

What the Bible *Really* Says about Immigration Policy: An Analysis of "A Biblical Perspective on Immigration Policy" and "And You Welcomed Me: Immigration and Catholic Social Teaching"

By Bruce and Judy Hake

*Well, the right thing to do is to keep the supreme Law of scripture: you will love your neighbour as yourself; . . . Whoever acts without mercy will be judged without mercy but mercy can afford to laugh at judgement.*¹

*Woe to those who enact unjust decrees, who compose oppressive legislation.*²

Introduction

Most Americans believe that the United States needs extensive revision to its immigration laws, a project that goes by the rubric of "comprehensive immigration reform." One can argue the policy issues without making religious arguments, and those in favor of comprehensive immigration reform are diverse in their religious and philosophical views. Nonetheless, for many people, religious values and beliefs provide a foundation for their advocacy for merciful immigration laws.

Aware of this, the restrictionists have recently made a strong push to claim that scripture supports their harsh policies.³ This article strikes back.

¹ James 2:8 & 13 (New Jerusalem Version or "NJV," accessible at www.catholic.org) (all links last accessed on Dec. 8, 2009). Please note that this entire article is an example of mercy laughing at judgment. We picked the NJV for our own Bible quotations in this article, because it is the version we find generally most beautiful and accurate. There are, of course, many other Bible translations easily available, and we doubt you will find major differences on any of the verses used in this article.

² Isaiah 10:1 (NJV).

³ This article uses the term "restrictionist" to refer to people who advocate harsh restrictions on immigrants and oppose efforts to make U.S. immigration laws more merciful. This is not a partisan label. There are restrictionists on the left and right, Democrats and Republicans and Independents alike. Similarly, advocates of immigration reform are from all parts of the political spectrum. This is a good place to mention as well that advocates of an open and

Hopefully those who are uncomfortable with religious arguments will recognize the need to fight the restrictionists in every arena and will be tolerant of a religious critique. Comprehensive immigration reform does not depend on agreement about religious issues. But many of its strongest supporters--and opponents--are religious people, so the religious aspects must be addressed.

As one recent article put it:

As a fresh immigration reform debate gears up in Washington, D.C., a wide range of faith groups are showing a new, unexpected, and grassroots-led social activism that's rooted in theological and moral ground. While loud and shrill anti-immigrant voices dominate much of the media attention regarding immigrants and especially the undocumented, faith community activists are caring and praying in the shadows of public attention.

These groups have worked for many years and across the country on immigration issues and as strong advocates for undocumented workers and their families. Their efforts include creating citizenship projects, offering educational and support services, fighting discrimination and exploitation, bridging gaps between immigrant and nonimmigrant communities, providing sanctuary for immigrant families, supporting comprehensive legislative reform, and more.⁴

This article focuses on the contrast in immigration policy between an arch-restrictionist view and a mainstream Catholic social justice view. The contrast is important, because it touches on core values at the

generous immigration policy rarely call for "open borders," as charged by the restrictionists.

⁴ Center for American Progress, *Loving Thy Neighbor--Immigration Reform and Communities of Faith*, Sept. 22, 2009, accessible at http://www.americanprogress.org/issues/2009/09/loving_thy_neighbor.html.

heart of the national debate over comprehensive immigration reform. As noted, in recent months the restrictionists have mounted a major offensive, trying to prove that the Bible supports their harsh views.⁵ They must be opposed. Incidentally, please note that the mainstream Catholic views expressed in this article are all founded on scripture, and should be acceptable to non-Catholic Christians and other religious persons of good will.

In 1998, we wrote an article entitled "The Scriptural Foundations of an Open Immigration Policy" ("the Hake article"), which is published on our website.⁶ The article lists every Biblical verse using the terms "stranger" or "strangers," the terms used in the King James Version for "foreigner" or "immigrant," plus other relevant passages and related passages from the Koran.⁷ In reading together the first five books of the Old Testament, we noticed that the Bible does not just make fleeting reference to the command to be fair and generous to foreigners. Instead, it is a major theme that comes up many, many times. As we noted at the start of the article, "[t]he Bible teaches that sins against foreigners are especially serious sins, sins that cry out to Heaven."⁸ Over the years, that article has attracted favorable attention. We now have a new reason to look back to it.

In September 2009, the Center for Immigration Studies (CIS) published a 10-page "Background" article by CIS Fellow James R. Edwards, Jr., Ph.D., entitled "A Biblical Perspective on Immigration Policy" ("the CIS article").⁹ This article was actively

⁵ See, e.g., Edward Schumacher-Matos, "Immigration and Theology--An uneasy Divide," North County Times (San Diego, California), Dec. 4, 2009, accessible at <http://www.nctimes.com/news/opinion/columnists/schumacher-matos/> ("The moral high ground until now has been held by religious groups and humanitarians on the pro-immigrant side. But the restrictionists for the first time are mounting a serious theological challenge, setting off a little-reported battle for the nation's soul that may be more important than all the political posturing in Washington.") (also accessible at <http://www.ilw.com/immigdaily/digest/2009,1207.shtm>).

⁶ See <http://www.hake.com/pc/openimm.htm>.

⁷ For the 1998 article, we used the King James Version because it is the one most often used by anti-immigrant Americans, and also because it is the version for which we had the best concordance. As we noted in the article, a colleague pointed out that: "Many of the Jewish faith would prefer that their living bible be referred to as the 'Tanakh' or 'Torah' rather than the 'Old Testament.'"

⁸ Catechism of the Catholic Church (1994), 1867 at p. 457, citing Ex. 20:20-22.

⁹ See <http://www.cis.org/articles/2009/immigration-biblical-perspective.pdf>.

promoted by CIS¹⁰ and attracted considerable attention. It is a pernicious piece of restrictionist propaganda that deserves rebuttal.

In November 2009, we obtained an excellent 155-page book, edited by Donald Kerwin and Jill Marie Gerschutz, entitled "And You Welcomed Me: Immigration and Catholic Social Teaching" ("the Kerwin book").¹¹ This beautiful book gives many wise perspectives on the Christian support for a welcoming immigration policy. Their book is the truth: It is the opposite of the CIS article. It seems fruitful to read the two documents together, in light of our own earlier article.

Who Are The Authors?

Each in its own way, the Hake article, the CIS article, and the Kerwin book are all polemics. In evaluating polemics, it is good to know something about the authors.

The Hake article is written by a private lawyer and his wife. Bruce's curriculum vitae is published at his website. Judy is a certified Roman Catholic catechist (religious teacher of children). Bruce says on his website: "My law practice is based on my belief that all human beings have God-given natural rights to travel and to work as they will. I believe it is my duty, and calling, to help people secure these rights."¹² We do not pretend to be a neutral think tank. Our interest in this topic is openly religious.

