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22 **UNITED STATES DISTRICT COURT**
23 **SOUTHERN DISTRICT OF CALIFORNIA**

24 KAJI DOUSA,

25 Plaintiff,

26 v.

27 U.S. DEPARTMENT OF HOMELAND
28 SECURITY, et al.,

Defendant.

Case No.: 19-cv-01255 (LAB)

**MOTION OF THE GENERAL
SYNOD OF THE UNITED CHURCH
OF CHRIST AND THE NATIONAL
COUNCIL OF CHURCHES FOR
LEAVE TO FILE BRIEF *AMICI
CURIAE* IN SUPPORT OF
PLAINTIFF IN OPPOSITION TO
DEFENDANTS' MOTION TO
DISMISS**

1 The General Synod of the United Church of Christ (“UCC”) and the National
 2 Council of Churches respectfully move this Court for leave to file the accompanying
 3 brief *amici curiae* in support of Plaintiff, Pastor Kaji Dousa, in opposition to the
 4 Defendants’ Motion to Dismiss. The brief is attached to this motion as Exhibit A.

5 **INTEREST OF THE *AMICI CURIAE***

6 *Amici curiae* are the General Synod of the UCC and the National Council of
 7 Churches.

8 The General Synod of the UCC is the representative body of the UCC. Since
 9 1957, the UCC has acted as a Protestant Christian denomination with over 4,800
 10 churches and 800,000 members in the United States. Pastor Kaji Dousa, the Plaintiff in
 11 this case, is an authorized minister of the UCC.

12 The General Synod has emphasized the UCC’s commitment to religious liberty,
 13 and it has spoken out on the right of all people to freely practice their religion. The
 14 General Synod seeks to provide the Court with a better understanding of its resolutions of
 15 witness lifting up the Christian duty to provide assistance and pastoral care to vulnerable
 16 populations in general and migrants and refugees in particular. As *amicus curiae*, the
 17 General Synod is able to provide a unique perspective on the UCC’s core religious
 18 principles that its members and pastors, including Pastor Dousa, live out through their
 19 ministry to vulnerable people like migrants and refugees.

20 The National Council of Churches was formed in 1950 and is a partnership of 38
 21 Christian faith groups in the United States. It is the largest ecumenical organization in
 22 the U.S., comprised of churches that represent more than 100,000 local congregations and
 23 40 million congregants. The National Council of Churches commits itself to a social
 24 creed whereby it promotes principles such as the abatement of hunger and poverty,
 25 criminal rehabilitation and restorative justice, and a just immigration policy. As *amicus*
 26 *curiae*, the National Council of Churches can provide perspective on the intrinsic
 27 connection between these principles and the religious teachings of the Christian faith.
 28

After providing the Court important background on the UCC's religious tenets, *amici* seek to provide the Court with the proper framework to consider Pastor Dousa's claims under the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. § 2000bb *et seq.* RFRA protects Pastor Dousa's religious exercise of her duties as a member of the clergy in providing pastoral care for migrants and asylum seekers entering the United States. The General Synod and the National Council of Churches offer this *amicus* brief to explain why, taking Pastor Dousa's allegations in the Complaint as true for purposes of a motion to dismiss, the defendants' alleged conduct violates these protections and threatens the religious exercise of pastors and members of the UCC, the National Council of Churches, and adherents of all faiths.

ARGUMENT

An *amicus curiae* is not a party to litigation, but can nevertheless benefit the court by "assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration." *Miller-Wohl Co. v. Comm'r of Labor & Indus., State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982).

District courts have "broad discretion to appoint amici curiae." *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). Although the Ninth Circuit has not expressly established a standard under which district courts should grant leave to file an amicus brief, district courts in the Ninth Circuit have adopted a Seventh Circuit test in which such leave should be granted: (1) "when a party is not represented competently or is not represented at all;" (2) "when the amicus has an interest in some other case that may be affected by the decision in the present case;" or (3) "when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *See Duronslet v. Cty. of Los Angeles*, Case No. 2:16-cv-08933-ODW(PLAx), 2017 WL 5643144, at *1 (C.D. Cal. Jan. 23, 2017) (quoting *Cnty. Ass'n for Restoration of Env't v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999).

1 The Ninth Circuit has emphasized that an amicus need not be totally disinterested
2 in a case, and “tak[ing] a legal position and present[ing] legal arguments in support of it
3 [is] a perfectly permissible role for an amicus.” *Funbus Sys., Inc. v. State of Cal. Pub.*
4 *Utils. Com’n*, 801 F.2d 1120, 1125 (9th Cir. 1986).

5 Here, the General Synod as *amicus curiae* provides a unique perspective on and
6 knowledge of the UCC’s tenets and religious principles, which are promoted and
7 followed by its pastors in ministering to and assisting migrants and refugees. Similarly,
8 the National Council of Churches is well positioned to explain how advocacy for a just
9 immigration policy and pastoral work with vulnerable immigrants is rooted in
10 fundamental Christian principles and beliefs. By providing context for the religious
11 exercise of Pastor Dousa and other pastors and members of the UCC, the General Synod
12 and the National Council of Churches can help the Court in more fully understanding
13 how RFRA intersects with this religious exercise. Further, the General Synod and the
14 National Council of Churches have an interest in ensuring that their members, in addition
15 to adherents of all religious faiths, are able to practice their religion without undue
16 interference by the government, particularly when ministering to vulnerable populations.
17 Given RFRA’s purpose of “provid[ing] very broad protection for religious liberty,”
18 *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 706 (2014), the General Synod and
19 the National Council of Churches believe that as *amici curiae* they will be able to assist
20 the Court in understanding the UCC’s religious principles and evaluating Pastor Dousa’s
21 RFRA claim.

1 **CONCLUSION**

2 For these reasons, *amici curiae* respectfully request that the Court grant their
3 motion for leave to file their brief in support of the Plaintiff and accept the attached brief
4 and appendices.

5
6 DATED: December 20, 2019

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EXHIBIT A

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24 KAJI DOUSA,

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26 v.

27 U.S. DEPARTMENT OF HOMELAND
28 SECURITY ("DHS"), et al.,

Defendant.

Case No.: 19-CV-1255 (LAB)

**BRIEF OF UNITED CHURCH OF
CHRIST AND THE NATIONAL
COUNCIL OF CHURCHES AS
AMICI CURIAE IN SUPPORT OF
PLAINTIFF**

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INTEREST OF THE AMICI CURIAE

Amici curiae are the General Synod of the United Church of Christ (“UCC) and the National Council of Churches.

The General Synod is the representative body of the UCC. The UCC was formed in 1957, by the union of the Evangelical and Reformed Church and The General Council of the Congregational Christian Churches of the United States. It is a Protestant Christian denomination with over 4,800 churches and over 800,000 members across the United States. The Plaintiff, Kaji Dousa, is an authorized minister within the UCC.

The General Synod of the UCC has an extensive history of promoting religious freedom. The General Synod has adopted resolutions stating its commitment to the UCC being “a denomination devoted to religious liberty” and urging its members “raise [their] voice in protest” where religious liberty is threatened. The General Synod speaks out on issues of religious liberty not only on behalf of UCC members and the denomination, but also as a staunch proponent of the right of all people to freely practice their religious beliefs.

As an *amicus curiae*, the General Synod seeks to provide the Court with a better understanding of the General Synod’s resolutions of witness lifting up the Christian duty to provide pastoral care not only to vulnerable people in general, but to migrants and refugees in particular, and urging its members to exercise their faith accordingly. The General Synod has an interest in ensuring that all of its pastors, including Pastor Dousa, are permitted to live out the United Church of Christ’s core principles of social justice.

The National Council of Churches was formed in 1950 and is a partnership of 38 Christian faith groups in the United States. It is the largest ecumenical organization in the United States, comprised of churches that represent more than 100,000 local congregations and 40 million congregants. The National Council of Churches commits itself to a social creed whereby it promotes principles such as the abatement of hunger and poverty, criminal rehabilitation and restorative justice, and a just immigration policy. As *amicus curiae*, the National Council of Churches can provide perspective on the

1 intrinsic connection between these principles and the religious teachings of the Christian
2 faith.

3 *Amici* also have an interest in ensuring that the Court apply the proper framework
4 when contemplating the protection that the Religious Freedom Restoration Act
5 (“RFRA”), 42 U.S.C. § 2000bb *et seq.*, extends to their members, in addition to adherents
6 of all religious faiths. The General Synod and the National Council of Churches have an
7 interest in ensuring that their members are able to practice their religion without undue
8 interference by the government, particularly when this religious exercise involves
9 ministering to vulnerable populations like migrants and refugees.

