

An Analysis of the Religious Rights and Freedoms Afforded to Undocumented Immigrants in
the United States

By
Katharine Batchelor

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Thesis Advisor

Reader

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INTRODUCTION¹

In late July 2014, Rosendo Juárez-Hernández waited out the last few hours of his life in America within the drab confines of a U.S. Immigration and Customs Enforcement (ICE) processing facility in Broadview, Illinois. This Broadview facility is the starting point of the journey that awaits detained immigrants from the greater Chicago area who face deportation. Juárez-Hernández is one such immigrant. In 1984, at the age of 27, Juárez-Hernández was deported from the United States for the first time. Juárez-Hernández crossed the border from Mexico into the United States once more in 1985 where he lived for the next thirty years, fathering seven children and growing a large family. On a cloudy Friday morning in July, members of his family, including his wife, several children and many grandchildren, arrived in Broadview to say goodbye to the patriarch before he boarded a Department of Homeland Security bus headed for the airport. As the family members walked up the cracked sidewalk into the facility, an 80-year-old nun, along with a couple of volunteers, fell into line with the larger party and walked through the entryway doors to join in the farewell ceremony.

Once inside the ICE processing facility, Juárez-Hernández's family gathered in a small room made of painted concrete and fluorescent lights. The only unusual feature is the Plexiglas divider stretching floor-to-ceiling in the middle of the room and the telephones hanging at even spaces along the glass. The volunteers, members of the InterFaith Committee for Detained Immigrants, and the nun, Sister JoAnn Persch, filed quietly into the room and stood behind the family. The door closed behind the children and adults as another door opened on the opposite side of the glass divider. Rosendo Juárez-Hernández walked through the open door to say

¹ Sources for Introduction Pages 1-2:

Khan, Naureen, "Out of the Habit, into the Fire." *Al Jazeera America*, August 3, 2014, Accessed March 1, 2015, <http://america.aljazeera.com/articles/2014/8/3/deportation-immigrantsice.html>.

Sutschek, Sarah, "Nuns Provide Pastoral Care to Immigrants at McHenry County Jail," *Northwest Herald* (McHenry County, Illinois), February 12, 2010, Accessed March 28, 2015, <http://www.nwherald.com/2010/12/02/nuns-provide-pastoral-care-to-immigrants-at-mchenry-county-jail/amberh/>.

goodbye to his loved ones for perhaps the last time. The family gathered close to the glass, placing their palms flat on the smooth surface as Juárez-Hernández did the same on the other side. Juárez-Hernández held one telephone receiver as his family took turns speaking their love and affection into another telephone receiver on the other side of the divider. Tears flowed freely from all.

Sister JoAnn and the volunteers stood silently in the background, watching the somber scene unfold. As family members stepped back from saying their goodbyes, the volunteers stepped forward to offer hugs and words of compassion. Further, they pressed rosaries into the hands of grieving children and grandchildren, lifting up prayers for comfort and protection. They slipped cards into the hands of his wife and eldest children with information about halfway houses in Mexico where they have directed Juárez-Hernández to go after being walked across the Texas-Mexico border. They continued to extend comforting arms and prayers as the family watched through the glass divider their beloved father being escorted back through the door, destined for a now-foreign land.

Such a weighty scene is commonplace for immigrant families in detention centers across the country. Yet the presence of support persons is not a typical characteristic. It is unclear whether or not the Juárez-Hernández family was aware of the monumental efforts that were expended in order for those volunteers to be permitted to give such care and support. Prior to 2008, such actions, qualified under the catchall term “pastoral care”, were not permitted inside ICE processing facilities or ICE-contracted detention centers in the State of Illinois. Religious leaders or volunteers were not allowed to enter such places to provide a listening ear, spiritual guidance, or other religious services to detained immigrants. It took the fierce determination of two Catholic nuns and the passing of state legislature to enable religious persons to enter ICE

facilities and provide pastoral care, and to ensure detained immigrants had the opportunity to receive pastoral care.

Such a reality seems surprising. Immigrant access to pastoral care would, on the surface, appear to be covered by any number of U.S. laws and policies dedicated to the protection of religious freedom. Prison ministries within the United States that involve religious volunteers entering prisons of all security levels to teach, guide, and listen, are widespread and commonplace.² So what is the cause of the dichotomy between services permitted for American citizen prisoners on the one hand, and for detained immigrants on the other? The crime of detained immigrants is not one of a violent nature. Security in detention centers is similar to that of American prisons, and therefore concern for volunteer safety cannot be counted as a reason. The identity of the detention center prisoners as undocumented immigrants must contribute to this added layer of complexity.

Statement of Purpose

The purpose of this study is to explore these views, realities, dichotomies, and complexities through a geographical and legal lens. Broadly speaking, my research begins at an intersection of religion and immigration. In narrowing the focus, the aim of the research is to determine what, if any, religious rights and freedoms are enjoyed by undocumented immigrants after their arrival in the United States. As an extension, my study explores how the citizenship and identity of an immigrant as undocumented affects his/her expressions of religiosity. The study will focus on more traditional methods of practicing or expressing religion (worship service attendance, reception of counsel from religious leaders, etc.) and how undocumented

² United States Commission on Civil Rights, *Enforcing Religious Freedom in Prison*, by Gerald A. Reynolds et al., September 2008, <http://www.usccr.gov/pubs/STAT2008ERFIP.pdf>, (Accessed March 28th, 2015).

immigrants are able to utilize those traditional methods in the United States. Tangentially, the ability of undocumented immigrants to banally express religious beliefs or habits may be indicative of the overall perceptions that United States society holds about immigrants. The study will subsequently explore the relationship between the religious rights and freedoms of American citizens and undocumented immigrants. Lastly, this study also aims to learn about the notions Americans have regarding undocumented immigrants as people with complex identities, particularly notions about immigrants as religious persons.

My research will focus predominately on Latin American, undocumented immigrants. In 2012, Latinos constituted approximately 16.9% of the total United States population; foreign-born persons comprised approximately 13% of the total United States population, totaling 40.7 million people; and 28% of the foreign-born population arrived from Latin America.³ Further, in 2012 the estimated size of the undocumented immigrant population in the United States reached 11.2 million, approximately 3.5% of the total 316 million-person population. The undocumented immigrant population in the United States is concentrated largely in six states: California, Florida, Illinois, New Jersey, New York, and Texas. Approximately, 78.8% of the undocumented immigrant population arrives from Latin American countries, with the largest portion from Mexico at 52.4%.⁴ This study will therefore examine the religious rights and freedom pertaining to approximately 8,825,600 immigrants in the United States.

Briefly defined, an undocumented immigrant is a foreign-born, non-citizen who lives in the United States. An undocumented immigrant either arrived in the United States without a

³ Center for American Progress Immigration Team, "The Facts on Immigration Today", *Center for American Progress*, October 23rd, 2014, Accessed March 28, 2015, <https://cdn.americanprogress.org/wp-content/uploads/2013/04/ImmigrationFacts-brief-10.23.pdf>.

⁴ Passel, Jeffrey S., and D'Vera Cohn, "Unauthorized Immigrant Totals Rise in 7 States, Fall in 14," *Pew Research Centers Hispanic Trends Project RSS*, November 18, 2014, Accessed March 28, 2015, http://www.pewhispanic.org/files/2014/11/2014-11-18_unauthorized-immigration.pdf.

legally obtained visa or originally had a valid visa but stayed longer than the permissible period of time. In contrast, a legal immigrant has been approved by the U.S. Department of State for either long-term or permanent residence and includes persons granted asylum or refugee status. Although there are a select group of undocumented immigrants who are able to obtain a measure of legal protection through programs such as Deferred Action for Childhood Arrivals, the estimates for such a category only reach 10% of total undocumented immigrants and those persons are still not considered fully legal residents.⁵ These descriptions of undocumented immigrants and legal immigrants are the standards maintained by the U.S. Department of State.