Mr. Kerwin is vice president for programs at the Migration Policy Institute ("MPI").¹³ Ms. Gerschutz is migration policy director and outreach coordinator of

¹⁰ For example, on October 6, 2009, the CIS sponsored a panel discussion on the article at the National Press Club in Washington, D.C. For an excellent account of that panel, see Rev. Dr. Donna Schaper, Senior Pastor, Judson Memorial Church, NYC, "Is Consensus Possible on Immigration among People of Faith?", Huffington Post, Oct. 15, 2009, accessible at <http://www.huffingtonpost.com/donna-schaper/>. At this panel, all three panelists, including a Catholic priest, took restrictionist positions. Transcripts and videos of the panel are accessible at <http://www.cis.org/taxonomy/term/48>.

¹¹ Lexington Books, A Division of Rowman & Littlefield Publishers, Inc. 2009.

¹² See <http://www.hake.com/pc/phil.htm>.

¹³ See <http://www.migrationpolicy.org/>. Prior to joining MPI, Mr. Kerwin worked for 15 years as the Executive Director of the Catholic Legal Immigration Network, Inc. (CLINIC).

the Office of Social and International Ministries at the Jesuit Conference, USA.¹⁴

Both editors of the Kerwin book are employed by prestigious institutions. The MPI's history, for example, is as follows:

Founded in 2001 by Demetrios G. Papademetriou and Kathleen Newland, MPI grew out of the International Migration Policy Program at the Carnegie Endowment for International Peace.

MPI is guided by the philosophy that international migration needs active and intelligent management. When such policies are in place and are responsibly administered, they bring benefits to immigrants and their families, communities of origin and destination, and sending and receiving countries.¹⁵

Ms. Gerschutz works for the Jesuits (the Society of Jesus), the Catholic religious order that is renowned for its intellectual rigor and charitable and educational works.

The CIS article is written by a fellow of the Center for Immigration Studies, which is named to sound like a neutral think tank. In fact, however, the CIS is an anti-foreigner propaganda outlet that is closely allied with the restrictionist Federation for American Immigration Reform (FAIR).¹⁶ It is wise to be mindful of CIS's bias in evaluating any of its publications.

The Southern Poverty Law Center (SPLC) in Montgomery, Alabama is a prominent civil rights organization that concentrates on researching and suing hate groups like the Ku Klux Klan.¹⁷ In February 2009, the SPLC issued a report called "The Nativist Lobby: Three Faces of Intolerance," by Mark Potok, which it describes as follows:

This report documents how three Washington, D.C., organizations that played a key role in blocking comprehensive immigration reform in 2007 are part of a network of groups created by a man who has been at the heart of the white nationalist movement for decades. It describes how the Federation for American Immigration Reform, the Center for Immigration Studies

and NumbersUSA were founded and funded by John Tanton, a retired Michigan ophthalmologist who operates a racist publishing company and has written that to maintain American culture, "a European-American majority" is required.¹⁸

This report, of course, has been lambasted in some circles.¹⁹

We cannot vouch for every statement in the SPLC's report on the CIS, but from Bruce's more than 20 years of experience in U.S. immigration law and policy, we can confidently assert that the CIS is not a neutral, fact-based organization; instead, it systematically works to increase restrictions on foreigners, to limit immigration reform, and to demonize foreigners.²⁰ In doing so, it often distorts empirical data published by the U.S. government and other sources.

Who is James R. Edwards, Jr., Ph.D.? In addition to his work for CIS, Mr. Edwards is a prolific author for the ideological periodical *Human Events*. Here is a selected list of his recent articles in *Human Events*: "Obama's Homeland Security Hobbles Local Immigration Enforcement," Nov. 5, 2009; "Health Reform Loopholes for Illegals," Oct. 5, 2009; "Health 'Reform' Covers Illegal Aliens," Sept. 2, 2009; "The New Case Against Immigration: Both Legal and Illegal," Aug. 5, 2009; "Religious Left Puts Immigration Spin on Epiphany," Jan. 2, 2009; and

¹⁸ See <http://www.splcenter.org/legal/publications/pub.jsp>. This site provides links to both an online and a .pdf version of the report. Dr. Tanton is also notoriously anti-Catholic. See, e.g., <http://users.rcn.com/crawj/langpol/boombust.htm> (James Crawford, "Boom to Bust: Official English in the 1990s," From *At War with Diversity: U.S. Language Policy in an Age of Anxiety* (Multilingual Matters 2000)). See also Stephen Piggott, "Tanton Network caught in bed again with anti-Semites and Holocaust deniers," Sept. 13, 2009, accessible at <http://imagine2050.newcomm.org/2009/09/13/>.

¹⁹ See, e.g., CIS Director Mark Krikorian, "Free Speech Is Great, But . . . The open-borders lobby's attempts to silence its critics," *National Review Online*, Feb. 11, 2009, accessible at <http://article.nationalreview.com>. See also George Borjas, "Smearing CIS," *The Borjas Blog*, Apr. 15, 2009, accessible at http://borjas.typepad.com/the_borjas_blog/2009/04/smearing-cis.html.

²⁰ For a genuinely neutral, fact-based think tank, we recommend the Immigration Policy Center (www.immigrationpolicy.org), an affiliate of the American Immigration Council (www.americanimmigrationcouncil.org, formerly American Immigration Law Foundation) and the American Immigration Lawyers Association (www.aiala.org).

¹⁴ See <http://www.facebook.com/pages/Jesuit-conference-USA/70091280064>.

¹⁵ See <http://www.migrationpolicy.org/about/index.php>.

¹⁶ On the history of CIS, see http://www.rightweb.irc-online.org/profile/Center_for_Immigration_Studies.

¹⁷ See <http://www.splcenter.org/>.

"Huckabee: Too Soft-on-Illegals," Dec. 27, 2007.²¹ The CIS publishes a brief biographical sketch of Mr. Edwards.²² A longer online bio states that he earned a Ph.D. in Mass Communication from the University of Tennessee.²³ Note that he is not only opposed to illegal immigration, but to all immigration.

Our own instinct is to regard the CIS article as discredited before even reading it. It obviously is restrictionist propaganda, not a serious study of scripture. It starts from preconceived conclusions and seeks to find supporting Bible verses. To find out what the Bible really says about immigration policy, the best approach is to read the Bible, or to read the scriptural verses in sources like the Hake article and the Kerwin book. But we have read the CIS article and have some critical comments.

Where to Begin?

If you were going to write an article about the Biblical views on immigration policy, where would you begin?

One might start with Genesis.²⁴ For example, God says to Abraham:

And to you and to your descendants after you, I shall give the country where you are now immigrants, the entire land of Canaan, to own in perpetuity.²⁵

²¹ Go to www.humanevents.com and search on his name.

²² See <http://www.cis.org/taxonomy/term/48>.

²³ See <http://immigration.procon.org/viewsource.asp?ID=002750>. Mr. Edwards used to be a principal in the Washington, D.C. lobbying firm Olive, Edwards, & Cooper LLC, which is now called Catalyst Partners (<http://www.catalystdc.com>).