10 INTRODUCTION

11 This case presents the question of whether the Religious Freedom Restoration Act
12 protects Pastor Dousa from government surveillance, detention, and targeting on the basis
13 of her pastoral work with immigrants. Pastor Dousa’s sincerely held religious beliefs
14 require her, in the exercise of her duties as a member of the clergy, to provide pastoral
15 care for migrants and asylum seekers entering the United States. Taking Pastor Dousa’s
16 allegations as true, as required at the motion to dismiss stage, the General Synod and the
17 National Council of Churches believe the defendants’ alleged conduct to be a threat to the
18 freedom of religious exercise to which adherents of all faiths are entitled in this nation.

19 ARGUMENT

20 Pastor Dousa has brought a claim under the Religious Freedom Restoration Act
21 (“RFRA”), 42 U.S.C. § 2000bb *et seq.*, which provides robust protections for religious
22 practices and subjects government actions to strict scrutiny under certain conditions.
23 RFRA provides that government actions are subject to strict scrutiny when they
24 substantially burden a religious practice, even where that burden is incidental to a neutral
25 or generally applicable law. 42 U.S.C. § 2000bb-1(a); *Gonzales v. O Centro Espirita*
26 *Beneficente Uniao do Vegetal*, 546 U.S. 418, 430–32 (2006). The pastoral work that is at
27 the crux of Pastor Dousa’s RFRA complaint, and which has been substantially burdened
28 by the defendants’ alleged conduct, constitutes an exercise of her sincerely held religious

beliefs, evidenced in part by the fact that her conduct is the embodiment of the teachings of her denomination.

As demonstrated below, Pastor Dousa has alleged facts sufficient to survive a motion to dismiss her RFRA claim.¹ *See, e.g., Bikur Cholim, Inc. v. Vill. of Suffern*, 664 F. Supp. 2d 267, 276 (S.D.N.Y. 2009) (explaining in the context of the Religious Land Use and Institutionalized Person Act (“RLUIPA”) that the plaintiff need only establish a *prima facie* claim at the pleading stage, at which point the burden shifts to the government). It would therefore be inappropriate to grant the government’s motion to dismiss where, as here, plaintiff has alleged facts sufficient to shift a burden to the government’s shoulders and the government has failed to even address the issue. *See id.* at 277 (ruling that dismissal is inappropriate where plaintiff pleaded a *prima facie* case); *see also Pounders v. Kempker*, No. 03-2054, 79 Fed. App’x 941, 943, 2003 WL 22462034 (8th Cir. Oct. 31, 2003) (holding that the issue of whether government actions serve a compelling interest is a factual question that cannot be resolved on a motion to dismiss if plaintiff has established a *prima facie* case).²

¹ For purposes of a motion to dismiss, the Court must accept the facts pleaded in the complaint as true. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 565 (2007). This brief, therefore, discusses the allegations made by Pastor Dousa under the assumption that they are true, and does not address the factual disputes raised by the government’s motion to dismiss. A motion to dismiss is not an appropriate vehicle for contesting the factual allegations made by the Plaintiff.

² It would likewise be inappropriate to grant the motion to dismiss on the basis of the government’s argument that there are plausible alternative explanations for the conduct alleged in Pastor Dousa’s Complaint, because the potential availability of alternate explanations for a defendant’s conduct is not something courts are meant to consider at the motion to dismiss stage. *See Nat’l Assoc. of African Am.-Owned Media v. Charter Commc’ns, Inc.*, 915 F.3d 617, 627 (9th Cir. 2019) (“[A]t this stage, we are not permitted to weigh evidence and determine whether the explanations proffered by Plaintiffs or Charter are ultimately more persuasive. Instead, we have explained that ‘[i]f there are two alternative explanations, one advanced by defendant and the other advanced by plaintiff, both of which are plausible, plaintiff’s complaint survives a motion to dismiss under Rule 12(b)(6).’” (second alteration in original)).

I. PROVIDING SPIRITUAL GUIDANCE AND PHYSICAL SUPPORT TO MIGRANTS IS A CENTRAL TENET OF THE UCC’S RELIGIOUS BELIEFS.

As described in the Complaint, Pastor Dousa’s work with migrants is an integral part of her ministry as a pastor in the United Church of Christ (“UCC”). In doing this work, Pastor Dousa embodies a number of resolutions adopted by the General Synod calling attention to the Christian obligation to provide assistance and pastoral care to vulnerable populations in general and to migrants and refugees in particular, and calling upon its members to live out those principles. *See generally* Appendix A (Resolutions of the General Synod Concerning Immigration). Since 1981, when it adopted its first Pronouncement on Immigration, the General Synod has called on all local churches, conferences, and instrumentalities of the church to prayerfully consider providing help to immigrants by, among other things, advocating for the rights of immigrants, assisting in meeting the social welfare needs of immigrants, and including immigrants in new and existing churches. *See* Appendix A (General Synod, “A Call for a More Humane US Immigration Policy; End Migrant Deaths; Support Immigrant Communities” (2007) at 32).

A number of resolutions in recent years have reaffirmed the UCC’s commitment to the 1981 pronouncement and have continued to lift up the need for UCC ministers and congregations to advocate for and assist vulnerable immigrant communities. *See* Appendix A, Resolutions of the General Synod Concerning Immigration. For instance, in a 2007 resolution calling for a more humane U.S. immigration policy, the General Synod notes that “the Biblical heritage of the Judeo Christian tradition specifically identifies the ‘stranger’ in our midst as deserving of our love and compassion,” and resolves that its pastors and congregations should work with immigrant advocacy groups such as the New Sanctuary Movement. Appendix A (General Synod, “A Call for a More Humane US Immigration Policy; End Migrant Deaths; Support Immigrant Communities” (2007) at 31–32). Likewise, in 2013, the General Synod adopted a resolution urging

1 Congress to enact immigration reform that would, among other things, prioritize
2 humanitarian values and protect refugees. Appendix A (General Synod, “Resolution
3 Supporting Compassionate Comprehensive Immigration Reform and the Protection of the
4 Human Rights of Immigrants” (2013) at 22). The General Synod has consistently
5 dedicated itself to the plight of immigrants, and to urging its congregations to consider
6 how they might provide assistance.

7 The immigration-related resolutions adopted by the General Synod draw upon the
8 Bible’s “clear instruction on how we are to treat the foreigner and neighbors in need.”
9 Appendix A (General Synod, “A Call for a More Humane US Immigration Policy; End
10 Migrant Deaths; Support Immigrant Communities” (2007) at 31). The Bible is replete
11 with directives to protect and minister to the vulnerable in general, and specifically to the
12 “aliens” among us. In *Leviticus* 19:34 (New Revised Standard Version), God instructs
13 Moses that “[t]he alien who resides with you shall be to you as the citizen among you;
14 you shall love the alien as yourself, for you were aliens in the land of Egypt.” Similarly,
15 *Exodus* 23:9 (New Revised Standard Version) directs, “You shall not oppress a resident
16 alien; you know the heart of an alien, for you were aliens in the land of Egypt.” The
17 General Synod teaches that ministering and providing spiritual comfort to refugees and
18 migrants are faith-based principles, and urges all UCC pastors to draw on these teachings
19 when they provide pastoral care to immigrants.

20 The General Synod is far from alone in taking the position that the Christian faith
21 calls for aid to vulnerable immigrants. Religious organizations of myriad denominations
22 have also stated that providing aid to migrants is a key part of their religious mission. For
23 instance, the National Council of Churches, one of the *amici* in this case, has called on its
24 member churches to “[l]ead in prayer, teaching, and preaching about the biblical,
25 spiritual, and moral basis for compassionate hospitality toward immigrants.” See
26 Appendix B (Board of the National Council of Churches USA, “Resolution on
27 Immigration and a Call for Action” (Sep. 22, 2008)). Likewise, the United States
28 Conference of Catholic Bishops has explained that the mission of the Catholic Church

“requires [the Church] to serve all in need, regardless of race, religion, or immigration status,” and that Catholic teachings regarding the need to assist vulnerable “led the Church to minister specifically to this country’s immigrant population.” Brief for the United States Conference of Catholic Bishops, the Evangelical Lutheran Church in America, Lutheran Immigration and Refugee Service, and Rev. Gradye Parsons as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) as Amici Curiae in Support of Respondent at 26–27, *Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182). Similarly, the Evangelical Lutheran Church in America recently issued a statement “publicly declar[ing] that walking alongside immigrants and refugees is a matter of faith.” *2019 ELCA Churchwide Assembly declares the ELCA a sanctuary church*, EVANGELICAL LUTHERAN CHURCH IN AM. (Aug. 14, 2019, 12:00 PM), <https://www.elca.org/News-and-Events/8004>.