Structure of Thesis

The main analysis of my paper will accordingly be structured to accommodate the limitations experienced during the research process. My first chapter briefly considers the methods employed to examine the research questions. The primary methods utilized are the construction of case studies and the survey of persons who act as service providers to the immigration population. I will sift through the reasons for selecting these particular methods and further explain the effect the lack of prior research and legal precedent had on the research design. The second chapter examines the context of current literature in the discipline, the narrative of immigration and religion in the United States, the general constitutional rights of undocumented immigrants and the constitutional standing for religious freedom. This review will discuss the general thought of geographers regarding religion, specifically how religion interacts with place, space, and identity, the general thought of geographers regarding immigration, and a more specific view on the cross-section of immigration and religion. The additional context will

⁵ Passel, Jeffrey S., and D'Vera Cohn, "Unauthorized Immigrant Totals Rise in 7 States, Fall in 14," 2.

situate the main analysis against the appropriate American backdrop. In the third chapter, I present and analyze two case studies, describing the context and circumstances of the cases and then analyze each case study as an independent example. I will include a brief discussion of the collective evidence and observations garnered through the case studies. The paper will conclude with general observations about the current state of immigrants' religious rights and freedoms within the United States and potential avenues for further research and study.

CHAPTER 1: METHODOLOGY

My research is situated in a much larger, far more complex narrative of immigration and religious freedom in America. The research occupies a cozy niche in the large expanse of these narratives. Interestingly enough, in attempting to narrow the focus of the study, I discovered very little research regarding the religious rights and freedoms of undocumented immigrants in the United States. As explained in chapter two, geographical research looking at the experience of the immigrant in the United States is extensive, but very little research exists on the effects of undocumented status on immigrants' religious experience.⁶ The impact of undocumented immigrants' identity on their religious rights and freedoms, however, appears to be an understudied area in the geography discipline. Relatedly, there does not seem to be any significant legal discussion regarding the religious rights and freedoms of undocumented immigrants. In fact, there are only a few instances of case law and legal decision regarding such rights for undocumented immigrants. Amongst the multitude of court cases, legal dilemmas, and legislation regarding immigration in the United States is a handful of cases in which legal literature of some type directly addresses the ability of undocumented immigrants to express and practice their religion.

Limitations and Impact on Methodology

As a result of the understudied nature of this subject and the lack of significant legal

⁶ Ehrkamp, Patricia, and Caroline Nagel, "Immigration, Places of Worship and the Politics of Citizenship in the US South," *Transactions of the Institute of British Geographers* 37, no. 4 (2012): 624-638, Accessed March 1, 2015. Ehrkamp, Patricia, and Caroline Nagel, "'Under the Radar': Undocumented Immigrants, Christian Faith Communities, and the Precarious Spaces of Welcome in the U.S. South," *Annals of the Association of American Geographers* 104, no. 2 (2014): 319-28. Accessed March 30, 2015. <http://www.tandfonline.com/>. Kotin, Stephanie, Grace R. Dyrness, and Clara Irazábal, "Immigration and Integration." *Progress in Development Studies* 11, no. 4 (07, 2011): 263-284, Accessed March 1, 2015, doi:<http://dx.doi.org/10.1177/146499341001100401>, <http://search.proquest.com/docview/873206498?accountid=14244>.

decision, there are certain limits and restrictions that affected the manner in which this study could proceed. Instead of studying the national dynamics of undocumented immigrants and their religious rights, I focus on localized cases in which my research questions were at the center of a news story and signaled a legal conflict. The case studies will identify both the existing state of immigrants' religious freedoms and relative legal decisions that have been rendered. The case studies, although localized in particular settings, could be relevant to an assertion and examination of immigrant religious rights at the national level. These restrictions however do provide the opportunity for exciting and stimulating conclusions about the perception of undocumented immigrants in American society.

Appraising the religious freedoms and rights enjoyed by undocumented immigrants in the United States is a difficult task. Undocumented immigrants themselves are precarious subjects if used in research directly due to their transient nature and, moreover, their unstable legal status. Therefore trying to understand how daily expressions of religiosity are affected by an immigrant's legal status means circumventing traditional research methods and constructing alternative designs. The research plan I deemed most suitable for this study entails building case studies that attempt to examine the primary research questions from different angles and perspectives. Additionally, I created an electronic survey and distributed it to various organizations and persons who act as service providers that cater to undocumented immigrants. The survey method unfortunately was unsuccessful, as few responses were received. However, the collective angles and perspectives of the two separate case studies combine to serve as a representative replacement for the religious experience of an immigrant and allow for appropriate and applicable analysis of the religious rights and freedoms enjoyed by immigrants in the United States.

Methodology: Crafting the Case Study

The first step in conducting this research plan was the selection of case studies. In examining the context of immigrant religious rights within the broader United States, there is a wide range of possible stories and examples to examine. In order to focus on cases that were both well documented and accessible, media coverage served as the foundational basis for the selection process. Various incidents of interaction between the law, the immigrant, and religion have been highlighted in news and media coverage over the past few years. I found such coverage on both the national and local scale. For example, the child immigrant crisis that sparked widespread humanitarian debate garnered immense media coverage from major U.S. news outlets. Contrastingly, a significant handful of local news outlets across the country have reported to their audiences the story of an immigrant seeking sanctuary in catholic churches and the response to such action by local officials. Whatever the context or scale of the story, I determined that media coverage of such events acts as an indicator of the religious climate faced by immigrants residing in the United States. I attempted to identify stories that generated substantial coverage; a sign the press had deemed them to be of popular interest. Additionally, the same media coverage that allowed for identification of potential case studies serves to double as an important platform for analysis.

A second important qualifier I determined for the selection of a case study was the inclusion of case law, a legal decision, or legal literature. A debate over current law or the development of new legal precedent acts as a natural compliment to the examination of rights. Subsequently, studying the rights of immigrants poses interesting questions about the reality of rights granted to various legal statuses in the United States. Therefore, in selecting case studies that reveal information about the effect of undocumented status on an immigrant's freedom to

practice his/her religion, I sought examples that highlighted either the current state of legal protection for immigrants, or that discuss legal conundrums regarding the circumstances of immigrants within the United States. I quickly discovered that relatively little case law, in the traditional sense, exists about immigrant religious rights. Case law is considered a comprehensive body of judicial decisions about undocumented immigrant rights in the United States. As such a group of decisions is especially small regarding religious rights, I elected to accept any type of legal document that directly related the religious experience of undocumented immigrants in the United States. In seeking such cases, I found that oftentimes the actual tangible right of the immigrant himself to practicing religion was not the primary focus of the news story or legal conflict. Rather the focus often centered on the rights of United States citizens to practice their religion in relation to undocumented immigrants. The rights of immigrants were called into question as a byproduct of questioning the rights of United States citizens. Similarly to the manner in which media coverage of undocumented immigrants can reveal certain perspectives, existing legal literature also uncovers potential sentiments held by the American populace about the undocumented immigrant as a religious being. These sentiments will be discussed later in the paper.

The focus of potential case studies was often not solely on the undocumented immigrant. Rather the stories focused on a United States citizen who has ties to or works with immigrants. Therefore, one of the perspectives used in my research to examine the rights and freedoms of undocumented immigrants is that of United States citizens. The right, or lack thereof, of United States citizens to interact with immigrants or provide services to immigrants transitively reveals the legal situation for immigrants. Essentially, the absence of legal precedent or rights for citizens can indicate the absence or inclusion of rights for immigrants. Thus the criteria for the

case studies was not necessarily the positive presence of rights for immigrants, but whether or not evidence was revealed about the current rights of immigrants through the legal situation of United States citizens.