²⁴ For another good idea on where to begin, see Seth Hoy, "Restrictionist Group uses Bible to Condemn Immigrants," *Immigration Impact*, Oct. 7, 2009, accessible at <http://immigrationimpact.com/2009/10/07/>. Hoy discusses an excellent critique of the CIS article by Dr. M. Daniel Carroll Rodas, a Professor of Old Testament at Denver Seminary, who argues that "A better framing . . . would be Genesis 1-2 which provides a less defensive focus on the creation of humanity and renders the worth of all humans—including immigrants—equal "in the image of God, their potential to contribute to society, and the physical needs that can be met within a land of more resources and opportunities."

²⁵ Gen. 17:8 (NJV).

For indeed, God's chosen people were immigrants. But it was made plain to them that the land was a gift, not a birthright.²⁶

Or you might begin with the many exhortations to protect the foreigner, the widow, and the orphan, which are set forth in Exodus, and other parts of the Bible, as detailed in the Hake article. Except for the command to love God, this is by far the most common command in the Hebrew Bible.²⁷

Or perhaps you might start with these words of Jesus from Matthew 25:

Then the King will say to those on his right hand, "Come, you whom my Father has blessed, take as your heritage the kingdom prepared for you since the foundation of the world.

For I was hungry and you gave me food, I was thirsty and you gave me drink, I was a stranger and you made me welcome, lacking clothes and you clothed me, sick and you visited me, in prison and you came to see me."

Then the upright will say to him in reply, "Lord, when did we see you hungry and feed you, or thirsty and give you drink? When did we see you a stranger and make you welcome, lacking clothes and clothe you? When did we find you sick or in prison and go to see you?"

And the King will answer, "In truth I tell you, in so far as you did this to one of the least of these brothers of mine, you did it to me."

Then he will say to those on his left hand, "Go away from me, with your curse upon you, to the eternal fire prepared for the devil and his angels. For I was hungry and you never gave me food, I was thirsty and you never gave me anything to drink, *I was a stranger and you never made me welcome*, lacking clothes and you never clothed me, sick and in prison and you never visited me."

Then it will be their turn to ask, "Lord, when did we see you hungry or thirsty, a stranger or lacking clothes, sick or in prison, and did not come to your help?"

²⁶ William O'Neill, S.J., "Christian Hospitality and Solidarity with the Stranger," in the Kerwin book at 149 & n.4.

²⁷ *Id.*

Then he will answer, "In truth I tell you, in so far as you neglected to do this to one of the least of these, you neglected to do it to me."²⁸

It's hard to imagine a clearer command to help immigrants, to welcome them, protect them, feed them and clothe them.

Or one might start with Jesus's description of the Great Commandment and the story of the Good Samaritan:

And now a lawyer stood up and, to test him, asked, "Master, what must I do to inherit eternal life?"

He said to him, "What is written in the Law? What is your reading of it?"

He replied, "You must love the Lord your God with all your heart, with all your soul, with all your strength, and with all your mind, and your neighbour as yourself."

Jesus said to him, "You have answered right, do this and life is yours."

But the man was anxious to justify himself and said to Jesus, "And who is my neighbour?"

In answer Jesus said, "A man was once on his way down from Jerusalem to Jericho and fell into the hands of bandits; they stripped him, beat him and then made off, leaving him half dead. Now a priest happened to be traveling down the same road, but when he saw the man, he passed by on the other side. In the same way a Levite who came to the place saw him, and passed by on the other side.

But a Samaritan traveler who came on him was moved with compassion when he saw him. He went up to him and bandaged his wounds, pouring oil and wine on them. He then lifted him onto his own mount and took him to an inn and looked after him. Next day, he took out two denarii and handed them to the innkeeper and said, "Look after him, and on my way back I will make good any extra expense you have."

"Which of these three, do you think, proved himself a neighbour to the man who fell into the bandits' hands?"

He replied, "The one who showed pity towards him." Jesus said to him, "Go, and do the same yourself."²⁹

What could be clearer than that? Jesus is saying in direct terms that one must love one's neighbor as oneself, and in answering a question from a lawyer He is very precise that a foreigner is one's neighbor, even more so than local religious functionaries such as the priest and the Levite. (For those not familiar with this parable, in Biblical times the Samaritans were hated by the Jews and vice versa, each side regarding the other as apostates.)

But that's not the scriptural passage with which the CIS article begins! Instead, it begins with Romans 13: Scripture clearly indicates that God charges civil authorities with preserving order, protecting citizens, and punishing wrongdoers. A prime passage is Romans 13:1-7:

Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain. For he is the servant of God, an avenger who carries out God's wrath on the wrongdoer. Therefore one must be in subjection, not only to avoid God's wrath but also for the sake of conscience. For because of this you also pay taxes, for the authorities are ministers of God, attending to this very thing. Pay to all what is owed to them: taxes to whom taxes are owed, revenue to whom revenue is owed, respect to whom respect is owed, honor to whom honor is owed.³⁰

Why do you suppose the CIS article starts there? It does so, because it needs a false premise in order to attempt to defuse the potency of the alternative starting points mentioned above.

The Core Argument Of The CIS Article

Although it is murky, it seems to us that the CIS article's core argument goes like this:

²⁹ Luke 10:25-28 (NJV). The Great Commandment is also expressed by Jesus in Mark 12:28-34; Matt. 7:12, 19:19, and 22:34-40; and by Paul in Galatians 5:14.

³⁰ The CIS article at 1. All Bible quotations from the CIS article are from the English Standard Version (ESV). For a brilliant discussion of the choice of articles like this to begin with Romans 13, see *infra* text accompanying n.62.

²⁸ Matt. 25:34-45 (NJV).

1. Liberal Catholic bishops and other religious elites are in favor of open borders, even though they are opposed by the faithful.
2. Yes, there are Bible passages that seem to require mercy toward foreigners.
3. However, those passages only bind individuals, not government.
4. Government should act with justice, not mercy.
5. An individual's obligation to obey the government trumps the obligation to show mercy toward foreigners.
6. Therefore, neither individuals nor the government should show mercy toward foreigners.
7. And foreigners have a duty to stay at home, even if starving.

That is clever, even diabolical one might say, but it is filled with logical flaws. One important flaw is that it mischaracterizes what it is that advocates of a more merciful immigration policy are doing. They are not advocating for "open borders." They are not advocating for disobedience to civil authority. They are not advocating that the laws not be enforced. Instead, they are arguing that the Biblical commands to be merciful to foreigners inform their personal values and impel them to work toward making the law more merciful. That, of course, is perfectly appropriate in a democracy. And when the law is made more merciful, that *will* be the new civil authority.