Providing ministry and assistance to refugees, asylum seekers, and migrants is an essential part of the missions of the General Synod and the National Council of Churches to seek a just world for all, as well as an integral tenet of the Christian faith. *Amici* therefore have an interest in ensuring that such religious exercise by all Christians, including UCC pastors and members, is not targeted or unduly burdened by the government.

II. PASTOR DOUSA HAS SUFFICIENTLY ALLEGED THAT THE GOVERNMENT VIOLATED RFRA BY BURDENING HER RELIGIOUS EXERCISE OF MINISTERING TO MIGRANTS AT THE BORDER.

The Court should not dismiss Pastor Dousa’s Complaint because she has sufficiently alleged that the government violated the Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. § 2000bb *et seq.* Under RFRA, the government is prohibited from imposing a “substantial[] burden [on] a person’s exercise of religion even if the burden results from a rule of general applicability.” *See* 42 U.S.C. § 2000bb-1(a). RFRA was passed in response to the Supreme Court’s decision in *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990), which held that the First

Amendment's Free Exercise Clause cannot invalidate generally applicable laws even if the laws place an undue burden on a group or individual's religious practice. *See id.* at 885. By enacting RFRA, Congress expressly rejected the Court's reasoning and conclusion in *Smith*, recognizing that "laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise." 42 U.S.C. § 2000bb(a)(2). Instead, "RFRA was designed to provide very broad protection for religious liberty," and Congress extended protections for religious conduct far beyond the bounds of the Free Exercise clause as interpreted in *Smith*. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 706 (2014).

Through RFRA, Congress established a statutory right for individuals' sincere religious exercise to remain free from substantial burdens by the government, absent exceptional circumstances. The government may only substantially burden this statutory right if the government's action "(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000bb-1(b). Individuals may invoke RFRA as either "a sword or a shield," and "[i]f a person has a sufficiently realistic fear that the government is going to punish him for his religious beliefs in defiance of the law, he may unsheathe RFRA and file a preemptive strike in an effort to subdue the government before it treads further." *United States v. Christie*, 825 F.3d 1048, 1055 (9th Cir. 2016). To use RFRA as a sword against the government's infringement of sincere religious exercise, a plaintiff must show that (1) "the activities the plaintiff claims are burdened by the government action [are] an 'exercise of religion'" and (2) that "the government action . . . 'substantially burden[s]' the plaintiff's exercise of religion." *Navajo Nation v. U.S. Forest Serv.*, 535 F.3d 1058, 1068 (9th Cir. 2008) (en banc). Once a plaintiff has made that showing, the burden shifts to the government to show that its actions were narrowly tailored to achieve a compelling government interest. *See id.*

A. Pastor Dousa Is Engaged in Ministerial Work Based on Her Sincerely Held Religious Beliefs.

Pastor Dousa’s ministerial work is an exercise of religion that she has undertaken pursuant her sincerely held religious beliefs. Religious exercise under RFRA “includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000bb-2(4) (citing 42 U.S.C. § 2000cc-5) (emphasis added). The Supreme Court has explained that the exercise of religion extends to the ability to conduct oneself in accordance with one’s sincere religious beliefs. *See Hobby Lobby*, 573 U.S. at 724. The Court’s role in assessing religious claims is not to judge whether a person’s religious beliefs are mistaken, but rather its “narrow function in this context is to determine whether the [asserted belief] reflects an honest conviction.” *Id.* at 725 (quoting *Thomas v. Review Bd. of Indiana Employment Sec. Div.*, 450 U.S. 707, 716 (1981)) (internal quotation marks and alterations omitted). Moreover, the Ninth Circuit has recognized that the functions that church leaders perform in the practice of their religion are an exercise of religion under RFRA. *See, e.g., Mockaitis v. Harclerod*, 104 F.3d 1522, 1530 (9th Cir. 1997) (finding Catholic priest’s participation in Sacrament of Penance to be religious exercise under RFRA), *overruled on other grounds by City of Boerne v. Flores*, 521 U.S. 507 (1997) (declaring RFRA unconstitutional as applied to the states).

Here, the religious exercise burdened by the government is inextricably tied to Pastor Dousa’s religious beliefs and her functions as a leader in her church. These pastoral actions include praying for and with migrants across the Southern Border; offering pastoral care to longtime U.S. residents facing deportation or family separation; offering spiritual aid, comfort, and counseling to newly arrived refugees in the United States; serving at churches across the Southern Border; officiating Christian marriage ceremonies and other religious sacraments for migrants; providing support and prayer for immigrants that have court dates or other government appointments; and holding public

1 rallies and prayer vigils in support of migrants and asylum seekers. *See* Compl. ¶¶ 6–9,
 2 32–34; 68–69.

3 Pastor Dousa’s ministerial work conducted *because of* and *pursuant to* her
 4 sincerely held religious beliefs is therefore protected under RFRA, as such actions are
 5 integral to Pastor Dousa’s religious exercise. *See Hobby Lobby*, 573 U.S. at 724. The
 6 General Synod supports its ministers and its members exercising their Christian faith in
 7 this manner, and it views attempts to curtail these activities as an affront to religious
 8 liberty.

9 **B. The Government Imposed a Substantial Burden on Pastor Dousa’s**
 10 **Religious Exercise.**

11 The General Synod believes that its authorized ministers and UCC members
 12 should be able to provide spiritual support to migrants without the government imposing
 13 a substantial burden on those faith-based practices. As alleged in the Complaint, Pastor
 14 Dousa’s religious exercise, conducted pursuant to her sincerely held religious beliefs, was
 15 substantially burdened when the government detained and surveilled Pastor Dousa and
 16 revoked her SENTRI expedited screening access.

17 The Supreme Court has shown significant deference to those asserting under
 18 RFRA that their religious exercise has been burdened by the government. *See Hobby*
 19 *Lobby*, 573 F.3d at 720–26. In *Hobby Lobby*, the Court pointed to the sincerity of
 20 plaintiffs’ religious beliefs, which was not challenged by the government defendants, and
 21 found that, because the law forced them to incur a significant financial burden if they
 22 acted in accordance with their religious beliefs, the government had clearly imposed a
 23 substantial burden. *Id.* at 726. In other words, under the standard applied in *Hobby*
 24 *Lobby*, a substantial burden exists when a plaintiff cannot act in accordance with their
 25 sincerely held religious beliefs without the government penalizing them for those actions.
 26 *See id.*

27 Plaintiffs can also demonstrate a substantial burden on religion by showing that
 28 they have altered their religious practices in response to government action. The facts in

1 this case are similar to the facts in *Presbyterian Church (U.S.A.) v. United States*, where
 2 the court held “[w]hen congregants are chilled from participating in worship activities,
 3 when they refuse to attend church services because they fear the government is spying on
 4 them and taping their every utterance, we think a church suffers organizational injury
 5 because its ability to carry out its ministries has been impaired.” 870 F.2d 518, 522–23
 6 (9th Cir. 1989);³ *see also Fazaga v. FBI*, 916 F.3d 1202, 1247–48 (9th Cir. 2019)
 7 (holding that Muslim plaintiffs substantively stated a RFRA claim against government
 8 defendants by showing FBI surveillance caused them to alter religious practices,
 9 including by trimming facial hair, not wearing a skull cap, decreasing mosque attendance,
 10 limiting donations to mosque, being less welcoming to newcomers, and refraining from
 11 counseling congregants). District courts in the Ninth Circuit have also recognized that
 12 government burdens the exercise of religion when its actions “have the purpose or effect
 13 of preventing or discouraging members or the staff of religious organizations of
 14 participating in [their] religious practice[s] . . . and directly interfere with . . .
 15 performance of their religious duties.” *Am. Baptist Churches v. Meese*, 666 F. Supp.
 16 1358, 1365 (N.D. Cal. 1987).

