mexico border.⁸ They welcome refugees into their communities. They provide sanctuary in their churches. They create programs to help asylum seekers navigate the difficult asylum process.⁹ And they continue to advocate on behalf of refugees nationwide and worldwide. These groups act out of the shared belief, rooted in sacred practices and texts, that society is obligated to protect the oppressed stranger.

⁷ In 1981, the Immigration and Naturalization Service ordered federal agents not to pursue “aliens” into churches, schools, and hospitals. Rabben, *supra*, at 131. Churches thus re-emerged as inviolable sanctuaries for refugees.

⁸ See, e.g., *Border Partners*, FaithWorks, <https://perma.cc/B4UV-R3TV>.

⁹ See, e.g., *AMMPARO*, Evangelical Lutheran Church in America, <https://perma.cc/9TP5-G86L>; *Partners Work Together for Asylum Seekers*, United Methodist Church, <https://perma.cc/9HPK-7PZY>; *Immigrant & Refugee Advocacy Clinic*, Columbus Sch. of Law, Catholic Univ. of Am., <https://perma.cc/GYP5-786W>.

2. *Religious groups have played an instrumental role in developing U.S. asylum laws*

Religious groups were also instrumental in the passage of two key modern American refugee laws: the Displaced Persons Act of 1948 (“the 1948 Act”) and the Refugee Act of 1980.

The 1948 Act was the first Congressional enactment permitting the admission of refugees into the United States. Prior to the 1948 Act, refugees could only enter the United States through executive action or immigration quotas. *See, e.g., Refugee Timeline*, U.S. Citizenship & Immigration Servs., <https://perma.cc/FK7E-WSGX>. That system proved ill-equipped to address the unprecedented refugee crisis caused by World War II. *Id.* (noting the “nearly 7 million displaced persons in Europe as a result of World War II”). And it had failed just a decade prior. In 1939, 908 Jews had been turned away from the coast of the United States because of quota restrictions. *Voyage of the St. Louis*, United States Holocaust Memorial Museum (June 18, 2024), <https://perma.cc/32BY-ND23>. About a quarter eventually died in the Holocaust—an event viewed as one of the great moral failures in our Country’s history. *Id.*

Building from these failures, the passage of the 1948 Act was attributable in significant part to the efforts of faith-based organizations. At the time, few Americans desired to accept significant numbers of European immigrants.¹⁰ Against this backdrop,

¹⁰ *See Chiba, supra*, at 62.

religious organizations stepped forward in order to persuade Congress and the American public to embrace war-displaced refugees. *See* Chiba, *supra*, at 62-63. They wrote editorials and letters of support, testified before Congress, and preached in favor of the law. Haim Genizi, *America's Fair Share: The Admission and Resettlement of Displaced Persons, 1945-1952* 70-76, 203 (Wayne State Univ. Press 1993).

The organizations' efforts at persuasion were successful, creating an "upward surge of public sentiment" and support in Congress for legislation admitting refugees. *Id.* at 76. Following the religious groups' campaign, "almost every major American organization * * * endorsed the goals of the" Displaced Persons Act, and the law was passed in 1948. Chiba, *supra*, at 63 (quotation omitted). These same religious organizations that passed the act then helped resettle the vast majority of the refugees that were subsequently admitted. *See supra* at pp. 23-24; Chiba, *supra*, at 62-63.

The 1948 Act paved the way for the more generous and understanding refugee acts of subsequent years.¹¹ Genizi, *supra*, at 114. Between 1948 and 1960, Congress enacted a series of ad hoc measures in response to successive refugee crises. Todd

¹¹ For instance, the Displaced Persons Act of 1948 as originally drafted excluded many Jewish refugees from resettling in the United States. *See The Displaced Persons Act of 1948*, Truman Library Institute, <https://perma.cc/2MF2-9L94>. Religious organizations played a leading role lobbying for new legislation to fix this. *See* Genizi, *supra*, at 106-111. Congress amended the law in 1950. *See The Displaced Persons Act of 1948, supra*.

Scribner, “*Pilgrims of the Night*”: *The American Catholic Church Responds to the Post-World War II Displaced Persons Crisis*, 124 *Am. Catholic Stud.* 1, 20 (2013). Religious groups remained at the forefront, urging passage of these measures; indeed, by the 1960s, religious organizations had become “the major nongovernmental groups influencing American immigration policy.” Chiba, *supra*, at 67 (quotation omitted).