Methodology: Service Provider Survey

As mentioned in the introductory section, the second branch of my initial research plan was a survey of organizations and individuals acting as service providers to documented and undocumented immigrants. I intended to use contacts I developed through my internship with a legal services non-profit that specializes in immigration law to solicit subjects for my research. After securing approval from the Internal Review Board, I hoped to use a short, electronic survey as both a primary gathering of data and as a platform to recruit subjects for follow-up interviews. The electronic survey included five open-ended questions that ask subjects to describe situations in which religion, religiosity, or religious freedom played a role in an immigration case. Further, the survey asked subjects to describe any restrictions of religious freedom for immigrants observed in the course of providing services to immigrants (See Appendix 1). The survey was intended to gain an “on-the-ground” perspective of the ability for undocumented immigrants to practice their religion. In continuing with the thought process behind the use of case studies as a representation of the actual immigrant experience, the use of service providers as research subjects allows for a wealth of information without the risks of speaking with undocumented immigrants themselves.

Further, as the survey did not focus on the opinions or feelings of undocumented immigrants about their religiosity in America, the service providers’ responses were to be used to distinguish the overall legal and social climate in which these immigrants find themselves.

Service providers function as an important and significant lens through which to view a snapshot of undocumented immigrants and the religious rights and freedoms they do or do not enjoy. This significance derives from their advocacy efforts that provide tangible and direct protection of immigrants' rights in other legal and civil arenas, and the services they provide meet the basic needs of this vulnerable population group. The survey was intentionally constructed with questions that prompt the subject to think more closely about their interactions with undocumented immigrants, to think about brief conversations or exchanges that may have occurred which reveal bits and pieces of immigrant religious practice. The survey responses would, taken collectively, hopefully have provided a clear picture of the banal experience of undocumented immigrants regarding their religiosity in the United States. As such, only four complete responses were received and that number does not represent the size of the data pool I originally set out to secure. I had hoped to receive at least ten responses, but nevertheless, the few responses I did receive were both relevant and insightful and were subsequently incorporated into my analysis.

CHAPTER 2: BACKGROUND AND CONSTITUTIONAL CONTEXT

In order to fully understand the significance of the case study analysis, I first situate my research within the context of current geographical literature. I then position my research within the context of the grander immigration and religious immigrant narrative in the United States, of the current legal rights afforded to immigrants as a group, and of the constitutional foundations of religious freedom in the United States.

Literature Review: Geographies of Religion and Immigration

Religion is often researched in contemporary geography through a conceptual lens. The geographies of religion field is oriented around a few key concepts, those being traditional concerns of cultural and human geography. These concepts include space, place, landscapes, and identity among others. Lily Kong highlighted the growth of this subfield in the first decade of the 21st century.⁷ Kong describes the flourishing interest in sites of religiosity, the space of the body as religious, the variations in religiosity by age and other demographic factors, different religions and different scales of religiosity. The growth in the field echoes the increasing prominence of religion on a global scale, both due to events associated with religion-based terrorism and to the subtle, yet visible upsurge in religious migration. A prime example of such geographical study is *Religion and Place: Landscape, Politics and Piety*, written and edited by Lily Kong, Peter Hopkins, and Elizabeth Olson.⁸ Kong, Hopkins, and Olson emphasize the diversity of the geographical engagements with religion that have developed over recent years. Geography has reflected on religion spatially, providing the grounds for new categorization. The

⁷ Kong, Lily, "Global Shifts, Theoretical Shifts: Changing Geographies of Religion," *Progress in Human Geography* 34, no. 6 (12, 2010): 755-776, doi:<http://dx.doi.org/10.1177/0309132510362602>, Accessed March 28, 2015, <http://search.proquest.com/docview/817318836?accountid=14244>.

⁸ Hopkins, Peter, Lily Kong, and Elizabeth Olson, *Religion and Place: Landscape, Politics and Piety*, Dordrecht, New York: Springer, 2013, Accessed March 28, 2015.

authors call for geographers to recognize the need to understand intimate spaces of belief and faith in order to appreciate the patterns and nuances of public religion. Additionally, the collaborators explore the incorporation of mobility into religion and the consequences for restructuring place throughout the essays included in the book, which in turn signals shifts in global religious landscapes.

Similar to the extent of literature regarding geographies of religion, research into geographies of migration is a wide and diverse category as well. Allison Blunt analyzes geographies of migration through a cultural lens and underscores the relationship between mobility, transnationality, and diaspora.⁹ Blunt discusses the emergence of transnational identities that develop as a result of migration and encompass ethnic, cultural and religious histories. This provides platform from which to examine the networks created through mobility and transnationality. Research additionally focuses on the intersection of migration and labor and the related flows of highly skilled and unskilled laborers around the world.¹⁰ Similarly, there is a substantial segment of geographical research discussing the intersecting flows of migration, religion, and gender.¹¹

In contrast to the broad collection of research and literature constituting geographies of migration and geographies of religion, the combined study of immigration and religion narrows the selection. Further filtering this category through a regional qualifier, specifically, the United States, there are considerable fewer studies available. Dr. Altha Cravey examined the

⁹ Blunt, Alison, "Cultural Geographies of Migration: Mobility, Transnationality and Diaspora," *Progress in Human Geography* 31, no. 5 (10, 2007): 684-694, Accessed March 28, 2015, doi:<http://dx.doi.org/10.1177/0309132507078945>, <http://search.proquest.com/docview/230707651?accountid=14244>.

¹⁰ Wei Li and Lucia Lo, "New Geographies of Migration?: A Canada-U.S. Comparison of Highly Skilled Chinese and Indian Migration," *Journal of Asian American Studies* 15, no. 1 (2012): 1-34, Accessed March 30, 2015, <https://muse.jhu.edu/>.

¹¹ Willis, Katie, *Gender and Migration*, Cheltenham, UK; Northampton, MA: Edward Elgar, 2000, Accessed March 28, 2015.

construction of identity and community in a Durham, NC immigrant community.¹² Her documentary research displayed the integral role religion, as expressed through a communal festival honoring the Virgin de Guadalupe, maintained in the Mexican neighborhood. Researchers Patricia Ehrkamp and Caroline Nagel specifically examine the religious practices of immigrants in U.S. South and the politics of citizenship.¹³ Ehrkamp and Nagel highlight the trend amongst recently arriving immigrants for migration to be a “theologizing experience.”¹⁴ Further, the authors state, “Immigrants, in other words, tend to become more observant after settling in a new place, and religious institutions and identities take on a significance they may have lacked in immigrants’ places of origin.” This observation is particularly essential in examining the religious freedoms and rights afforded to undocumented immigrants in the United States.

Ehrkamp and Nagel have further explored the religious climate encountered by immigrants (legal and undocumented) when arriving in the United States and locating themselves in southern states.¹⁵ As Ehrkamp and Nagel illustrated in their article, “Undocumented Immigrants, Christian Faith Communities, and Precarious Spaces of Welcome,” religious leaders have noted the definitive impact aggressive enforcement measures have on the daily lives of immigrants. Nagel and Ehrkamp interviewed religious leaders and congregants of Southern churches to explore the tension between balancing their beliefs, the needs of immigrants, and the political and legal climate surrounding immigration in the South. For example, the researchers interviewed a pastor in Greenville, SC who explained that assertive enforcement tactics in the area had discouraged undocumented immigrants from attending a

¹² *The Virgin Appears in "La Maldita Vecindad,"* United States: Two Quetzals Productions, 2008. DVD.

¹³ Ehrkamp and Nagel, "Immigration, Places of Worship and the Politics of Citizenship in the US South," 626.

¹⁴ Ehrkamp and Nagel, "Immigration, Places of Worship and the Politics of Citizenship in the US South," 626.

¹⁵ Ehrkamp and Nagel, "'Under the Radar,'" 319.

healthcare program the church organized for congregants. In the course of their research, Patricia Ehrkamp and Caroline Nagel learned that: “Pastors had witnessed dropping attendance due to detentions or deportations and the unwillingness of undocumented immigrants to drive to church on Sundays for fear of being pulled over and deported, the choice method of immigration enforcement as it encroaches in the spaces of immigrants’ social reproduction.”¹⁶ Nagel and Ehrkamp’s research serves to explore the shadows of the immigration in the United States and learn the impact undocumented status can have on an immigrant’s life in the United States.