17 Pastor Dousa has sufficiently alleged that the government’s actions against her
 18 amount to a substantial burden on her exercise of religion. She has alleged that the
 19 government’s actions in detaining, interrogating, and surveilling her have deterred her
 20 ministry to migrants and refugees by creating fear that she and her congregants will be
 21 retaliated against by the government. She has alleged that she has altered her religious
 22 practices, including curtailing plans to provide additional pastoral services to migrants
 23 because of fear of arrest, detention, or deportation of migrants that seek her aid. Compl.
 24 ¶ 77. She has also alleged that she now fears traveling across the Southern Border,
 25 inhibiting her from exercising her sincerely held religious beliefs by ministering to
 26

27 ³ *Presbyterian Church* is particularly relevant because it was decided prior to *Smith* and reflects the
 28 Free Exercise landscape that Congress sought to reestablish by enacting RFRA.

migrants there. Compl. ¶ 81. As in *Hobby Lobby* and *Fazaga*, this Court should find that these deterrence measures impose a substantial burden because they penalize Pastor Dousa for acting in accordance with her sincerely held religious beliefs and cause her to alter her religious exercise.

The government's only argument against Pastor Dousa's RFRA claim is that the government's actions did not impose a substantial burden. As demonstrated above, however, the government's surveillance and detention of Pastor Dousa, and the resulting fear and intimidation, meet the deferential standard for assessing a substantial burden under existing Supreme Court and Ninth Circuit precedent. Because Pastor Dousa has sufficiently alleged that the government has substantially burdened her exercise of religion, this Court should not grant the government's motion to dismiss.⁴ The factual question whether such government action was narrowly tailored to advance a compelling government interest is not a question that can be resolved at this stage of the proceedings.⁵

CONCLUSION

In response to Pastor Dousa's allegations, the General Synod has "raised its voice in protest" against what it perceives are credible threats to the religious liberty of UCC

⁴ Pastor Dousa also asserts that the government violated her Free Exercise rights under the First Amendment. The General Synod supports these claims. However, the General Synod does not think that this Court needs to reach the constitutional questions raised by a Free Exercise claim when the issues presented herein can be resolved under a federal statute. *See, e.g., Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (1936) (Brandeis, J. concurring) ("The Court will not pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of.").


⁵ Here, the government has not even attempted to argue that its actions were narrowly tailored to achieve a compelling government interest. Nor is it likely to succeed in such an argument. Even if the government asserts a generalized interest in enforcing its immigration laws (which it has not done), a policy aiming to deter lawful ministry to migrants is likely not narrowly tailored. As such, a policy could be weaponized to target any religious group that associates with migrants or asylum seekers. Indeed, if such a broad justification for targeted surveillance, detention, and retribution is allowed to stand under RFRA, then the government could interfere with any religious exercise that it connects with disfavored or unpopular causes as long as there is a nexus, however weak, to a compelling government interest.

1 ministers, members, and all adherents of faith. *Amici* urge this Court to recognize the
2 religious basis of Pastor Dousa's ministry to migrants and other vulnerable persons, and
3 to find that the government substantially burdened her religious exercise under RFRA.
4 The government's motion to dismiss should be denied and Pastor Dousa's claim should
5 be allowed to proceed.

6
7 DATED: December 20, 2019

RITA M. HAEUSLER
HUGHES HUBBARD & REED LLP

9 ROBERT B. BELL
10 KRISTIN MILLAY
11 SYDNEY STRINGER
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13 By: 
14 Rita M. Haeusler
15 Attorneys for Non-Parties
16 The General Synod of The United Church
17 of Christ and National Council of Churches
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APPENDIX LIST

	Description
Appendix A	<p>1. Resolutions of the General Synod Concerning Immigration</p> <p>2. General Synod, “A Call for a More Humane US Immigration Policy; End Migrant Deaths; Support Immigrant Communities” (2007)</p> <p>3. General Synod, “Resolution Supporting Compassionate Comprehensive Immigration Reform and the Protection of the Human Rights of Immigrants” (2013)</p>
Appendix B	Board of the National Council of Churches USA, “Resolution on Immigration and a Call for Action” (Sep. 22, 2008)

Appendix A

Resolutions of the General Synod Concerning Immigration

General Synod 2007

A CALL FOR A MORE HUMANE US IMMIGRATION POLICY; END MIGRANT DEATHS; SUPPORT IMMIGRANT COMMUNITIES

General Synod 2013

RESOLUTION SUPPORTING COMPASSIONATE COMPREHENSIVE IMMIGRATION REFORM AND THE PROTECTION OF THE HUMAN RIGHTS OF IMMIGRANTS

General Synod 2017

ON BECOMING AN IMMIGRANT WELCOMING CHURCH

General Synod 2019

ADDRESSING THE STATE OF GLOBAL FORCED MIGRATION

General Synod, “A Call for a More
Humane US Immigration Policy;
End Migrant Deaths; Support Immigrant
Communities” (2007)

6. Mr. Cody Long (PNE) spoke of youth and young adult ministry and mission affiliated with Lancaster Theological Seminary. The group has raised over \$30,000 for the Lesotho Child Counseling Unit in Africa, which works with orphans and those with AIDS. Cody urged everyone to help with these efforts..
7. Mr. Ryan Mathews (OHIO) thanked Ms. Edith Guffey, our national staff members and American Medical Response for their work in transporting persons with disabilities. The staff, assisted by AMR serves as testimony to the extravagant welcome and hospitality of the United Church of Christ.
8. Mr. Bob Inderbitzen (CONN) reported the members of the Connecticut Conference had provided 14,000 dozen cookies for the delegates' enjoyment and told everyone to "take some home."
9. Ms. Debra Parson (KO) spoke of the work being done at the Evangelical Children's Home in St. Louis, which serves homeless and at-risk youth. She asked for prayers and financial support.
10. Mr. William Wildman (ME) issued a challenge and goal for the Twenty-seventh General Synod to do something about seminarian loan debt relief. He intends to work toward a pronouncement that addresses debt relief.
11. Mr. William Hendrick (CAC) spoke of how much hotel management values its employees. We should be careful not to alienate hotel management who identify with the values of the United Church of Christ. While unions are necessary in some hotels, there are many non-union hotels that treat staff well and pay decent wages.
12. Mr. Christopher Jenkins (MASS) requested the United Church of Christ reach out to the main stream press so the general public is more aware of who we are.
13. Ms. Olgha Sandman (IL) brought words of gratitude for the faithful support of the Immokalee Farm Workers Ministry. This ministry won agreement with McDonalds and continues to work with Burger King until justice is accomplished for its workers.
14. Ms. Mary Brownlow (VT) talked of the desire of the Iranian people for peace and how they have been hijacked by their government.

Assistant Moderator Manz thanked all of the Speak Out! participants.

3. RESOLUTION: A CALL FOR A MORE HUMANE US IMMIGRATION POLICY; END MIGRANT DEATHS; SUPPORT IMMIGRANT COMMUNITIES

Mr. Manz called on Mr. Rodney Sutton, chairperson of Committee Two, for the introduction of resolutions from the committee.

Mr. Sutton introduced the resolution "A Call for a More Humane US Immigration Policy; End Migrant Deaths; Support Immigrant Communities. " He referenced the grammar correction in line 282 deleting the word "neither" and replacing the word "nor" with "and." He then moved the adoption of the resolution. Mr. Sutton then invited Ms. Lara Westby to speak to the resolution.

Ms. Phyllis Evelyn (MA) moved to amend the resolution on line 314 to delete the word "and" and add the words "and families facing or in the deportation process."

07-GS-31 VOTED: The Twenty-sixth General Synod adopts the amendment on line 314 to delete the word "and" and add the words "and families facing or in the deportation process."

1 Mr. William Sawyer (NH) Mr. Mark Furnalt moved amendments to the resolution. Those amendments were
2 defeated.

3
4 Following discussion, Mr. Al Thompson (MN) moved the previous question.

5
6 07-GS-32 VOTED: The Twenty-sixth General Synod voted to close debate.

7
8 07-GS-33 VOTED: The Twenty-sixth General Synod adopts the resolution "A Call for a More Humane US
9 Immigration Policy; End Migrant Deaths; Support Immigrant Communities" as amended.