Religious organizations similarly advocated for—and succeeded in passing—the Refugee Act of 1980, which forms the foundation of the current U.S. asylum system. Scribner, *supra*, at 20; see Deborah Anker, *Law of Asylum in the United States* 10 (2015 ed.). The 1980 Act adopted the definition of “refugee” found in the 1967 United Nations Protocol Relating to the Status of Refugees.¹² It created a permanent, systematic legal framework for asylum claims. J. Bruce Nichols, *The Uneasy Alliance: Religion, Refugee Work, and U.S. Foreign Policy* 115 (Oxford Univ. Press 1988). And it established a neutral, nondiscriminatory process for adjudicating those claims. *Immigration: U.S. Asylum Policy*, *supra*, at 9.

Religious organizations regarded the 1980 Refugee Act as a step toward fulfilling the Nation’s religious and moral commitment to help the persecuted and oppressed. See *Faith in Action*, *supra*. Religious

¹² See Andorra Bruno, Cong. Rsch. Serv., R48802, Development of the U.S. Asylum System: In Brief at 2 (2026); Andorra Bruno, Cong. Rsch. Serv., R45539, Immigration: U.S. Asylum Policy at 9 (2019).

organizations, including many that have joined this brief, threw their full weight behind the Act, lobbying publicly and in Congress. See Nichols, *supra*, at 85; Scribner, *supra*, at 20; Lauren Turek, *The Religious Activism Behind U.S. Refugee Policy*, ARC Mag. (Aug. 3, 2021), <https://perma.cc/ZT3M-YZGZ> (describing how activism came from “politically liberal and conservative religious organizations alike”); *Refugee Act of 1979: Hearing on S. 643 Before the S. Comm. on the Judiciary*, 96th Cong. at 44 (Mar. 14, 1979) (explaining that multiple religious groups, including some *Amici*, testified in support of the 1980 Act).

Over 3.5 million refugees and asylees have come to the United States under the 1980 Refugee Act.¹³ And religious groups continue to use their “moral power” to ensure that the United States fulfills its religious, moral, and societal obligation to provide asylum to refugees. See Turek, *supra*.

III. THE GOVERNMENT’S THEORY IS ANATHEMA TO OUR SHARED SOCIETAL, MORAL, AND RELIGIOUS VALUES AND ASYLUM HISTORY.

Our laws draw their interpretation and application from “the legal tradition and meaning of centuries of practice.” *Morissette v. United States*, 342 U.S. 246, 263 (1952). They are informed by “historical practice” of laws and their antecedents. *Rubin v. Islamic Republic of Iran*, 583 U.S. 202, 214 (2018). Here, the Government’s position is

¹³ U.S. Dep’t of Homeland Sec., Off. of Homeland Sec. Stat., *Yearbook of Immigration Statistics: FY 2022* 39, 43 (2023).

anathema to the long history of asylum and the religious and moral principles underpinning it.

The Government asserts that our asylum laws can be denied to all asylum seekers who reach our borders, because the Government can keep them one foot outside. That is incompatible with asylum's foundational theory that society has an obligation to provide protection for persecuted outsiders. The basic moral rationale of asylum is that society must protect the stranger. This moral understanding and core belief, shared by major faiths worldwide, forged thousands of years of asylum practice and resulted in our modern asylum laws. *See supra* pp. 5-28. The Government's theory nullifies asylum for the persecuted outsider—the very people asylum is primarily supposed to serve. Indeed, it would nullify asylum for the very foreigners whom our modern asylum laws were designed to protect. *See supra* pp. 25-28.

The Government's interpretation is thus “contrary to” “long-prevailing” “deep conviction[s]” forming “the basis” for asylum law itself. *Kelly v. Robinson*, 479 U.S. 36, 47-48 (1986). It would take a far “clearer statement than Congress has made * * * to effect so strange” an asylum regime, where the archetypal people who should receive asylum are unable to claim it because they are held at bay one step from the border. *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 356 (1999); Resp. Br. 33, 37-39.

The Government's interpretation also bears little resemblance to the “historical practice” of thousands of years of asylum forming our heritage. *Rubin*, 583

U.S. at 214. The ancient, medieval, colonial, and modern manifestations of asylum have always made asylum open to persecuted outsiders. Rome provided asylum to its neighbors, colonial America provided refuge for foreigners persecuted on political and religious grounds, religious groups provided refuge to Southern enslaved people through the Underground Railroad, and the 1948 Displaced Persons Act welcomed international refugees after the Second World War. *See supra* pp. 15-27. A thousand years of church sanctuary practice likewise established that individuals could first enter churches in safety, and only afterwards would their claims be adjudicated. *See supra* p. 7. *Amici* are aware of no prior asylum scheme in our social, religious, or political heritage whereby asylum laws only exist for people who are already safe within a country's borders.