The Narrative of the Immigrant in the United States

I believe it is important to situate my research within the grander historical narrative of immigration in the United States, especially as it pertains to religion, religious rights, and religious freedom. Such context will allow applicable and pertinent conclusions to be drawn about society-at-large from a narrowly focused study.

The conceptualization of immigration within the United States has remained a malleable notion since the Spanish first set foot on the shores of the Florida coast and the English followed shortly thereafter. Early settlers were drawn to the new world by the lure of uncharted economic opportunity. And despite the land being marked by various difficulties and obstacles, word spread that this enigmatic continent could provide a new beginning. During a time of religious turmoil across much of Europe, the potential to live in a space uninhibited by the political and ecclesiastical conflicts proved incredibly attractive to religious persons across Europe. Thus new waves of settlers traversed the Atlantic in hopes of finding a place to practice their faith in accordance with their convictions. Areas of the American colonies became a “holy experiment”

¹⁶ Ehrkamp and Nagel, “Under the Radar”, 323.

led by persons desiring to live, work, and worship in the manner they believed was correct, free from the religious persecution they had faced for decades.¹⁷ Even as these immigrants began to drive roots deep into the American soil and establish a permanent society, the freedom to choose when, where, and how they practiced their religion was a cornerstone of the society.

Despite the establishment of colonies free from religious persecution, this sheltering protection was selective. The history of religious liberty in the United States is not free from scars inflicted by the seekers of freedom on persons deemed lesser. There were clashes between Catholic and Christian sects within the United States that occasionally ended in physical confrontations.¹⁸ Further, as the European settlers spread across the new land, Native Americans were often scattered and their lands were taken for the purposes of the Americans. Such actions resulted in the destruction of Native American spirituality and sacred tradition, especially those traditions that relied on the sacred lands.¹⁹ Along a similar vein, Africans brought as slaves were restricted in their practice of religion. Slave owners fearing rebellion would prevent gatherings amongst their slaves despite these gatherings often serving as informal worship services. Slave owners also commonly forced Christian conversion upon their property.²⁰ Religious freedom and secure religious rights have never been a guaranteed entity for all persons residing in the United States; perceptions and beliefs held by those in power serve to qualify and restrict religious freedom for other groups.

¹⁷ Hurston, James H, "Religion and the Founding of the American Republic: America as a Religious Refuge," *Library of Congress*, June 18, 1998, Accessed March 29, 2015, <http://www.loc.gov/exhibits/religion/rel01.html>.
¹⁸ Ehrkamp and Nagel, "'Under the Radar,'" 2014.

¹⁸ Davis, Kenneth C, "America's True History of Religious Tolerance" *Smithsonian*, October 1, 2010, Accessed March 29, 2015, <http://www.smithsonianmag.com/history/americas-true-history-of-religious-tolerance-61312684/?no-ist=&page=1>.

¹⁹ Hubert, Jane, "Sacred Beliefs and Beliefs of Sacredness," In *Sacred Sites, Sacred Places*, London: Routledge, 1994, Accessed April 1, 2015.

²⁰ Johnson, William C, "'A Delusive Clothing': Christian Conversion in the Antebellum Slave Community," *The Journal of Negro History* 82, no. 3 (1997): 295-311, Accessed April 1, 2015, <http://www.jstor.org/stable/2717674>.

As America has grown and changed over the past few centuries, the notion of the immigrant and the importance of that type of individual to American society have developed as well. The common teaching in elementary school that America is the great “melting pot” indicates a shared societal pride that America is truly and uniquely a nation of immigrants. With the exception of the Native Americans whose ancestry traces back thousands of years to the existence of a land bridge across the Bering Sea, the vast majority of Americans must trace their origins to another continent. Whether brought here by force or by choice, the persons that walk the streets of big cities and the fields of rural America are the descendants of immigrants.²¹ Such a reality provides an interesting backdrop for the drama that is the immigration debate of recent years. This social, political and cultural controversy has raged on all levels of governmental settings within the United States, from the floor of the Senate to the fence along the Arizona-Mexican border.

In thinking about the roots of this nation as a space of religious freedom and choice for fleeing immigrants, the question arises as to whether traces of our national foundations are found in the present views and discussions of immigration. Do we see religion as a part of the national dialogue surrounding immigration reform? Certainly this country is acutely different than when the Puritans constructed roughhewn schoolhouses and churches in the Massachusetts settlement. In the principles enshrined in the Constitution, America has consistently placed great value on retaining foundational freedoms and evolving those freedoms to apply to all genders and races. The United States has also remained a beacon of opportunity for persons around the world and been perceived as a safe haven for persons seeking relief from persecution. Certainly however the extent to which America acts as a land of opportunity and safe haven for immigrants depends

²¹ Zolberg, Aristide R., *A nation by design: Immigration policy in the fashioning of America*, Cambridge, MA: Harvard University Press, 2009, Accessed April 1, 2015.

upon the political winds and public attitudes shaping society at any given time. United States law provides safeguards for refugees fleeing from their homes due to religious persecution, but such a condition is rare. To be granted asylum as a result of religious persecution or fear of religious persecution entails demonstrating status as a refugee to the United States and demonstrating clearly the persecution or potential for persecution. Yet beyond those immigrants who come to the United States on clearly defined religious platforms are thousands of other immigrants who entered the United States with closely held religious beliefs. As a nation of immigrants, many of whom ventured to the United States seeking religious freedom, how do we perceive the immigrants entering our country today?

Many immigrants enter the United States with closely held religious beliefs and convictions. In 2012, roughly 61% of new legal immigrants in the United States are considered Christian, a decline from 68% in 1992. The percentage of legal immigrants who are members of religious minorities (Muslims, Buddhists, and Hindus) has grown in past decades from 19% in 1992 to 25% in 2002. In considering undocumented immigrants, 78.8% of whom arrive from Latin American countries, an overwhelming majority ascribe to Christianity. Although such an estimate is particularly difficult to determine, approximately 83% of undocumented immigrants are considered Christians, a number higher than the overall United States estimate.²² The core beliefs of these religions can traverse geographical boundaries without experiencing foundational change, although some immigrants convert to a different religion upon arriving or strengthen their beliefs once inside the United States.²³ However, the way in which immigrants practice their religion in United States will often not mimic the way in which they practiced in their home

²² "The Religious Affiliation of U.S. Immigrants: Majority Christian, Rising Share of Other Faiths," *Pew Research Centers Religion Public Life Project RSS*, May 16, 2013, Accessed March 29, 2015, http://www.pewforum.org/2013/05/17/the-religious-affiliation-of-us-immigrants/#_ftn2.

²³ Ehrkamp and Nagel, "Immigration, Places of Worship and the Politics of Citizenship in the US South," 626.

country. Surroundings are different, culture is different, fellow practitioners (immigrant and citizen alike) are different. So too is the legal climate in which immigrants will practice their religion.

As the United States is a champion for freedom of religion and a protector against religious persecution, the logical conclusion would be that an immigrant's ability to practice religion or express his/her religiosity would be unaffected. President Barack Obama emphasized that sentiment with the following statement: "This is America. And our commitment to religious freedom must be unshakeable. The principle that people of all faiths are welcome in this country and that they will be treated differently by their government is essential to who we are."²⁴ Yet is that conclusion the actual reality for immigrants within the United States?