10
11 **A CALL FOR A MORE HUMANE US IMMIGRATION POLICY; END MIGRANT DEATHS; SUPPORT**
12 **IMMIGRANT COMMUNITIES**

13
14 WHEREAS, Jesus and the scriptures give us clear instruction on how we are to treat the foreigner and neighbors in
15 need; and

16
17 WHEREAS, the Biblical heritage of the Judeo Christian tradition specifically identifies the "stranger" in our midst
18 as deserving of our love and compassion; and

19
20 WHEREAS, we have been called by the one God to tear down all the borders we have built between us so that we
21 may see each person as a child of God, so that we may learn to love and welcome all of God's children as members
22 of one family and one world; and

23
24 WHEREAS, our consciences are affronted by federal policies and actions that detain immigrants, that prosecute
25 undocumented workers, that fracture families and prosecute those who would give them aid; and

26
27 WHEREAS, more than 3,000 men, women and children have died attempting to cross the US/Mexico border since
28 the implementation of the blockade strategy of border enforcement and there is little evidence that this policy has
29 been effective in slowing the tide of illegal immigration; and

30
31 WHEREAS, many of us are in local churches and communities where we are aware of migrant peoples, but largely
32 unaware of their personal, communal, and national stories; and

33
34 WHEREAS, the United States is affected by the presence of new immigrants from all over the world, and

35
36 WHEREAS, although countries have the right to control their own borders, it is not an absolute right; the Church
37 recognizes a basic God given right for shelter, food, clean water and other basic necessities; and

38
39 WHEREAS, the blockade strategy of border enforcement has created an underground market for the smuggling of
40 human beings which exploits its vulnerable victims, and has encouraged an upsurge in vigilante activities, fosters an
41 anti-immigrant atmosphere and represents the potential for violence; and

42
43 WHEREAS, current immigration policy forces upon migrant families potentially deadly choices which separate and
44 dislocate them from one another, precluding free travel and mobility to return to their families; and

45
46 WHEREAS, migrant workers and their families enter the United States to live and work, and the current
47 immigration policy makes that passage dangerous, illegal, disorderly, and inhumane, with very few of the basic
48 rights afforded to all workers under international law; and

49
50 WHEREAS, approximately ten to twelve million undocumented workers and their families currently living in the
51 United States are pressured to live covertly, without rights, and in vulnerable situations all over the United States;
52 and

53
54 WHEREAS, the root causes of this migration lie in environmental, economic, and trade inequities between the
55 United States, Mexico, and all of Latin America, policies which reduce tariffs and taxes that would support the poor
56 in Mexico and Latin America; eliminate agricultural subsidies and low-interest loans for the poor in Mexico and

Latin America while keeping those subsidies in the United States and in Canada; reduce social spending for health care, food stamps, and welfare reform in Mexico and Latin America; liberalize land ownership policies, thus limiting the ability of the poor in Mexico and Latin America to own or share in the land; deregulate environmental and labor laws in Mexico and Latin America; and limit the rights of Mexican and Latin American workers to protest or seek remedies for wrongs done to them; and

WHEREAS, the fragile desert environment has sustained severe damage as a result of migrant and responding enforcement patrols moving through remote desert regions; and

WHEREAS, General Synod XIII of the United Church of Christ (1981) adopted a Pronouncement on Immigration calling upon all settings of the church to:

- a. advocate for the rights of immigrants;
- b. aid undocumented immigrants in attaining legal status;
- c. aid immigrants in reunification with their families and in placement in areas of the country most favorable for their productive participation in society;
- d. assist in meeting the social welfare needs of immigrants; and
- e. be inclusive of immigrants in existing and new churches; and

WHEREAS, General Synod XXIV of the United Church of Christ adopted a resolution supporting Humane Borders, a faith-based group that offers assistance to those in need by maintaining water stations on and near the border and recognizing that there is more that can be done within and by the United Church of Christ regarding border issues; and

WHEREAS, the United Church of Christ proudly declares an extravagant welcome to all who seek to be in relationship with Jesus Christ;

THEREFORE LET IT BE RESOLVED that General Synod Twenty-six of the United Church of Christ declares that the Militarized Border Enforcement Strategy of the United States government has been ineffective and inhumane.

BE IT FURTHER RESOLVED that UCC congregations with their congressional representatives, advocate for a policy that allows immigrant workers and their families to live and work in a safe, legal, orderly and humane manner through an Employment-Focused immigration program (as opposed to employer focused) that guarantees basic international workers' rights to organization, collective bargaining, job portability, religious freedom, easy and safe travel between the United States and their homeland, achievable and verifiable paths to residency, and a basic human right of mobility.

BE IT FURTHER RESOLVED that the conference ministers be urged to participate in delegations and immersion programs, and that UCC congregations seek out opportunities for face to face dialogue with immigrant communities.

BE IT FURTHER RESOLVED that the congregations and pastors of the UCC study the immigration issue through discussion and reflection of films such as "El Norte" and "Babel" and books such as "The Devil's Highway" by Luis Alberto Urrea.

BE IT FURTHER RESOLVED that congregations and pastors form grass roots organizations working in conjunction with established groups such as:

- Border Links
- Presbyterian Border Ministry
- Samaritan Patrols
- Illinois Maya Ministry
- The New Sanctuary Movement
- Center for Education and Social Transformation

BE IT FURTHER RESOLVED that General Synod XXVI urges the Covenanted Ministries of the UCC and the various settings of the Church to seek opportunities for building and participating in existing interfaith coalitions and partnering with global and U.S. organizations/institutions that advocate for justice and provide services for those in

1 the undocumented community most in need, e.g. abandoned immigrant children, abused women, and families facing
2 or in the deportation process.

3
4 BE IT FURTHER RESOLVED that we reaffirm the action of General Synod XIII on the resolution JUSTICE IN
5 IMMIGRATION and General Synod XXIV resolution supporting HUMANE BORDERS.

6
7 BE IT FURTHER RESOLVED that General Synod XXVI calls upon the leaders of Conferences, Associations and
8 congregations to extend an extravagant welcome and radical hospitality to and continue to minister and care for all
9 who come to our doors.

10 FUNDING

11 Funding for the implementation of this resolution will be made in accordance with the overall mandates of the
12 affected agencies and the funds available.

13 14 **4. RESOLUTION: RETURNING TO UNITY AND DIVERSITY IN THE UNITED CHURCH OF CHRIST**

15 Assistant Moderator Elizabeth King called on Ms. Lisa Gardner, chairperson of Committee Four, to present the
16 committee's resolution.

17
18 On behalf of Committee Four Ms. Gardner moved the adoption of the resolution "Returning to Unity and Diversity
19 in the United Church of Christ" and recommended no action be taken.

20
21 07-GS-34 VOTED: The Twenty-sixth General Synod voted to take no action on the resolution "Returning to Unity
22 and Diversity in the United Church of Christ." (Resolution attached: Page 46)

23 24 **5. RESOLUTION: REAFFIRMING OUR COMMITMENT TO COVENANTAL RELATIONSHIPS**

25 Moderator Lawrence again called upon Ms. Lisa Gardner. Ms. Gardner introduced the resolution "Reaffirming our
26 Commitment to Covenantal Relationships" and moved its adoption as amended by the committee.

27
28 07-GS-35 VOTED: The Twenty-sixth General Synod adopts the resolution "Reaffirming our Commitment to
29 Covenantal Relationships," as amended by the committee.

30 31 **REAFFIRMING OUR COMMITMENT TO COVENANTAL RELATIONSHIPS**

32
33 WHEREAS, 2007 marks the fiftieth anniversary of the founding of the United Church of Christ, and

34
35 WHEREAS, the occasion of the founding of the United Church of Christ was preceded with extensive discussions,
36 prayer, scholarship, research, and negotiations to establish a common vision for this new venture in Christianity, and

37
38 WHEREAS our forebears came to an agreement known as The Basis of Union with Interpretations and summarized
39 the faith of our denomination in the Statement of Faith, and

40
41 WHEREAS, Jesus prayed in John 17:21 "that they may all be one" and these words have been the official motto of
42 the United Church of Christ, and

43 WHEREAS, the Twenty-fifth General Synod reaffirmed that Jesus Christ is Lord and Savior and the representation
44 of that central faith tenet by our symbol, and

45
46 WHEREAS, it is our desire that the United Church of Christ continue to reflect theological diversity that includes
47 members and churches who consider themselves to be evangelical, conservative, orthodox, or traditional (ECOT) as
48 well as centrist, progressive, and liberal,

49
50 THEREFORE BE IT RESOLVED that the Twenty-sixth General Synod, meeting in Hartford, Connecticut,
51 reaffirms the Basis of Union with Interpretations and the Preamble to the United Church of Christ constitution as
52 ongoing valued and cherished testimonies of faith that guide our common life and identity in the United Church of
53 Christ, and under the ongoing guidance of the Holy Spirit, and commends these documents for review, reflection,
54 and study at all levels of the church.