Rebutting The CIS Article

The CIS article goes after the Catholics right from the start:

The immigration issue often highlights fissures between faithful parishioners and denominational clerics. Many Catholic bishops have called for amnesty for illegal immigrants, and their conference's lobbying arm works continually with open-borders special interests. . . . [S]elf-described 'compassion' among religious elites differs from the perspective of most rank-and-file Christians. The laity generally opposes legalization and supports enforcement of immigration laws.³¹

This is one of several false dichotomies in the article. Note that this is the language of polemics and lobbying, not of genuine scriptural interpretation. It starts by claiming that it is the "faithful" parishioners who oppose the feckless bishops. But perhaps the bishops also are faithful, and perhaps opponents of a merciful immigration policy are not necessarily the most genuinely faithful of churchgoers.

And this erects a classic straw man, because the vast majority of American advocates of a more merciful immigration policy do not advocate "open borders." We don't believe there is a single Christian cleric who has explicitly called for open borders, and this call is not made by any prominent advocate of comprehensive immigration reform. That is just a buzz word used for fund-raising purposes. The mocking expression "self-described 'compassion'" drips with scorn; but it is the restrictionists who use this language, not actual proponents of immigration reform. Moreover, why should one be mocked for compassion? Not long ago it was supposed to be a good thing to be a "compassionate conservative."

Where is the evidence that the laity generally opposes legalization and supports enforcement of immigration laws? For this claim, Mr. Edwards cites an article from the Washington Times newspaper and a paper presented at a Midwest Political Science Association meeting in 2008. That is not persuasive authority. The business about supporting enforcement is irrelevant, because everybody is in favor of enforcing the law. The claim about "legalization" is false, because it seems clear that a majority of Americans supports comprehensive immigration reform.³²

Purporting to speak for the faithful who are so misrepresented by their leaders, the CIS article starts off its first section, which is entitled "Civil Government's Biblical Role," with the quote from Romans.³³ From its perspective, the most important message in the Bible regarding immigration is the command to obey civil authorities. From our perspective, that seems a strange and truncated view.

There are three main problems with the article's primary argument that the most important Biblical consideration for the immigration debate is the command to obey civil authorities:

1. Advocates of immigration reform are not calling for disobedience toward civil

³² See, e.g., Simon Rosenberg, "New Poll Finds Wide, Bipartisan Public Support for Comprehensive Immigration Reform," NDN Blog, June 2, 2009, accessible at <http://ndn.org/blog/2009/06/new-poll-finds-wide-bipartisan-public-support-comprehensive-immigration-reform>. Presumably this indicates majority support for immigration reform among the "faithful," since a significant majority of Americans identify as religious. See also Scott Keeter, "Where the Public Stands on Immigration Reform," Pew Research Center, Nov. 23, 2009, accessible at <http://pewresearch.org/pubs/1421/>.

³¹ CIS article at 1.

³³ Reproduced *supra* in the text accompanying n.30.

authorities.³⁴

2. It ignores the fact that the Biblical passages about obedience to civil authorities occur in the context of monarchies and empires, not today's American democracy. Perhaps for prudential and even moral reasons a subject in a harsh military state like the Roman Empire would wisely be counseled to follow the laws of the state. But this has no relevance to the fact that in a democracy like the United States, it is perfectly appropriate for citizens to call for changes in the law, according to their individual beliefs and convictions. That is the foundation of the American system.
3. Finally, the core of the article's argument is simply false. The Bible does *not* command believers to follow the law in every situation without considerations of conscience! It does *not* make it inevitably a "sin" to disobey the law, as the CIS article claims.³⁵ To the contrary, the Bible abundantly teaches that one must be willing to martyr oneself, and even lose one's life, if commanded by legal authorities to perform an unconscionable act, such as burning incense at a pagan temple.³⁶

³⁴ To be sure, there has been and continues to be advocacy for "sanctuary" for undocumented foreigners, and some related efforts call for civil disobedience, but this is not directly related to the current call for comprehensive immigration reform. It is erroneous to conflate these two streams of advocacy, as does the CIS article.

³⁵ CIS article at 9.

³⁶ See Rev. William A. Au, "Still a Prophet: Gordon Zahn and the danger of 'milieu Catholicism,'" *America Magazine*, Aug. 4, 2008, accessible at http://www.americamagazine.org/content/article.cfm?article_id=10947. Gordon Zahn was one of the few Catholic conscientious objectors in World War II, and he is a founder of the peace organization Pax Christi. Through his lifelong efforts, the Catholic Church changed its official view on conscientious objection. Father Au's brilliant short article includes this: "In his work Zahn's chief concern was to show how the church can become ensnared in nationalism, rendering it unable to resist the dominant currents of a secular culture. In such a condition, focused on preserving its corporate interests, the church is rendered incapable of prophetic witness and tends to provide a moral sanction for social conformity. This condition Zahn termed 'milieu Catholicism.' He sought to apply his analysis of how milieu Catholicism had crippled the German church's ability to resist Nazi policies to the American Catholic Church. . . . In a review of Zahn's study of the German church, Gordon Allport insightfully noted the question underlying Zahn's work: '[W]hat has happened to the edge of Christian conscience? How has it become so badly blunted since the age of the early martyrs, many of whom embraced death

For every scripture that counsels obedience to civil authority, there is another that encourages defiance of civil authority when it is unjust. But since this a straw man, there is no need for more on this.

The CIS article directly asserts, with no authority, that "Biblical teachings of mercy generally apply to individual conduct, not to civil authorities."³⁷ Given the weasel word "generally," we cannot disagree. But we reject the conclusions spun from this seemingly benign observation. Our perspective is that the Biblical command of mercy requires that we try to persuade our fellow citizens to enact laws that are more merciful. This is *consistent* with the Biblical admonitions regarding obedience to civil authorities, contrary to the false claims of the CIS article.

The CIS article is strongly flavored by a false dichotomy about the folly of government on the one hand as opposed to the long-suffering individual citizen on the other. In ironic self-contradiction, the article simultaneously extols the virtues of obedience to civil authority and then denigrates that same civil authority. Although the article purports to support respect for civil authorities, it actually is radical in condemning any kind of merciful action on the part of the government, even when that action is lawfully mandated by a majority of the citizens. This is a remarkable rhetorical trick, and it is not easy to see clearly.

Next the CIS article has a section about "Old Testament Principles." This starts by asserting: "Even the passages of Scripture most often cited by religious advocates of mass immigration and amnesty do not argue for open borders."³⁸ This is another straw man, because nobody is calling for open borders.³⁹

rather than place one pinch of incense upon a pagan altar?" Zahn had quoted an unnamed expert at the Second Vatican Council as saying: 'We don't encourage martyrdom. To prevent this, the church will make almost any adjustment.' Such adjustments, Zahn contended, had robbed the church of its prophetic vitality since the time of Constantine and led to the cultural imprisonment of milieu Catholicism." For more regarding the actual Bible commands that civil authority must be *disobeyed* when unjust, see *infra* n.83 and accompanying text.

³⁷ CIS article at 2.