In the decade after September 11th, 2001, America's social acceptance of religious rights and freedoms for all persons, especially immigrants, has certainly been challenged. While the greatest predictor of negative attitudes towards immigrants as a whole is the perceived threat to economic opportunity and the labor market, the perceived threat to American cultural norms and societal values is considered a significant predictor.²⁵ The emergence of anti-Western militancy that is characterized by violence and has been aligned with Islam moved the American government to balance the protection of its people against terrorism with the preservation of religious freedom and similar values. Immigrants of religious minorities, especially those whose race or outward symbolization of religious beliefs are particularly distinct, stand out against the

²⁴ Davis, Kenneth C, "America's True History of Religious Tolerance."

²⁵ Mayda, Anna Maria, "Who Is Against Immigration? A Cross-Country Investigation of Individual Attitudes toward Immigrants," *Review of Economics and Statistics* 88, no. 3 (2006): 510-30, Accessed March 28, 2015, <http://www.mitpressjournals.org/>.

backdrop of a presumed white, Christian America.²⁶ Subsequently, visual images of a “religious immigrant” often translate into thoughts of Muslim foreigners and refugees of religious persecution, men and women of religions far different than the dominant American religion: Christianity.

My first, second, or third image of a religious immigrant is not of the Mexican immigrant who moves to America as a practicing Catholic, an immigrant that is religiously quite similar to any number of practicing Catholics in the United States. Thus in thinking about religious rights and freedoms, we often overlook those who are most similar and focus on those who are most different. Though much media attention is thus given to the rights of obvious religious ‘others’, rarely does the media train its attention upon the religious rights of a group that shares the same faith practiced by the majority of United States citizens. In discussing my research with another student, she appeared genuinely confused when I explained that I was researching the religious rights and freedoms undocumented immigrants have in the United States. In an effort to try and clarify the study, I added that I was looking at how the identity of “undocumented” affects the religiosity of immigrants. The student then stated, quite explicitly, she would never have thought such a topic would need to be studied as she would have assumed the same religious rights and freedoms provided to Americans would be provided to immigrants. Although this is only the opinion of one college student, her questioning is illustrative of a general lack of attention that is received by this topic.

²⁶ Ogan, C., L. Willnat, R. Pennington, and M. Bashir, "The Rise of Anti-Muslim Prejudice: Media and Islamophobia in Europe and the United States," *International Communication Gazette* 76, no. 1 (2013): 27-46, Accessed March 29, 2015, gaz.sagepub.com.

*Immigrant Rights in America*²⁷

The United States affords all persons living in the United States certain rights on the basis of their humanity and regardless of their legal status. Admittedly, the present application of those rights to persons of different races, genders, and religions has progressed greatly from the vastly restrictive and unequal history of the nineteenth and twentieth centuries. In researching general legal rights for immigrants in the United States, the documents I found most accessible are provided by organizations such as the National Immigrant Justice Center (NIJC), the Immigrant Legal Resource Center (ILRC) and the American Civil Liberties Union's Immigrants' Rights Project (ACLU IRP). The ACLU cites the following sentiment as the basis of their immigration advocacy and educational efforts: "Upholding the rights of immigrants is important to us all. The fundamental constitutional protections of due process and equal protection embodied in our Constitution and Bill of Rights apply to every "person" and are not limited to citizens." This statement alludes to the reality that legal and undocumented immigrants in the United States are indeed afforded constitutional rights in the same manner that all citizens, with the exception of prisoners, are guaranteed constitutional rights.

In addition to publishing general information and updates about the status of immigration reform in the United States, the three aforementioned organizations have prepared a wealth of literature regarding immigrants' legal rights, including pamphlets, flyers, and handbooks that are intended to educate immigrants themselves about their constitutional rights. The majority of these documents carry the same insistent and vigilant tone, urging immigrants to actively protect

²⁷ Sources for Immigrant Rights in America:

"Immigrant's Rights," *American Civil Liberties Union*, 2015, <https://www.aclu.org/immigrants-rights>.
 Junck, Angie, "Living in the United States: A Guide for Immigrant Youth," *Immigrant Legal Resource Center*, 2015, Accessed March 29, 2015, http://www.ilrc.org/files/documents/youth_handbook-2015-english.pdf.
 "Know Your Rights Flyer," *Immigrant Legal Resource Center*, October 1, 2006, Accessed March 29, 2015, http://www.ilrc.org/files/kyr_english.pdf.

against law enforcement overreach and unjust deportation efforts. The admonition to “remain silent” if questioned or detained is common among all the publications. As the ILRC and ACLU IRP consistently remind its readership, immigrants in the United States do have the right to remain silent per the fifth amendment of the U.S. Constitution. However, state legislatures have enacted laws forcing anyone stopped by federal or state agents to supply his/her name if asked. The United States Supreme Court affirmed the constitutionality of such statutes determining that providing a name does not qualify as self-incrimination.²⁸ Beyond potentially having to provide one’s name, immigrants have the right not to answer any further questions asked by immigration officials regarding their legal status, their country of birth, etc.

Coinciding with the right to remain silent, immigrants in the United States have the right to legal counsel in accordance with the sixth amendment of the Constitution. As such, the ILRC staunchly pleads for immigrants to not answer any questions or sign any paperwork without first speaking to a lawyer. In the ILRC’s forty-two page guide entitled, “Living in the United States: A Guide for Immigrant Youth,” immigrants are instructed in sections called, “Know Your Rights” and “10 Things Every Undocumented Youth Should Know,” to always speak with a lawyer before answering questions from immigration officials and before signing any legal or governmental document. The sections also remind immigrants that they are entitled to legal counsel for the duration of any legal proceedings in Immigration Court or otherwise. The organizations also encourage immigrants to find attorneys who specialize in immigration law. As part of the growing humanitarian immigration movement in the United States, there are numerous non-profit organizations providing free or reduced cost legal services to both documented and undocumented immigrants (See Table 1).

²⁸ *Hiibel v. Sixth Judicial District Court of Nevada* 542 US 177 (2004).

As the ACLU stated, immigrants are afforded due process rights and equal protection under the U.S. Constitution. The due process rights include the ability of an immigrant to refuse entrance to immigration officials into his/her home. Immigrant officials who suspect an individual is undocumented must still obtain a search warrant or an arrest warrant with the person's name and address to legally act on their suspicions. In a pamphlet published by the ILRC, immigrants are admonished not to open the door if immigration officials approach their home, and further warn that if they permit entrance to the officials, the immigrants will have lost certain rights. These due process rights extend to the workplace as well since immigration officials are required to have search warrants to enter spaces of a workplace not open to the public. Relatedly, detained immigrants have the right to official legal proceedings before a deportation order is finalized. These proceedings provide the immigrant the opportunity to deny the deportation order on certain grounds. The aforementioned constitutional rights are afforded to both documented and undocumented immigrants.

Table 1. A Look at the Humanitarian Immigration Movement: Legal Services

Organization	Location	Services
Justice Matters	Durham, NC	<ul style="list-style-type: none"> • Specializes in providing legal services to vulnerable documented and undocumented immigrant victims of crime (trafficking, domestic violence, parental abuse, financial exploitation, etc.) • Provides representation for immigrants in civil matters • Conducts legal clinics to provide free consultations to empower immigrants to address their legal concerns without further representation
Catholic Charities, Immigrant Legal Services	Washington, DC (There are several locations of the ILS around the country.)	<ul style="list-style-type: none"> • Provides a range of legal aid (from consultations to full legal representation) to individuals and families dealing with immigration matters • Trains non-staff attorneys on providing pro bono services to immigrants and their families • Specializes in assisting immigrants in applying for various legal statuses in the United States
National Immigrant Justice Center, Immigrant Legal Defense Services	Chicago, IL	<ul style="list-style-type: none"> • Provides legal assistance for immigration matters and deportation defense services to immigrants who are not currently detained • Specializes in aiding immigrants to apply for special legal statuses including Deferred Action for Childhood Arrival, T-Visas, and U-Visas • Aids immigrants in seeking permanent residence

Sources: "About Us," *Justice Matters*, 2014, Accessed April 1, 2015, www.justicemattersnc.org.
 "Immigrant Legal Services," *Catholic Charities: Archdiocese of Washington D.C.* 2015, Accessed March 30th, 2015, <http://www.catholiccharitiesdc.org/ILS>.
 "Immigrant Legal Defense Services," *National Immigrant Justice Center*, 2015, Accessed April 1, 2015, <http://www.immigrantjustice.org/immigrant-legal-defense-services>.