This Country's asylum laws were not drafted in a vacuum. They trace their roots to Greek and Roman traditions, where temples served as sanctuaries for displaced peoples. Asylum existed for a thousand years in the form of medieval church sanctuary. It extends to both Native Americans and colonial America. It extends to the Underground Railroad. It extends to our welcome of refugees fleeing persecution and strife for many decades. And it extends to those who reach our borders in desperate need of safe passage and refuge today.

Should this Court conclude that the United States may stop asylum seekers just one step before the U.S. border—and deny them even the opportunity to seek refuge within our borders—it would impute to

Congress a purpose and vision of asylum law that has no precedent in history. Such a ruling would reject the moral underpinnings that led to our asylum laws. It would undermine one of the most foundational tenets of our many faith traditions, which instruct nations on the critical role of asylum in ensuring a moral, stable, and sound society. And it would largely nullify our asylum laws for the very people those laws were drafted to help. This outcome would be fundamentally contrary to our Country's religious, social, and moral traditions.

CONCLUSION

The Government's theory that it can bar asylum seekers from lawfully crossing the U.S. border at a port of entry—without an opportunity to seek asylum, even if they are entitled to it—rejects our civilization's heritage and our religious and moral obligations to offer persecuted strangers a place of safety. For the foregoing reasons, and those in Respondents' brief, the judgment of the Ninth Circuit should be affirmed.

Respectfully submitted,

<p>KATHERINE B. WELLINGTON HOGAN LOVELLS US LLP 125 High Street, Ste. 2010 Boston, MA 02110</p>	<p>CATHERINE E. STETSON <i>Counsel of Record</i> KEENAN ROARTY STEVEN HIGGINS HOGAN LOVELLS US LLP 555 Thirteenth Street, N.W. Washington, D.C. 20004 (202) 637-5600 cate.stetson@hoganlovells.com</p>
---	--

FEBRUARY 2026

ADDENDUM

ADDENDUM—LIST OF *AMICI CURIAE*

- Alliance of Baptists: <https://allianceofbaptists.org>
- Central Atlantic Conference, United Church of Christ: <https://www.cacucc.org>
- Central Conference of American Rabbis: www.ccarnet.org
- Church of the Brethren: <https://www.brethren.org>
- Cooperative Baptist Fellowship: <https://cbf.net>
- Council on American-Islamic Relations: <https://www.cair.com>
- The Most Rev. Sean W. Rowe, Presiding Bishop of The Episcopal Church, and Ms. Julia Ayala Harris, President of the House of Deputies of The Episcopal Church: www.episcopal-church.org
- Episcopal Diocese of New York: <https://dioceseny.org>
- Episcopal Divinity School: www.eds.edu
- Evangelical Lutheran Church in America: <https://www.elca.org>
- FaithWorks: <https://faithworks.com>
- First Congregational United Church of Christ, Albuquerque, New Mexico: <https://www.firstuccabq.org>
- Friends Committee on National Legislation: <https://www.fcnl.org>
- GreenFaith: <https://greenfaith.org>

- Hindus for Human Rights: <https://www.hindusforhumanrights.org>
- Hyattsville Mennonite Church: <https://hyattsvillemennonite.org>
- Kairos Center for Religions, Rights, and Social Justice: <https://kairoscenter.org>
- Kehilla Community Synagogue: <https://kehillasynagogue.org>
- Latino Christian National Network: www.LCNN.org
- Men of Reform Judaism: www.menrj.org
- New Hampshire Conference of the United Church of Christ: www.nhcucc.org
- New Hampshire Council of Churches: <https://www.nhchurches.org>
- New York State Council of Churches: <https://www.nyscoc.org>
- Presbyterian Church (U.S.A.): <https://pcusa.org>
- Reconstructing Judaism: <https://www.reconstructingjudaism.org>
- Union for Reform Judaism: www.urj.org
- Unitarian Universalist Association: 24 Farnsworth Street, Boston, MA 02210
- General Synod of the United Church of Christ: <https://www.ucc.org>
- The General Board of Church and Society, United Methodist Church: www.umcjustice.org

- Western North Carolina Conference of The United Methodist Church: <https://www.wnccumc.org>
- Women of Reform Judaism: www.wrj.org