General Synod, “Resolution Supporting
Compassionate Comprehensive
Immigration Reform and the Protection
of the Human Rights of Immigrants”
(2013)

BE IT FURTHER RESOLVED, that the Twenty-ninth General Synod of the United Church of Christ requests that Justice and Witness Ministries join with the Council for American Indian Ministry and others to prepare educational materials for the churches.

BE IT FURTHER RESOLVED, that the Twenty-ninth General Synod of the United Church of Christ requests that the substantive study materials developed by JWM and CAIM be presented to the Thirtieth General Synod with suggestions for how the UCC might undertake various forms of action. The Episcopal Church provides a model for such follow through.

BE IT FURTHER RESOLVED, the Twenty-ninth General Synod of the United Church of Christ calls upon the United States government to repudiate the Doctrine of Discovery.

FUNDING

The funding for the implementation of this resolution will be made in accordance with the overall mandates of the affected agencies and the funds available.

IMPLEMENTATION

The Collegium of Officers, in consultation with appropriate ministries or other entities of the United Church of Christ, will determine the implementing body.

Julia Swayne (CA NV, N) requested the order of resolutions be announced as they are known to the moderator.

8. RESOLUTION SUPPORTING COMPASSIONATE COMPREHENSIVE IMMIGRATION REFORM AND THE PROTECTION OF THE HUMAN RIGHTS OF IMMIGRANTS

Moderator Tigner called on Ms. Barbara Ferguson Kamara, Chairperson of Committee 13, to present that committee's report. Ms. Kamara moved that the Twenty-ninth General Synod approve the resolution Supporting Compassionate Comprehensive Immigration Reform and the Protection of the Human Rights of Immigrants. She then spoke to the resolution.

Discussion:

Felix Villanueva, (CA NV, S) called for approval of the resolution saying immigrants are already productive members of society.

Arthur Cribbs (CA NV, S) said we're violating our own values and ideology if we do not approve this resolution.

David Stuart and Shirley Fleming (ILL) moved to amend Line 1434 by inserting the following: . . . violence; (7) ensure that newly documented immigrants have the opportunity to enroll for health insurance coverage under the Affordable Care Act; and (8) ending of . . .
The motion was seconded.

13-GS-14 VOTED: The Twenty-ninth General Synod votes to amend Line 1434 by inserting the following: . . . violence; (7) ensure that newly documented immigrants have the opportunity to enroll for health insurance coverage under the Affordable Care Act; and (8) ending of . . .

Discussion resumed on the original motion.

Sylvia Jones (EC) reported that representatives from the YWCA across the nation spent the day on Capitol Hill meeting with Representatives and Senators to urge immigration reform.

Ms. Jones urged everyone to vote in favor of the resolution and to contact members of the House of Representatives.

Sheila Angerer (SC) said of course we need immigration reform – it's what America stands for.

Samuel Conde (FLA) works with the Coalition of Immokalee Workers. This is an issue that affects thousands of people across America.

Dennis Alger (CPC) appreciated the amendment and encouraged a positive vote. We are aware of the fear in which many of our neighbors live.

Linda Jaramillo (JWM) commended the committee's work and supported the resolution. She appealed to everyone to go home and accept the responsibility to become a welcoming community and contact government representatives.

13-GS-15 VOTED: The Twenty-ninth General Synod votes to adopt the resolution Supporting Compassionate Comprehensive Immigration Reform and the Protection of the Human Rights of Immigrants, as amended.

**SUPPORTING COMPASSIONATE COMPREHENSIVE IMMIGRATION REFORM
AND THE PROTECTION OF THE HUMAN RIGHTS OF IMMIGRANTS**

WHEREAS, immigration law in the United States (U. S.) is a federal, not a state, responsibility, and

WHEREAS, America's current immigration system is dysfunctional, harms our economy, and does not reflect our denominational or national values; and

WHEREAS, worker visa programs must comply with U.S. wage, hour, and other labor standards, including portability of visas so that workers can change jobs; and maintain the ability for workers to petition for permanent residency; and

WHEREAS, enforcement of immigration law should affirm our nation's core legal values including due process, transparency, fairness, accountability, and proportionality; and

WHEREAS, immigration reform must occur in a comprehensive, thoughtful manner that both respects our nation's right to control its borders and the human rights of immigrants, and

WHEREAS, the United Church of Christ and the United States has prospered because of the contributions of hardworking migrants, immigrants, and aspiring citizens; and keeping families together not only is inherent to our faith values, but is also good for the economy because families are a base of support that increase worker productivity and spurs entrepreneurship; and,

there is a need to reduce the processing times of three to twenty years that keep families separated from their loved ones; and

WHEREAS, the United Church of Christ has many DREAM Act eligible youth who were brought here as children, know this country as their only home, were educated here, and have shown their contribution to our congregations and communities; and

WHEREAS, immigration enforcement has deported a record 409,849 in 2012 fiscal year including 95,000 parents of U.S. citizens in 2011; and

WHEREAS, citizenship is a symbol of full societal membership and social participation that should be encouraged and supported with just and fair laws and procedures; and

WHEREAS, compassionate comprehensive immigration reform must include a realistic pathway to citizenship for all hardworking, taxpaying, aspiring citizens who live in the U.S. (including young people who have grown up in the United States) if they meet reasonable requirements; and

WHEREAS, comprehensive immigration reform must update the legal immigration system so that the future flow of immigrant workers more realistically matches our nation's labor needs and is structured to protect the wages and working conditions of U.S. and immigrant workers;

THEREFORE BE IT RESOLVED, that the Twenty-ninth General Synod of the United Church of Christ urges the 113th Congress to enact comprehensive immigration reform as outlined in this resolution that addresses (1) earned legalization with a path to citizenship; (2) updated future flow of immigrants for workers and unification of families; (3) enactment of the Development, Relief, and Education for Alien Minors (DREAM) Act as part of a comprehensive immigration reform; (4) protection of workers' rights, including agricultural workers; (5) placement of humanitarian values at the center of enforcement policies; (6) protection of refugees and migrant survivors of violence; and (7) ensure that newly documented immigrants have the opportunity to enroll for health insurance coverage under the Affordable Care Act; and (8) ending of Operation Streamline, stopping of the construction of the southern border fence, and limiting additional immigration border patrol agents on the southern border.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be delivered to the President of the United States, U.S. Speaker of the House and President of the Senate. The Twenty-ninth General Synod of the United Church of Christ encourages General Synod delegates to deliver a copy of this resolution to members of their respective (state) General Assembly, Governor of the state, (state) Speaker of the House, and President of the (state) Senate.

BE IT FURTHER RESOLVED, that Twenty-ninth General Synod of the United Church of Christ encourages congregations to further engage in educational work on immigration from a faith perspective, participate in border delegations and work towards making your congregation an Immigrant Welcoming Congregation.

BE IT FURTHER RESOLVED, that the Twenty-ninth General Synod of the United Church of Christ calls upon United Church of Christ members to take action to help pass compassionate comprehensive immigration reform by (1) getting involved with a local coalition, (2) forming

relationships with immigrants, (3) joining advocacy delegations with your local Representative or Senator and (4) mobilizing congregants for vigils, actions, marches, interfaith services and other local or national activities on this issue.

FUNDING

The funding for the implementation of the Resolution (or Other Formal Motion) will be made in accordance with the overall mandates of the affected agencies and the funds available.

IMPLEMENTATION

The Collegium of Officers, in consultation with appropriate ministries or other entities within the United Church of Christ, will determine the implementing body.

9. MUSIC/STRETCH BREAK

Moderator Tigner invited the General Synod musicians to lead the body in some singing and movement to reinvigorate everyone.

10. RESOLUTION TO RECOGNIZE THE NEED FOR COMPASSIONATE CARE AND HEALING TO OUR VETERANS

Assistant Moderator Dale Bonds called on Mr. Charles Kuthuru, Chairperson of Committee 9, to present the next item of business.

Mr. Kuthuru moved the adoption of the resolution To Recognize the Need for Compassionate Care and Healing to our Veterans. He ceded his time to Sam Buehrer (OHIO) who spoke to the motion.

Discussion:

Brynn Smallwood Garcia (CONN) spoke in favor of the motion and of the first responders to Sandy Hook Elementary School who are members of her congregation. She also expressed gratitude to everyone who also suffers from PTSD.