Constitutional Context for Religious Freedom²⁹

The value of religious liberty in the United States is championed and protected by the United State Constitution. Therein lies the power from which all individuals are fundamentally free to practice (or not) a religion of his/her own choosing. Admittedly, political tactics, societal pressures, and cultural customs have influenced religious liberty in this country, but in the most basic application of the Constitution, religious freedom is a guaranteed right. The First Amendment to the Bill of Rights provides the explicit grounds upon which the right to religious

²⁹ Haynes, Charles C, "History of Religious Liberty in America," *First Amendment Center*, December 26, 2002, Accessed March 29, 2015, <http://www.firstamendmentcenter.org/history-of-religious-liberty-in-america>.

freedom stands. However, it is noteworthy that a provision was included within Article VI of the Constitution that indicates the desires of the framers to promote religious freedom in the United States. The last paragraph of Article VI includes the following statement, “...no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” Unlike their ancestral European countries that required government officials to ascribe to a particular religion as a prerequisite to holding office, the framers of the Constitution proclaimed the ability of our nation’s leaders to practice any religion or no religion at all. Again, acknowledging that societal pressures have ensured that our leaders are predominately of one faith, the door remains constitutionally open to persons of any faith.

As aforementioned, the First Amendment of the United State Constitution is the greatest and supreme protector of religious freedom in this country. The First Amendment begins with the statement, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” This statement is more commonly referred to as the Establishment Clause and the Free Exercise Clause. The Establishment Clause forbids the state or federal government from instituting one religion or the practice of religion in general as a national standard. Further, this clause prevents the government from actively supporting religion, meaning any government entity cannot sponsor religion or prevent individuals’ engagement in religion. The Free Exercise Clause allows individuals to choose a religion, practice personal religiosity, or change religious preferences at will without any government interference. The Supreme Court has determined that government legislators may interfere in the free exercise of religion under circumstances, such as the potential for harm to behalf other persons as a result of religious belief. Therefore it is the religious belief that is wholly protected from government interference rather than the practice of religion. The Supreme Court implemented the

“compelling interest” test to ensure governmental interference of religious practice cannot occur unless the government demonstrates the burden is of the highest necessity. Although this test has been the subject of considerable legal debate over the past two decades, the sentiment remains that governmental interference should be rare and deemed extremely necessary to protect other American interests and persons.

Therefore, in examining the religious rights and freedoms of undocumented immigrants in the United States, framing the case studies and discussion through the lens of the First Amendment is necessary for complete understanding. Under strict interpretation of the constitutional amendments, undocumented immigrants possess the right to the free exercise of religious belief. The case studies will explore the true reality of the application of these rights as they are permitted to undocumented immigrants and of the exercise of those rights in the United States.

CHAPTER 3: CASE STUDIES

Introduction

As previously discussed in the Methodology section of the paper, I deemed the construction of an applicable case study is a reasonable approach to examining a topic that has received minimal consideration. Further, case studies are periodically utilized as the basis for developing arguments as part of civil cases or other official legal proceeding. As such, in this chapter I develop two case studies regarding the religious rights of undocumented immigrants comprehensively and logically in order to allow for future interpretation.

The first case study will entail the efforts of two fiery nuns, a U.S. Immigrations and Customs Enforcement detention center, and an actual change in state law resulting from powerful advocacy efforts. The background information and factual context for this case study is predominately sourced from news articles published online by the *Northwest Herald*, the *Chicago Tribune*, and the American arm of *Aljazeera*. Further information comes from recorded interviews found online, as well as information and statements published by the main characters in the study themselves. This case will showcase the tremendous efforts that were spent in order for the Juárez-Hernández family to be comforted by Sister JoAnn and the other volunteers as they said goodbye to their beloved father.

The second case study examines the action taken by the U.S. Conference of Catholic Bishops (USCCB) to protect the Church's ministry to undocumented immigrants and to ultimately secure humanitarian reform of the nation's immigration system. Legislatures at the state level have in recent years increasingly passed laws making the action of "harboring" undocumented immigrants illegal. Catholic Church leaders, however, view the same actions (providing shelter and sanctuary) as a form of Christian charity and pastoral care. As a result,

numerous Catholic bishops have taken legal action to counter legislation interpreted as an infringement on religious liberty. The case study highlights the effect the ‘undocumented’ status has on immigrants’ freedom to engage in religious practices and traditions. Further, this case study will explore the relationship between the religious rights and freedoms of American citizens and undocumented immigrants. The background information for this case is sourced in large part from press releases published by the U.S. Conference of Catholic Bishops, documents prepared by the Office of Migration Policy and Public Affairs (a division of the USCCB), and a handful of news articles related to the actions of the USCCB.

Case Study #1: Nuns, ICE, and Illinois State Law³⁰

During the ending months of 2006, the West Midwest order of the international Catholic organization Sisters of Mercy directed two of their members, Sister Pat Murphy and Sister JoAnn Persch, to turn their attention towards the treatment of immigrants in United States

³⁰ The resources used to compile Case Study 1 are as follows:

Elshtain, Jean Bethke, "The Dignity of the Human Person and The Idea of Human Rights: Four Inquiries," *Journal of Law and Religion* 14, no. 1 (1999): 53-65, Accessed March 29, 2015, <http://www.jstor.org/stable/1051777>.
 Golash-Boza, Tanya, "¿Sí Se Puede? Obama's Deportation Legacy," *Al Jazeera America*, April 13, 2014, Accessed March 29, 2015, <http://america.aljazeera.com/opinions/2014/4/obama-deportationdemocraticpartylatinoimmigration.html>.
 Illinois State Legislature. "Access to Religious Ministry Act of 2008, Public Law 095-1022" (HB4613). Accessed April 1, 2015. <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-1022>.
 Khan, Naureen, "Out of the Habit, into the Fire." *Al Jazeera America*, August 3, 2014, Accessed March 29, 2015, <http://america.aljazeera.com/articles/2014/8/3/deportation-immigrantsice.html>.
 "Our History," *Interfaith Committee for Detained Immigrants*, 2012, Accessed March 29, 2015, <http://www.icdichicago.org/>.
 "Pastoral Services," *Sisters of Mercy: Catholic Women Religious Congregation*, Accessed March 29, 2015, <http://www.sistersofmercy.org/>.
 Ramirez, Margaret, "2 Nuns from Sisters of Mercy Focus on Jailed Immigrants," *Chicago Tribune*, August 9, 2009, Accessed March 29, 2015, http://articles.chicagotribune.com/2009-08-09/news/0908080269_1_comprehensive-immigration-reform-legislation-roman-catholic-nuns-immigrant-detainees.
 Sutschek, Sarah, "Nuns Provide Pastoral Care to Immigrants at McHenry County Jail," *Northwest Herald* (McHenry County, Illinois), February 12, 2010, Accessed March 29, 2015, <http://www.nwherald.com/2010/12/02/nuns-provide-pastoral-care-to-immigrants-at-mchenry-county-jail/ambcrh/>.
 Velasquez, Manuel, Claire Andre, Thomas Shanks, and Michael Meyer, "Rights," *Markkula Center for Applied Ethics*, December 1, 1990, Accessed March 29, 2015, <http://www.scu.edu/ethics/practicing/decision/rights.html>.
 "West Midwest," *Sisters of Mercy: Catholic Women Religious Congregation*, Accessed March 29, 2015, <http://www.sistersofmercy.org/>.

detention centers. The leaders of the Catholic Church, both internationally and in the United States, have shifted the focus of its parishes and dioceses from internal matters to include social and humanitarian issues. Members of the Catholic Church are increasingly becoming visible advocates on behalf of all types of marginalized and distressed people groups.³¹ Therefore, the charge given to Sister JoAnn and Sister Pat reflected the growing humanitarian trend of the Catholic Church. Relatedly, the conditions and rights of undocumented immigrants detained in the United States have collectively become a branch of the greater immigration debate in the United States, as well as a matter of particular concern to numerous social justice organizations around the country. The humanitarian immigration movement is growing steadily in the United States and is manifesting itself in various services and forms. The immigration system in the United States is largely considered an inhumane entity for two main reasons. First, the treatment of immigrants waiting for deportation is viewed as extensively poor and in need of reform, regardless of political affiliation. Additionally, there is mounting evidence that despite the federal government's assurances that deportation efforts focus on immigrants who have been convicted of crimes, ICE is consistently deporting thousands of immigrants who have never been convicted of a crime in order to meet deportation quotas. It was amongst these issues and this social climate that Sister JoAnn and Sister Pat found themselves standing outside the Broadview processing facilities, on a freezing morning in January 2007.