³⁸ *Id.*

³⁹ However, relying on holy scripture, in authoritative encyclical letters Roman Catholic popes have repeatedly affirmed that all human beings have a natural right to travel and a natural right to work. See, e.g., Pope Benedict XVI, "Love in Truth" (*Caritas in Veritate*), June 29, 2009; Pope John Paul II's "On Human Work" (*Laborem Exercens*), Sept.

The CIS article emphasizes that in ancient Israel foreigners were expected to comply with local laws.⁴⁰ Indeed, true. We mentioned this in our own article.⁴¹ Of course, one should note in this regard that the Bible assumes the propriety of the arrival of foreigners.

This section of the CIS article concludes:

In short, the Old Testament teaches fair treatment of resident foreigners, with certain requirements of the aliens related to religious and civil legal standards. It also instructs that aliens were to assimilate to the Hebrew culture. Boundaries are meaningful, as well, and foreign presence among the Hebrews on several occasions was a curse. Few details of immigration procedures, standards, or other policy prescriptions appear. To infer some open-borders or mass-amnesty mandate from what actually appears in Scripture is wrong.

This is poor reasoning. The first four sentences are correct and not controversial. But the final, fifth sentence is a false conclusion that does not follow from the previous discussion. Again, no one is arguing that "open borders" or "mass-amnesty" are "mandated" by the Bible. Second, nonetheless, these facts about Old Testament mentions of foreigners have nothing to do with the argument that it is legitimate for U.S. citizens to press for more merciful treatment of foreigners.

The CIS article next devotes three pages to "Justice and Mercy." It claims that Biblical admonition of mercy, such as the Golden Rule, "applies to individuals instead of government."⁴² It claims that Jesus's admonition to protect "the least of these" applies only to "those with a claim to particular authorities' protection, not foreigners or native elites."⁴³ It claims that:

14, 1981; and Pope John XXIII's "Peace on Earth" (Pacem in Terris), April 11, 1963.

⁴⁰ CIS article at 3.

⁴¹ Hake article, note 3 after the Good Samaritan story: "God did not want the children of Israel to embrace customs and beliefs of strangers, but rather for strangers to embrace the ways of the Jews. Thus, we believe, the open immigration policy required by God Himself does not mean that Americans need to surrender America's great ideals and customs to a tide of foreign peoples. But Americans must persevere in a very generous and open-hearted treatment of all foreigners, at all times. This nation's prosperity and survival depends upon faithfulness to this central command of God."

⁴² CIS article at 4.

⁴³ *Id.*

A compassionate act, when exercised by an individual, often becomes an injustice when compelled by civil government--the agents who are supposed to be the guardians of justice and protectors of the innocent, "the least of these," the citizens or subjects of their jurisdiction.⁴⁴

Observe that every paragraph of the article is founded on the canard of the bad government oppressing the faithful U.S. citizen by unjustly favoring the foreigners.

That last sentence is followed by this tour de force:

Thus, for example, writing into the U.S. Constitution a prohibition against cruel punishment (e.g., torture, which European governments had instituted such as in the Spanish Inquisition or the English Star Chamber) is an appropriate adaptation of the biblical standards of mercy; freeing thieves and batterers from facing imprisonment, restitution, and accountability to society is inappropriate and not merciful.

Huh? What does that have to do with immigration policy? And what does that have to do with the Bible? The article's next two paragraphs attempt to answer that:

How might this concept apply in U.S. immigration policy? Take amnesty, for example. Forgiving foreigners for entering the country illegally or staying when their visas expire might be seen as "merciful" or "compassionate," at least in its effect on the people gaining legal status without having to suffer the consequences the law otherwise would require of them. However, the government, as agent, has acted in such a way that coerces innocent citizens and law-abiding immigrants to suffer the consequences.

In recent amnesty proposals, 12 million or more illegal aliens would be legalized. These amnestied lawbreakers would tie up the immigration bureaucracy; introduce through chain migration millions of relatives into an already clogged system; qualify for scarce public resources such as Medicaid, welfare, and other public assistance; and the costs of all these things would be borne by American taxpayers. Further, the scale of such "mercy" would do harm to many Americans and communities and lead to more illegal immigration by the signal such policies would

⁴⁴ *Id.* at 5.

send (and indeed have sent with previous amnesties).

One can see that the CIS article really is not about scripture at all. It is about advancing the hateful falsehoods in those two paragraphs. It is an angry polemic. If one wishes, one could read about comprehensive immigration reform proposals in many places on the Internet. You will see that this political argument is false.

The CIS article's discussion of justice and mercy is shallow and authoritarian. For real theology, we prefer something like this:

The two great attributes of God in the Bible are justice and mercy. Today's responsorial psalm reminds us that "the Lord is just in all his ways." But we also hear that "the Lord is gracious and merciful," and the reading from Isaiah 55 urges us to "turn to the Lord for mercy; to our God, who is generous in forgiving." Is there any coherence or consistency between these statements about God? Today's parable from Matthew 20 about the generous employer and the various persons hired to work in his vineyard concerns the relationship between God's justice and God's mercy. The point is that while God is both just and merciful, God's mercy can and often does override or trump God's justice.⁴⁵

The CIS article next devotes several pages to various migration stories from the Bible, concluding that "instances of migration chronicled in Scripture provide no sanction for open borders."⁴⁶ We agree, and reiterate that no one is seriously calling for open borders.

Next the CIS article devotes several pages to "The Immigrant's Responsibility." Here are some examples:

- Even desperate circumstances do not justify illegal immigration;⁴⁷
- Could we not make an exception for a starving man? The private owner can; civil government cannot.⁴⁸
- Illegal aliens, who claim to be Christians especially, would do well to own up to their

⁴⁵ Daniel J. Harrington, "Both Just and Merciful," *America Magazine*, Sept. 15, 2008, accessible at http://www.americamagazine.org/content/article.cfm?article_id=11031.

⁴⁶ CIS article at 7.

⁴⁷ *Id.* at 8.

⁴⁸ *Id.*

responsibility under God to be content in their home nation.⁴⁹

That is simply heartless. Human beings have a duty to try to feed themselves and their families, and they have a right to travel and to work to try to meet those needs. To say that they are required by God to rot in devastation when disaster and starvation strikes their lands is hideous and obviously not Christian (Matthew 25). This position also is contrary to U.S. law, because the United States frequently extends Temporary Protected Status and other forms of legal protection to victims of great national disasters and conflicts.