Sharon Prestemon (EC) serves on the Board of Back Bay Mission in Biloxi, MS and indicated that not only are many of our veterans not in churches, they are not in homes.

William Feld (CAC) moved to strike the word “in” on Line 1315. The amendment was accepted by the Moderator.

A delegate urged approval and said we need to act, not only approve this resolution.

Jim Clausing (OHIO) spoke in favor of the resolution. Mr. Clausing has a son who served in Iraq and has dealt with the needs expressed in the resolution.

Jamytta Bell (SC) is a veteran service officer and pleaded that delegates don’t just vote, but act.

13-GS-16 VOTED: The Twenty-ninth General Synod votes to approve the resolution To Recognize the Need for Compassionate Care and Healing to our Veterans, as amended.

Appendix B

Board of the National Council
of Churches USA, “Resolution
on Immigration and a Call for
Action” (Sep. 22, 2008)

Resolution on Immigration and a Call for Action

Adopted by the Boards of the National Council of Churches USA (9/22/08) and Church World Service, and Adopted by the General Assembly of the National Council of Churches USA and Church World Service (11/12/00)

"In a world fragmented by fearfulness, Christians proclaim a divine love that casts out fear (1 John 4:18) and binds even those the world calls enemies (Matthew 5:44). In a society still divided by race and increasingly divided into haves and have nots, Christians affirm a vision of community in which every neighbor is valued as a child of God (Genesis 1:27) and all neighbors have enough (Luke 6). In a world fractured by suspicion of those who are "other," Christians have heard a command to welcome the strangers (Genesis 18, Hebrews 13:2), even as Christ has welcomed us (Romans 15:7)."[1]

NCC Policy Base [2]

United States Immigration and Naturalization Policy

Adopted by the General Board on March 21, 1952

The Churches and Immigration

Adopted by the General Board of the National Council of Churches USA on February 27, 1962

Immigrants, Refugees and Migrants

Adopted by the Governing Board on May 14, 1981

INTRODUCTION

This resolution and call to action about the issue of immigration from a faithful Biblical perspective is a collaboration of the member communions of the National Council of Churches USA and Church World Service, with local and regional ecumenical bodies of the United States. Millions of people are on the move around the world: some by choice, some under duress, but most out of dire, life-or-death necessity. All desire to make a better life for themselves and their families, as have millions of immigrants to our shores from past eras. Many perceive this country as the best or only choice available to them. How our nation responds to this growing challenge is clearly one of the great moral issues of our time.

As we witness the consequences of an outdated and ineffective immigration system, we are compelled to stand in solidarity with those impacted by our nation's policies. The current U.S. immigration process separates family members, many who have waited decades to be reunited, and hurts productivity as those wishing to work in this country, also endure lengthy backlogs. Such a system leaves many facing the choice between feeding their children and crossing a border illegally. Reaching a point of desperation, many risk their lives to cross the desert, where hundreds of them die every year.

Thousand, of immigrants have been arrested in mass raids and hundreds of thousands have been detained or deported. with little or no access to legal counsel. Children have been detained in detention centers lacking proper educational or religious services, and at least 83 people have died in such facilities due to inadequate medical treatment. Such 'enforcement' measures leave children without parents, families separated without knowledge of loved ones' whereabouts, and those who arrived as infants deported to countries they never called home. Many immigrants who endure detention and deportation are lawful permanent residents; many seek asylum from persecution; and still others simply seek the better life the United States promises.

Unfortunately, when these issues are discussed, polarized sides have blamed immigrants for the nation's problems, rather than uniting to enact policies that are beneficial to all persons. Anti-immigrant sentiment has become such an accepted norm throughout the United States that some local laws bar immigrants from receiving social services and deny funding to charitable organizations that do not check immigration status prior to administering services. Local police act as immigration officials, resulting in racial profiling and a widespread fear of reporting crimes, which compromises community safety, yet law enforcement turns a blind eye to employer exploitation of immigrants.

These issues stem from underlying, global causes of migration, such as war, environmental exhaustion, poverty, and inequitable trade and development policies that are often ignored. This presents us with a noble challenge - to work together to address the underlying global causes of migration at the same time we improve the ways we answer the knock at our church doors. Our calling to participate fully as people of faith in the democratic process is clear to us as Christians whenever concerns about morality, social justice and compassion meet at a crossroads. With decision-making that may lead either to healing, or further fracturing of our society and the world, In this context the Church asserts its freedom and responsibility to express theological understandings about moral questions, At the center of our engagement of social questions is the Church's mandate to "proclaim, in word and deed, the good news of Jesus Christ in the midst of a fractured world." [3]

We admire the Christian witness that has been an inspiration to us and the world, yet also confess that the Church has not always lived up to its own principles. Too often we have heard a silence from the Church in debates having implications for human welfare and social and economic justice. We recall with regret past controversies in our society regarding war and peace, genocide, women's suffrage, workers' protections, civil and human rights, and economic and social injustice, where the Church has fallen short of its calling to preach, teach and be a blessing in the world, The Church's historic silences or complicity was not necessarily always deliberate; often it could be attributed to misinformation Of ignorance, or to a focus on other pastoral concerns; but regardless, the silence is sin. Today (as in all other times) the Church is called to rise in unequivocal defense of the stranger, the sojourner, the widow and orphan, and our most vulnerable neighbor.

As we consider the causes and realities of human migration, we together affirm these shared religious convictions [4] concerning God's creation and commandment to love one another:

- 1) God created human beings in God's image, and as such each person is a precious and sacred reflection of the Creator. [5]
- 2) The land on which we live is not ours, but God's. God made all of us stewards of creation, and called us to act with justice, mercy, and wisdom.
- 3) God's people are a pilgrim people. Throughout Biblical history, the people of God have been sojourners, refugees, and migrants. God protected them as they moved, multiplied, and maintained the earth. The Bible teaches us to defend, protect, and honor the rights and humanity of the sojourner, stranger, refugee, and immigrant,
- 4) Our sacred instructions to welcome the stranger remind us to show hospitality to immigrants. [6] God's Word reminds us of the rich blessings we receive from God and of our obligations to share these blessings.
- 5) The Church, when it welcomes the stranger, provides an uplifting moral and spiritual witness. [7]

While we respect and adhere to the laws of the U.S. Government, ultimate authority belongs only to God and not the State. As we seek to love our neighbors and welcome the stranger, we also seek laws that are humane and just, as are the laws of God. In light of the highest political ideals grounded in justice, equality and freedom:

- 1) We embrace the deeper theological conviction that we are not separate and distinct from other human beings, but are a part of the same interconnected, interdependent, human family. We reaffirm previous National Council of Churches USA policies that call on the United States to do its share to alleviate human suffering in other lands by admitting refugees and immigrants and providing sanctuary to persons needing to relocate. [8]

- 2) We acknowledge the ease with which we as human beings are prone to fear people who we consider "other", yet, our faith challenges us to overcome such natural fear of those who are not like us. This fear of the "other" has had tragic consequences in the United States and the world. This nation fought with itself to overcome a legacy of slavery, struggled in every generation against racial, ethnic, gender, and religious discrimination, and today may again succumb to fear, xenophobia, and racist impulses directed against new immigrants.
- 3) We are reminded that the United States is a nation of immigrants and other displaced peoples, and has been so since its inception; this reality enriches our culture and strength as a country. And yet the immigration of immigrants and others in North America began a massive displacement of indigenous peoples with consequences that continue today.
- 4) We recognize that there is an urgent need for increased awareness about trafficking in human beings, and about the economic and sexual exploitation of migrants. We recognize the need for effective enforcement against human traffickers and smugglers, and the defense and protection of victims of such crimes.
- 5) We recognize that government may have legitimate, morally justifiable reasons for denying immigration to certain persons.
- 6) We recognize that as religious leaders and educators we play an important role in helping the public understand immigrants and immigration policy.

CONTEXT OF THIS RESOLUTION:

These concerns and understandings lead us to respond when we see human beings, made in God's own image, driven from their homes by necessity, violence, poverty, hunger, political or religious oppression, and when migrating people find only more trouble and pain when they arrive at our doorstep.

As Christians we acknowledge and lift up the compassionate, committed, and creative ministry that goes on every day as the Church defends and protects migrants. [9] We know of the energy and resources devoted by the Church to respond in loving and helpful ways to the needful knocks at the Church's doors. The Church, working through Church World Service, the National Council of Churches USA, local and regional ecumenical bodies, member communions and congregations, continues to respond faithfully to a call to minister to immigrants and refugees, in the name of the One who came to bring healing to a broken world.