Uncertain of how to approach the task they had been assigned, Sister JoAnn and Sister Pat began by praying. Every Friday morning, the pair stood outside of the Broadview facility praying and watching. Deportations were regularly scheduled on Fridays and therefore Sister JoAnn and Sister Pat observed countless family members walk into the facility to say goodbye

³¹ Hertzke, Allen D. and Kevin R. den Dulk, "Conclusion: Themes in Religious Advocacy," In *Representing God at the Statehouse: Religion and Politics in the American States*, 225-233, Rowman and Littlefield Publisher, 2006.

and saw shackled immigrants being escorted to Department of Homeland Security buses. The Friday morning prayer vigil grew in numbers as other sympathetic individuals joined the sisters to pray the rosary over the detained immigrants. After weeks of continuing to pray, Sister JoAnn and Sister Pat determined their next step, seeking to go inside the facility to provide more direct prayer and support in the form of pastoral care. Pastoral care involves conversing with a religious leader or volunteer, asking for prayer and guidance, and praying with the volunteer or leader directly. Thus the pair approached the operators of the Broadview facility, as well as those of the McHenry County Jail, also an ICE-contracted detention center, to seek admittance and permission to speak with the detained immigrants directly. The response to their request was a solid and unmitigated refusal; no, they would not be allowed to enter the facilities. No, they would not be permitted to speak with the detained immigrants. No, they would not be allowed to provide any sort of pastoral care or spiritual guidance. No.

Sister JoAnn and Sister Pat found such a response unacceptable and these two women, 73 and 78 respectively at the time, were not intimidated by the resistance they received. Instead they set their sights determinedly on gaining access to provide pastoral care inside the greater Chicago area detention facilities. Sister JoAnn and Sister Pat embarked on a fierce and persistent advocacy campaign to change the policies and protocols of the detention centers. The pair approached their work with respect and love as a testament to the vows they had taken, however they also held fast to their convictions to alleviate suffering and to champion the plight of marginalized persons in the name of Christ.³² Their efforts included more than a complete year of writing letters to government officials, lobbying in the Illinois state capital, and attending political candidate forums and debates to ask questions about the current policies surrounding

³² Khan, Naureen, "Out of the Habit, into the Fire."

ICE detention centers in the Chicago area. The pair eventually partnered with the Illinois Coalition for Immigrant and Refugee Rights to strengthen their voice. In the beginning of 2008, Sister JoAnn and Sister Pat saw glimpses of progress. Finally, a bill was introduced into the Illinois state legislature that, if passed, would mandate the allowance of pastoral care for all detained immigrants in the State of Illinois. The bill would essentially provide the same access to pastoral care that criminal offenders held in Illinois prisons already possessed. Further efforts were expended to gather support for the bill until finally in late 2008, the bill was passed by the Illinois House and Senate and signed into law as the Access to Religious Ministry Act of 2008.

Examining the Language of the Law

State of Illinois Public Act 095-1022 is a relatively short law in terms of word count and length. The entire language of the law could fit on a single double-spaced page, although the entirety of the bill does extend to a page and a half due to the necessary introductory text. One of the first introductory sentences is short and particularly intriguing. The statement reads, “An ACT concerning criminal law.”³³ Without reading any further that proclamation seems unusual, after all, why is a law concerning the ability of detained immigrants to receive pastoral care a criminal matter? Certainly detention itself indicates a law has been violated and for a detained immigrant that law is regarding his/her undocumented, or illegal, status. In that context, this issue does suitably fit the criminal law category, but regardless, the fact that access to religious care and service is considered to be a criminal issue is counterintuitive. In proceeding through the introduction, it is next noted that this particular act is actually an amendment to current legislation, specifically the County Jail Act. Therefore in addressing the issue, the Illinois state

³³ Illinois State Legislature. “Access to Religious Ministry Act of 2008, Public Law 095-1022.”

legislature determined this was a Department of Corrections issue, as the policies being corrected certainly are under the purview of that department. This type of amendment is not an unusual practice in state legislature, but nevertheless, the focus of the change is not on the detained immigrants themselves, but rather on the facilities, processes, and people that manage their detention.

The body of the Access to Religious Ministry Act of 2008 legal text is relatively straightforward and direct, coinciding with the brevity of the act's stipulations and language. There are subsections to the amendment, Part A, B, and C. Part A provides the main policy change by mandating that any county jail contracted by ICE is required "to provide to religious workers reasonable access to such jail."³⁴ The verbiage clearly indicates that the right being afforded through the change in legislation is that of the religious worker and not the detained immigrant. Part B then qualifies the "reasonable access" stipulations by stating that religious workers are able "to enter the jail facility to be available to meet with immigration detainees who wish to consult with the religious worker regarding their spiritual needs."³⁵ This statement indicates that detained immigrants do have control and agency over whether or not they wish to utilize the services being offered to them. The detained immigrants have the right to freely choose whether or not they wish to engage with their religion by consulting with a religious worker and seeking spiritual nourishment in that manner. Such freedom is characteristic of the religious freedom promulgated and defended by the United States since the founding of the nation. This is the freedom to choose whether or not an individual will prescribe himself to a particular religion and what religion to pursue if he so wishes. Part C of the act adds one further qualification, specifically that the sheriff of any particular county "shall have the right to screen

³⁴ Illinois State Legislature. "Access to Religious Ministry Act of 2008, Public Law 095-1022."

³⁵ Illinois State Legislature. "Access to Religious Ministry Act of 2008, Public Law 095-1022."

and approve individuals seeking access to immigration detainees at the facility.” Such a statement delegates significant power to the sheriff and firmly indicates that pastoral care for detained immigrants is a positive right being granted to the religious workers and not the detained immigrants.

Discussion

Although this case study focuses on undocumented immigrants who have been detained, the efforts Sister JoAnn and Sister Pat expended to gain admittance to Illinois detention centers reveal consistent patterns amongst the religious rights and freedoms afforded to undocumented immigrants, and the effect the identity of “undocumented” has on immigrant religiosity. The magnitude of the manpower and willpower needed to break down the doors of the detention centers signals an underlying tension between the aims of the Church and the aims of the government. Sister JoAnn and Sister Pat ascribe to a religious ethic, derived from Catholic teaching, which is in conflict with the operational ethic of the Illinois deportation system and the United States deportation system at large. The sisters seek to bring humanitarian reform to the immigration system, hoping that persons they view as their neighbors will be better treated with dignity and basic respect. Most Catholic immigration advocates are not calling for all deportations to cease, although some congregants have elected to provide sanctuary to undocumented immigrants facing deportation in order to protect family unity. Rather they advocate for the system to reflect the humanitarian and social values the United States claims to purport. The American deportation system is designed to process and deport undocumented immigrants quickly, efficiently and in accordance with federal law. Such goals lead to sacrificing

the programs and services that often reinsert humanity into a logistical and process-oriented operation. It is these sacrifices that fuel criticism of a broken system.