The CIS article continues its final frenzies:

Foreign lawbreakers' envy toward Americans' material and political blessings may bring upon themselves eternal consequences: "It is through this craving [love of money] that some have wandered away from the faith and pierced themselves with many pangs" (I Tim. 6:10b). Violating immigration laws, just as violating other civil laws, manifests one's failure to trust God to meet His people's needs. Illegal aliens and their activists must ask themselves what the cost of such sin is worth to their souls.⁵⁰

In other words, undocumented immigrants are all motivated by greed and envy, and if you support them, you're going to Hell! That's spectacularly mean and unhinged. But it gets worse:

Similarly, apologists for immigration law-breaking and mass amnesty tread on hazardous ground, because their words blur moral lines that are brighter than they admit. But their tactics fall under sobering light from passages such as Isaiah 5:20-21: "Woe to those who call evil good and good evil . . ." Thus, breaking immigration law flouts God's provision for each person's well-being, because civil authorities made those laws and, as seen earlier, those authorities act under God's delegated authority.⁵¹

Concluding this discussion, the CIS article asserts:

[O]beying civil laws is the normative, biblical imperative for Christians, as discussed above. National sovereignty is part of the authority God has delegated to civil authorities. Whatever the immigration law of a particular nation, determining the policies of how many

⁴⁹ *Id.*

⁵⁰ *Id.* at 8-9.

⁵¹ *Id.* at 9.

immigrants to admit and the terms and conditions applying to immigrants are the prerogative of the national body. Each society may set or change its nation's immigration laws. Those decisions rest within the society, and outsiders have no legitimate voice in that exercise of national sovereignty.⁵²

Next the article quotes a blood-curdling passage from John Calvin about the "sovereignty of the state."⁵³ It observes that the "immigration laws of the United States have been adopted through lawful, legitimate, democratic processes."⁵⁴ It finally concludes with a quotation from Francis Scott Key and two more paragraphs repeating canned talking points in favor of immigration restrictionism. We agree that U.S. immigration laws are validly enacted, but we do not agree that they are fixed in stone in the harshest possible light. Instead, consistent with the sovereignty of the state and lawful, legitimate, democratic processes, and informed by our own reading of the Bible, we call on reforms to make the law more just and merciful.

No doubt the CIS argument is bamboozling to some. But it has a huge central logical flaw. It presupposes that the American government, as sovereign, has always and permanently decreed a system of harsh justice and scant mercy for undocumented foreigners. To the contrary, in the United States it is the people who are sovereign, not the government, and the people have the right, and the means, to change their minds about immigration policy.

Advocates of comprehensive immigration reform are not insisting that the government must be merciful because of some old Bible passages. They are not advocating wholesale disobedience of civil authority. They are not putting their souls in jeopardy due to a craving for money. They are not trying to subvert enforcement of the law. Advocates of comprehensive immigration reform, at least those who are also religious, believe that scriptures such as Matthew 25 compel them, as individuals, to pursue mercy for foreigners. The way one does that in our legal system is to advocate for *changes* in the law, which is not fixed in stone. In particular, they advocate for much more mercy for foreigners, in general, and in doing so they also believe that this is the best policy for all Americans.

⁵² *Id.* For a discussion of a contrasting Catholic view on sovereignty, see *infra* n.75 and accompanying text.

⁵³ CIS article at 9.

⁵⁴ *Id.* at 10.

Such advocates of immigration reform have a complete right to advocate for changes in their law based on their own heartfelt beliefs. And if they are successful, if the law is made more merciful, then that will be the civil authority to which respect continues to be due.

The Kerwin Book: "And You Welcomed Me: Migration and Catholic Social Teaching"

This article will not do justice to the Kerwin book, which is deep, beautiful, and subtle. We urge you to buy it and savor it. Here we mainly want to merely highlight some passages that struck us as powerful refutations of the CIS article.

The Kerwin book emerged from a multidisciplinary reflection carried out over several years by the Woodstock Theological Center at Georgetown University in Washington, D.C. The introduction, by Gasper Lo Biondo, S.J. and Richard Ryscavage, S.J., includes the following:

The common good--an old concept with deep roots in Catholic social thinking--suggests that we need to provide the social conditions that allow for the participation and full development of human beings (including newcomers) in our society. The global common good, in turn, argues for improved social conditions in migrant countries of origin. The question of how to serve the common good in our community, nation, and at the international level drives all the contributions to this book.⁵⁵

Contrast this multi-level perspective with the narrow parochialism of the CIS article, which supports no group beyond a subset of American taxpayers. The Kerwin book's introduction also states:

While law, labor economics, and sociology are important lenses for viewing immigration, the Catholic Church views immigration primarily through the much richer prism of a global history, spirituality, theology, Catholic social teaching, and its concrete pastoral experiences with migrants. While recognized by the Church, the standard categories for classifying migrants--such as economic migrants, unauthorized (undocumented) workers, asylum seekers, and refugees--are not the primary way that the Church approaches the immigrant. She does not ask first whether a person is legal or illegal but rather looks at the migrant as a human person in a human family.⁵⁶ . . .

⁵⁵ Kerwin book at x.

⁵⁶ *Id.*

Above all, the Christian point of view is anchored in Christ's statement in Matthew 25: "if you welcome the stranger, you welcome me." A Christian is expected to see Christ in the stranger. The foundation principle of Catholic social thought involves respecting the dignity of the human person: every human being has God-given worth.⁵⁷

Again, contrast this complex perspective with the CIS article's grim emphasis on punishment and legalism.

Finally, the Kerwin book's introduction states:

The Catholic Church--as a global entity--views migration from a transnational perspective. . . . Allowing for cultural differences, the Church in the United States is organically part of the Church in Mexico. The Church sees the problems of migration from both sides of the border. The Church's transnational identity as a faith community demands that its pastoral care of people transcends borders.⁵⁸

As Gordon Zahn famously warned, the church needs to be careful not to get so entangled with nationalism that it dilutes its own core message.⁵⁹ The Kerwin book does a beautiful job of telling the story of immigration and Christian teaching from a broad range of perspectives, aware at all times of the pastoral need to care for human beings. In contrast, the CIS article is a mean-spirited screed that cares about nothing beyond the purported interests of a minority of U.S. citizens.

The first chapter of the Kerwin book is "Crossing the Divide: Foundations of a Theology of Migration and Refugees," by Rev. Daniel C. Groody, C.S.C. He points out that migration is more common now than at any time in history and is steadily growing, but there is little formal theology regarding the many complex issues of migration. He proposes a number of frameworks for such a theology.

The first emphasizes the need to view all migrants as human persons created in the image of God instead of reducing them to dehumanizing stereotypes. Accordingly:

In its efforts to safeguard the dignity of all people, Catholic social teaching has consistently argued that the moral health of an

economy is measured not in terms of financial metrics like the gross national product or stock prices but in terms of how the economy affects the quality of life in the community as a whole. . . . In the immigration debate this means that the primary costs have to do first with human costs; Catholic social teaching asks to what extent the economy of a country enhances the dignity of every human being, especially of those who are vulnerable and deemed insignificant. . . .