We understand our call to care for the most vulnerable among us, and in our current context, these most vulnerable include millions of undocumented neighbors who live and work in our midst. We also affirm the importance of family unity for citizens, visa holders, and documented and undocumented immigrants, as a priority throughout the U.S. immigration system. Our nation's official treatment of immigrants continues to be a grave affront to the mandates of Christian faith, which does not abide bad treatment of the stranger, the visitor, or those who seek asylum from persecution.

Our faith-inspired legacy calls us to reexamine our immigration policies and services in light of the current situation, and to work for swift federal reform that is humane, just and sustainable.

CALL TO ACTION:

We call for moral leadership that stands firm in the conviction that our nation, consisting of diverse peoples, should remain deeply committed to struggle against racial, ethnic and religious discrimination. We see prejudice as a particularly dangerous and existential threat to our diverse nation, and to human life across the world. Therefore, we commit ourselves to strive together for a society that treats immigrants, who are being threatened in this time, as fully deserving of all the civil and human rights afforded by the U.S. Constitution and international agreements.

THEREFORE, TOGETHER:

We Resolve, as the National Council of Churches USA and Church World Service

To work collaboratively among Church World Service, regional and local ecumenical bodies, and the National Council of Churches in the USA's member communions through a new, "Ecumenical Task Group on Immigration," organized under the fiscal and administrative auspices of the National Council of Churches USA, and supported and jointly led by the National Council of Churches USA, Church World Service, and in leadership-partnership with regional and local ecumenical bodies. The task group's leadership will consist of representatives from participating institutions, but will be accountable to the Justice and Advocacy Commission of the National Council of Churches USA and to the Immigration and Refugee Program Committee of Church World Service, which will cooperatively oversee its progress and receive reports on its activities. The Task Group will preserve collaborative accountability to participating regional and local ecumenical bodies, church agencies, and Church World Service in order to assure effective coordination and resourcing of diverse efforts. The Ecumenical Task Group on Immigration will have an initial life of three years.,

The Ecumenical Task Group on Immigration will have a mandate to'

- 1) Work to formulate a cohesive, coordinated, theologically-based response from the Christian perspective about issues .surrounding immigrants and immigration, and to foster effective communication between our churches, in our communities, and with business, governmental, and international leaders. [10]
- 2) Collaborate to create, share and widely disseminate religious education curricula, videos and other media that focus on the biblical witness with respect to immigration, refugees, sojourners, and our obligations to the most vulnerable amongst us, particularly materials and best practices from the local and regional ecumenical organizations, which pioneer in appropriate responses at the local level.
- 3) Foster and share the means to teach about the sociological, economic, military, and legal forces affecting immigrants and immigration policies in the USA and the world, and the appropriate role of humanitarian and development aid.
- 4) Work with partners to support and resource sanctuary congregations and communions, providing information about current law and including the formation of strategies to raise broad awareness of sanctuary churches and the theological basis for their Christian activism.
- 5) Through the National Council of Churches and Church World Service, seek the financial support of charitable foundations and committed immigration-reform funding entities to support and extend the immigration reform efforts of the National Council of Churches USA. Church World Service, church agencies, and regional and local ecumenical bodies,
- 6) Encourage ways churches might engage immigration beyond charity and material support, to include public policy advocacy and engagement with public debates regarding legal and regulatory reform, Help to conceive, coordinate and/or resource public events that raise awareness about the faithful, Christian basis for policy engagement on immigration, Work to educate congregations and the public about specific public policy measures that defend the rights of immigrants and that call for more-humane immigration policies.

As such,

We call on President and Congress of the United States to:

- t) Protect legally the unity of immigrant families by making family reunification a priority for both citizens and the immigration process, and by rejecting proposals that separate families, such as the denial of citizenship to children born in the United States and point systems that put family-based and employment-based immigration applicants in competition with each other. [11]
- 2) Facilitate generous laws enabling immigration by individuals who seek to work in the United States and their families; ensure full protection of their rights; and allow them to travel to their native countries and return to the

United States as they wish, without unnecessary fees or lengthy waiting periods.

3) Adopt new immigration laws that include a humane and just process by which undocumented immigrants can earn their lawful permanent residency and eventually apply for citizenship.

4) Defend and extend internationally agreed-upon human rights to those who are persecuted by increasing assistance to displaced persons worldwide, welcoming more refugees and asylum seekers to the United States, and robustly funding resettlement and integration, and other services for refugees, asylees, and other migrants.

5) Preserve and extend the domestic legal, civil, and human rights of immigrants, both children and adults, regardless of immigration status. These rights include fair wages, educational opportunities, access to social services, equitable treatment under U.S. law, and protections against worker exploitation and other forms of mistreatment.

6) Reform the visa system to increase the number of family-based and employment-based visas, efficiently process visas to reduce the backlog, and increase staff and resources to process applications in a timely manner.

7) End mass immigration raids on places of employment, as well as mass deportations, the deportation of lawful permanent residents, the forced separation of families, and government-sponsored border militarization and wall construction.

8) Implement equitable trade and development policies, including increased humanitarian assistance funding, that protect the way of life of persons who need to emigrate in order to survive; and recognize their international rights to emigrate or to remain in their native country in safe and humane conditions

We call on The Church

And most importantly, as brothers and sisters in faith, we call on fellow Christians in congregations, church agencies, and local and regional ecumenical bodies to:

1) Lead in prayer, teaching, and preaching about the biblical, spiritual and moral basis for compassionate hospitality toward immigrants.

2) Pray, study and search our hearts and minds with respect to our own attitudes and preconceptions regarding immigrant peoples, and to provide opportunities for our churches and communities to confront the sins of racism, xenophobia, and ethnic or cultural prejudice against our fellow human beings.

1. The 2007-2011 Strategic Plan of the National Council of Churches of Christ in the United States of America. All bible references and quotes found in this resolution are from the New Revised Standard Version translation.

2. A compendium of policy documents, statements and resources can be accessed at:
<http://www.nccusa.org/immigration>

3. "The Authority of the Church in the World", Faith and Order Commission of the National Council of Churches, 2007.

4. A compendium of biblical references that inform our theological basis for addressing immigration concerns can be found at: <http://www.nccusa.org/immigration/bible>. A compilation of statements and resources created by ecumenical bodies and member communions can be found at: <http://www.nccusa.org/immigration/>

5. In Genesis 1:26, "Let us make humankind in our image, according to our likeness; and let them have dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all the wild animals of the earth, and over every creeping thing that creeps upon the earth."

6. Deuteronomy 10:19 states, "You shall also love the stranger, for you were strangers in the land of Egypt." Hebrews 13:2 urges, "Do not neglect to show hospitality to strangers, for by doing that some have entertained angels without knowing it." Paul reinforces this teaching in Romans 12:13, with, "Contribute to the needs of the saints; extend hospitality to strangers."

7. In "The Churches and Immigration" the member communions stated, "We believe that through increased Christian concern in immigration, the churches and their members can make a fuller witness to our faith that, under God, men and nations are responsible to each other and for the welfare of all mankind."

8. In "United States Immigration and Naturalization Policy" the member communions stated, "On the international level, we believe the United States for moral reasons, as well as in the interest of its own economic and political security, should remain steadfast in its purpose to cooperate with other nations in meeting the needs of displaced persons, refugees, and surplus populations."

9. Deuteronomy 10:19, "You shall also love the stranger, for you were strangers in the land of Egypt"

10. In "Churches and Immigration" the Communions resolved: "we urge the churches and their members to make the most effective Christian witness they can on migration and related matters, in developing public opinion and in helping those in federal and state governments and intergovernmental agencies to shape the migration policies, legislation and practices." Elsewhere in "Churches and Immigration" the Communions stated: "We urge increased attention by all people in local parishes, in councils of churches, and in the work of church men and women, to keep under constant study, and to make more alive in public concern, the laws which our Government has enacted or should enact to help meet the critical needs of mankind." Also in "Churches and Immigration," the communions stated: "Study and concern should include not only migration matters, but all those undertakings through which our nation does and can lend material as well as moral assistance to other peoples for their economic and social progress."

11. In "Churches and Immigration," the churches called for replacement of a previous quota system with one that gave priorities to families seeking reunification. While those changes were made, present governmental proposals would eliminate the longstanding family-unity priority.