Catholic social teaching recognizes the right, and even the responsibility, of a state to control its borders, but it also argues that, when a state cannot provide the conditions necessary for human dignity, people have a right to migrate to foreign lands, even without proper legal documentation.⁶⁰

The second theological framework proposed by Father Groody is based on the idea that the incarnation of Christ into the world is a kind of migration by God "into the far country".⁶¹

The third theological framework concerns the mission of God to bring salvation and reconciliation to the entire world and all its peoples. This portion of the Kerwin book has the following brilliant discussion, which directly challenges the core idea of the CIS article:

No area is more divisive in the immigration debate than the issue of immigration law and public policy. In public discourse, people commonly say that they have no problem with immigration, but they do have a problem with people breaking the law. The problem with this perspective is that it makes no distinction between various kinds of law and assumes equal binding force for all law. In Thomistic terms, there is divine law, natural law, and civil law. This confusion, resulting in a failure to differentiate, becomes particularly problematic when some, invoking supposedly Pauline theology (Rom 13:1-7), unquestioningly and mistakenly equate the current civil law and public policy with a divinely ordained mandate. The ordinances and regulations related to sovereign rights and civil law must be seen alongside the needs, duties, and responsibilities proper to human rights and natural law. . . . Catholic social teaching uses this line of reasoning in arguing that people have a right to migrate when their country of origin lacks the

⁵⁷ *Id.* at xi.

⁵⁸ *Id.* at xi.

⁵⁹ *See supra* n.36.

⁶⁰ Kerwin book at 5 (citations omitted).

⁶¹ *Id.* at 7 (quoting Karl Barth).

necessary means to provide them with the capacity and opportunity to provide for themselves.

The structure of a society must be seriously examined under the entirety of legal reasoning when thousands of immigrants and refugees die each year trying to cross areas like the deserts of the American Southwest or the waters dividing North Africa from Europe. . . . The fact that so many migrants are dying in their efforts to meet basic human needs raises serious questions about current civil laws and policies and their dissonance from other forms of law. Quoting Aquinas from a Birmingham jail, Martin Luther King, Jr. put it this way: 'An unjust law is a human law that is not rooted in eternal law and natural law'; it is violence against the imago Dei.

When people cross borders without proper documentation, most are not simply breaking civil laws but obeying the laws of human nature, such as the need to find work to feed their families and obtain more dignified lives. Moreover, crossing international borders without papers in most countries is an administrative infraction, not a felony; it is not a violation of divine law or natural law, and in such cases undocumented immigration should in no way be confused with serious criminal activity or threats to national security.⁶²

The fourth theological framework proposed by Father Groody is based on the concept of visio Dei (the vision of God). It includes these ideas:

- In addition to pledging allegiance to a particular country, the visio Dei brings out that one's ultimate obedience is to God alone, which leads one beyond any national and political boundaries to ultimate fidelity to the kingdom of God.⁶³
- In Philippians 3:20 Paul describes Christians as living in this world but carrying the passport of another world: "But our citizenship is in heaven, and from it we also await a Savior, the Lord Jesus Christ."⁶⁴
- The visio Dei also challenges people to move beyond an identity based on a narrow sense of national, racial, or

psychological territoriality. It holds out instead the possibility of defining life on much more expansive spiritual terrain consistent with the kingdom of God. Corresponding with the positive dimensions of globalization that foster interconnection, it challenges any form of ideological, political, religious, or social provincialism that blinds people from seeing the interrelated nature of society.⁶⁵

Father Groody's last sentence is powerful:

If the term "alien" is to be used at all, it would be descriptive not of those who lack political documentation but of those who have so disconnected themselves from God and others that they are incapable of seeing in the vulnerable stranger a mirror of themselves, a reflection of Christ, and an invitation to human solidarity.⁶⁶

The second chapter of the Kerwin book is entitled "International Migration: Social, Economic, and Humanitarian Considerations," by Mary DeLorey.⁶⁷ The chapter presents facts about the current unprecedented levels of transnational migration. In conclusion she quotes from the 2003 joint pastoral letter issued by the Catholic bishops of both Mexico and the United States:

Catholic social teaching has a long and rich tradition of defending the right to migrate. Based on the life and teachings of Jesus, the Church's teaching has provided the basis for the development of basic principles regarding the right to migrate for those attempting to exercise their God-given human rights. Catholic teaching also states that the root causes of migration--poverty, injustice, religious intolerance, and armed conflicts--must be addressed so that migrants can remain in their homeland and support their families.⁶⁸

The third chapter of the Kerwin book is entitled "But the Laborers Are . . . Many? Catholic Social Teaching on Business, Labor, and Economic Migration," by John J. Hoeffner and Michele R.

⁶² *Id.* at 10-11 (citations omitted).

⁶³ *Id.* at 14.

⁶⁴ *Id.* at 15.

⁶⁵ *Id.* at 16.

⁶⁶ *Id.* at 20.

⁶⁷ Ms. DeLorey is Catholic Relief Services' strategic issues advisor for Latin America and the Caribbean, based in Baltimore.

⁶⁸ Kerwin book at 51.

Pistone.⁶⁹ The chapter examines the plight of people looking for work in the context of globalization and global economic development. It notes that the globalization of agriculture has had a negative impact on small farmers in many developing countries; that the economic growth facilitated by globalization has resulted in an intensification of the global search for natural resources; and that the "mobility of capital is a defining feature of globalization, but the same restlessness in the pursuit of ever-greater productivity that can motivate capital to enter a country also can cause it to flee elsewhere."⁷⁰ All of these examples result in the disruption of local labor markets.⁷¹ The chapter goes on to set forth proposed principles of a more just system of temporary and permanent immigration based on Catholic social teaching.

The fourth chapter of the Kerwin book is entitled "Rights, the Common Good, and Sovereignty in Service of the Human Person," by Donald Kerwin. This essay should be read in its entirety. Here are some highlights:

The Catholic Church does not have an immigration policy so much as it has a person policy. Its singular contribution to the global debate on immigration lies in its reverence for the human beings at the heart of this phenomenon. "[T]he human person," as Pope Benedict XVI put it, "must always be the focal point in the vast field of international migration."⁷² . . .

In the Catholic tradition, rights derive from the God-given dignity and equality of each person. Human beings are made "in the image and likeness of God." (Gn. 1:26-27). Their dignity consists in their capacity to give freely of themselves to God and to others. When a person migrates in order to support her children, for example, she seeks to become the person that God calls her to be. Most people do not leave their native countries for selfish or trivial reasons.⁷³

Note that this is directly contrary to the CIS article's outrageous claim that foreigners come to the United

⁶⁹ Mr. Hoeffner is a lawyer and former editor of the Catholic Lawyer. Ms. Pistone is professor of law and director of the Clinical Program at Villanova University School of Law.

⁷⁰ Kerwin book at 57-58.

⁷¹ *Id.*

⁷² *Id.* at 93 (citation omitted).

⁷³ *Id.* at 94 (citation omitted).

States mainly due to greed and envy. Mr. Kerwin's chapter also states:

Pope John XXIII linked the human person and rights in this way:

[E]very human being is a person, that is, his nature is endowed with intelligence and free will. Indeed, precisely because he is a person he has rights and obligations, flowing directly and simultaneously from his very nature. And as these rights and obligations are universal and inviolable so they cannot in any way be surrendered.⁷⁴

In a section on Catholic teaching on sovereignty, Mr. Kerwin writes:

Sovereignty has never been understood in Catholic thought to be an expression of unlimited state power. Catholic teaching would limit state power based on the state's "purpose, the common good, by the inviolable rights of the human person, and by the dictates of the natural law and the divine law." Since the state's purpose is to provide for the "common welfare" or "good," it would "transgress the limits set to its power" for a state to violate human rights.

Migration increasingly results from phenomena like trade agreements, natural disaster, war, persecution, and climate change. In these circumstances, human rights cannot be realized without a commitment to the "good" that crosses borders. Economic globalization has created great wealth and displaced untold millions of persons, pushing entire sectors of workers into illegal migration streams. In his 2008 address to the U.N. General Assembly, Pope Benedict XVI affirmed the responsibility of the international community to intervene when individual states do not meet their "primary duty" of safeguarding rights, arguing that such actions "should never be interpreted as an unwarranted imposition or limitation on sovereignty." The very purpose of "civil authority" is "not to confine its people within the boundaries of their nation but rather to protect, above all else, the common good of the entire human family."⁷⁵

Mr. Kerwin also writes about the rule of law and U.S. immigration law:

⁷⁴ *Id.* (citation omitted).

⁷⁵ *Id.* at 107-108 (citations omitted).

Nativist groups typically invoke the rule of law to demand greater enforcement of the law, and passage of stricter laws, many of which would criminalize migration and push more immigrants outside the law's protections. Yet the rule of law means more than "law and order." Police states excel at enforcing the law or ruling by law. However, they egregiously violate human rights, subverting a core principle of the Universal Declaration of Human Rights that "human rights should be protected by the rule of law."

According to Brian Tamanaha, in a legal system that honored the rule of law, the laws would take a certain form (they would be written, prospective, and procedurally fair), they would serve some substantive good (particularly respect for human rights), and they would be the product of a credible, legitimate political system. In liberal democracies, according to Tamanaha, these elements "cluster together . . . as a unified, complementary package."

The U.S. immigration system lacks many of these attributes.⁷⁶

The fifth chapter of the Kerwin book is entitled "Integration Yesterday and Today: New Challenges for the United States and the Church," by Jill Marie Gerschutz with Lois Ann Lorentzen.⁷⁷ The essay concludes:

The start of the twenty-first century saw immigration in the United States at its greatest peak in history, and more dispersed and diverse than in the past. At the same time, the era is marked by a decline in the strength of religious

⁷⁶ *Id.* at 111 (citations omitted). In a panel discussion on "Immigration & The Rule of Law," Mr. Kerwin has persuasively argued that U.S. immigration laws are unjust and violate the rule of law for many reasons, including: (1) they are incoherent and unpredictable; (2) consequential determinations are made by low-level officials, not a judge; (3) the right to legal counsel is systematically denied; (4) the system is characterized by illegality; (5) laws are retroactive; (6) laws deprive the right of judicial review; and (7) there is a denial of protection to forced migrants. See http://www.nlada.org/Training/Train_Civil/Equal_Justice/2007_Materials/109_2007_Kerwin_Outline. See also Donald Kerwin, "Due Process for Immigrants," *Immigration Daily*, July 23, 2008, accessible at <http://www.ilw.com/articles/2008,0723-kerwin.shtm>.

⁷⁷ Ms. Gerschutz was mentioned above. Ms. Lorentzen is professor of social ethics in the Theology and Religious Studies Department of the University of San Francisco.

institutions and labor unions, both of which played lead roles in facilitating immigrant integration in past eras. Nonetheless, religion gives migrants a supranational identity in a complex world where their national identity is in flux. In addition, shared religious values can link newcomers and natives. . . . [C]hurches still have an opportunity--even responsibility--to help migrants integrate into American society.⁷⁸

The sixth and final chapter of the Kerwin book is entitled "Christian Hospitality and Solidarity with the Stranger," by Rev. William O'Neill, S.J.⁷⁹ Father O'Neill argues that "hospitality (philoxenia: love of the stranger) remains a fundamental motif of New Testament discipleship."⁸⁰ We were particularly struck by Father O'Neill's discussion of the Good Samaritan story, which is quoted above in this article. He writes:

[J]ustice bears the mark of "loving tenderly, compassionately" (Lk. 10:37). To the lawyer's question in the parable, "Who is my neighbor?"--seeking a precise delimitation of rights and duties--Jesus replies with a question of his own, "Who is it that proved himself neighbor?"

The lawyer's reply, "the Samaritan," is richly ironic, for the Samaritan, a despised schismatic, not only proves himself neighbor, but in exemplifying neighborliness as the fulfillment of the law, is the one whom the lawyer must imitate: "Go and do likewise!" (Lk. 10:37). For the question posed in Jesus' reading of the law is not finally, "Whom shall I love?" but rather "Who shall I become (prove myself to be) in loving?" In Kierkegaard's words, "Christ does not speak about recognizing one's neighbor but about being a neighbor oneself, about proving oneself to be a neighbor, something the Samaritan showed by his compassion. And this makes all the difference."⁸¹

Conclusion

The Kerwin book is not part of an ideological fringe, as one might label the CIS article. Instead, it is squarely in the middle of mainstream, orthodox Catholic teaching, all of which is founded on scripture.

⁷⁸ Kerwin book at 143.

⁷⁹ Father O'Neill is professor of social ethics at the Jesuit School of Theology at Berkeley.

⁸⁰ Kerwin book at 149.

⁸¹ *Id.* at 150-151 (citations omitted).

For example, the Catechism of the Catholic Church provides:

The more prosperous nations are obliged, to the extent they are able, to welcome the foreigner in search of the security and the means of livelihood which he cannot find in his country of origin. Public authority should see to it that the natural right is respected that places a guest under the protection of those who receive him.⁸²

The citizen is obliged in conscience not to follow the directives of civil authorities when they are contrary to the demands of the moral order, to the fundamental rights of persons or the teachings of the Gospel. Refusing obedience to civil authorities, when their demands are contrary to those of an upright conscience, finds its justification in the distinction between serving God and serving the political community. 'Render therefore to Caesar the things that are Caesar's, and to God the things that are God's.' Matt. 22:21. 'We must obey God rather than men.' Acts 5:29.⁸³

This article is rather unfair to the Kerwin book, because that subtle and profound little volume is good for the ages, while the CIS article is an overheated polemic that will soon be forgotten. But we thought it would be useful to structure things like this, instead of writing two articles, because the Kerwin book is such a powerful antidote to the poison of the CIS article. If you take away just one idea from this article, let it be this: Never trust anybody who claims that the Bible calls for harsh restrictions on immigrants. That is not true.

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⁸² Catechism of the Catholic Church ¶ 2241 at 541 (Paulist Press 1994).

⁸³ *Id.* ¶ 2242 at 541.