Further, Biblical teachings promulgate the importance of cultivating community and displaying Christianly love to members of one's community. There are scriptural directives for members of the Church to bear the burdens of others in the Church.³⁶ The concept of pastoral care is crafted to obey such commands and thus is a clear example of engaging in Catholic religiosity, for both the person providing the care and the person receiving the care. The Sisters of Mercy religious order describes pastoral care as the following: "Sisters in pastoral services provide emotional and spiritual support to others, care and counseling in either a hospital or healthcare facility and in parish or social service settings. Pastoral care involves listening, supporting, and encouraging." For a detained immigrant, receiving pastoral care may be one of the only traditional forms of engaging in his/her religion that is possible. The confines of a detention center do not provide for expression or engagement in religion. As such, the inability to seek spiritual guidance is a true hindrance for a religious detained immigrant.

The first theme that appears to run through both the context of the case study and the language of the Access to Religious Ministry Act of 2008 is the notion of positive rights for religious workers. The concept of positive rights suggests that an action is taken to help someone do something or confers a duty to an individual or group to sustain the welfare of others.³⁷ In this example, the Illinois state legislators determined that they had the duty to confer the right to provide pastoral care in ICE-contracted detention centers to religious workers. The positive right of religious freedom as expressed by receiving pastoral care, guidance, and prayer is not conferred to the detained immigrants themselves. Therefore, the undocumented immigrants do

³⁶ Galatians 6:2; Acts 2:42-47

³⁷ Velasquez, Manuel, Claire Andre, Thomas Shanks, and Michael Meyer, "Rights."

not actually possess a right to receive pastoral care. Part C of the act emphasizes this point further as county sheriffs are granted the ability to prevent certain religious workers from entering detention facilities. There is no mention of detained immigrants in Part C and the language of the text demonstrates this act is about the religious worker and not the immigrant.

In accordance with the extension of positive rights to the religious worker rather than the undocumented immigrants, the detained immigrants in Illinois detention centers are only permitted to engage in this traditional form of religious expression contingent upon the right of the religious worker to engage in pastoral care. Religious workers essentially serve as an embodied mediator for detained immigrants. As mentioned previously, Part B of the Access to Religious Ministry Act of 2008 indicates that a detained immigrant may choose to consult with the religious worker. The Illinois act is not making the choice to seek pastoral care from the religious workers mandatory. However, that choice for a detained immigrant would not even be available if the religious workers did not make themselves present at an ICE-contract county jail-turned-detention center. Therefore, the ability of a detained immigrant to receive pastoral care cannot be characterized as possession of a religious right. Because religious workers like Sister JoAnn and Sister Pat intend to exercise their right to provide pastoral care, detained immigrants have the freedom to engage in that form of religious expression. Yet there is no such right inherently afforded to the immigrants by the Access to Religious Ministry Act. No language in the law even suggests the potential of such a right.

In his article, “The Dignity of the Human Person and the Idea of Human Rights”, Professor Jean Bethke Elshtain, of the University of Chicago Divinity School, argues that: “there is an undeniable rights-based, individualist thrust within contemporary, late industrial cultures,

nowhere more so than in the United States".³⁸ Elshtain further observes that the concept of the self as "an autonomous and sovereign chooser" is part of the cultural fabric of America.³⁹ If the self is viewed in America as an autonomous decision-maker, the circumstances in the case allow for interesting commentary on the perspective Americans hold towards undocumented immigrants. The stipulation in Part B of the Access to Religious Ministry Act that detained immigrants may choose whether or not to meet with a religious worker fits with the emphasis on personal autonomy. This choice constitutes a negative right, opposite of the way in which the ability of a religious worker to provide pastoral care constitutes a positive right. A negative right serves to protect an individual's freedom or liberty by prescribing to others a duty *not to* take interfering action. In this instance, detention center operators are given the duty not to force an immigrant to receive pastoral care from any volunteers.

Yet it remains that the immigrant's choice has contingencies. As such, the contingencies place the choice of the immigrant into jeopardy, as their freedom to choose is not autonomous but rather dependent upon the actions and choice of another, namely the religious workers and the sheriffs who permit the religious workers to visit the detention facilities. Undocumented immigrants are seen as a separate category, which coincides with their legal status. If this is the reality however, Americans should be careful to qualify the way in which they espouse freedom and recognize the genuine view they hold of undocumented immigrants.

Concluding Remarks for Case Study #1

The tale of Sister JoAnn Persch and Sister Pat Murphy's quest to break open the doors of Illinois detention centers is a prime example of the power of grassroots advocacy. The case is

³⁸ Elshtain, Jean Bethke, "The Dignity of the Human Person and The Idea of Human Rights: Four Inquiries," 58.

³⁹ Elshtain, Jean Bethke, "The Dignity of the Human Person and The Idea of Human Rights: Four Inquiries," 58.

also a clear example of undocumented immigrants receiving an opportunity to express their faith and religion only after United States citizens have been granted a new right or privilege. The refusal by the management of the Broadview processing facility initiated the events that led to the passing of the Access to Religious Ministry Act. The detained immigrants did not initiate this action and any such protests they made would be hard to uncover. This first case demonstrates the messy and strenuous path taken to clarify and assert the religious freedom of United States citizens (in the specific niche context described previously) that transitively enabled further religious freedom for undocumented immigrants. The second case will further explore the impact the “undocumented” label has on immigrants’ ability to express their religiosity and the conferral of religious rights to undocumented immigrants.

Case Study #2: Catholic Bishops and the Supreme Court⁴⁰

Michael Scaperlanda’s article, “Immigration and Evil: The Religious Challenge”

published in the University of Detroit Mercy Law Review states: “There is a rich tradition of

⁴⁰ The resources used for Case Study #2 are as follows:

"About USCCB," *United States Conference for Catholic Bishops*, 2015, Accessed March 29, 2015, <http://www.usccb.org/>.

Clemmer, Don, "U.S. Bishops, Other Denominations File Amicus Curiae Brief In Supreme Court Case Of Arizona Vs. United States," *United States Conference of Catholic Bishops*, March 27, 2012, Accessed March 29, 2015, <http://www.usccb.org/news/2012/12-056.cfm>.

Golash-Boza, Tanya, "¿Sí Se Puede? Obama’s Deportation Legacy," *Al Jazeera America*, April 13, 2014, Accessed March 29, 2015, <http://america.aljazeera.com/opinions/2014/4/obama-deportationdemocraticpartylatinoimmigration.html>.

Joselit, Jenna W., Timothy Matovina, Roberto Suro, and Fenggang Yeng, "American Religion and the Old and New Immigration," *Religion and American Culture: A Journal of Interpretation* 22, no. 1 (2012): 1-30, Accessed March 29, 2015, <http://www.jstor.org/stable/10.1525/rac.2012.22.1.1>.

Lucas, Karen S., and Sara J. Ibrahim, "The Supreme Court Considers Arizona v. United States," *Catholic Legal Immigration Network, Inc.* March 27, 2012, Accessed March 29, 2015, [https://cliniclegal.org/sites/default/files/KSL 5 Arizona v US webinar powerpoint presentation.pdf](https://cliniclegal.org/sites/default/files/KSL5%20Arizona%20v%20US%20webinar%20powerpoint%20presentation.pdf).

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religious communities responding to the needs of immigrants of all faiths or no faith at all, providing material needs in the form of social, education, and legal services to the documented and undocumented alike”.⁴¹ However, as Scaperlanda points out, a charge to cultivate and grow the spiritual lives of immigrants poses significant challenges for that community. These challenges are not unlike those “precarious spaces of welcome” and difficult church dynamics described by Patricia Ehrkamp and Caroline Nagel in their “Under the Radar” article.⁴² Determining the best approach to helping and serving immigrants can potentially be a subject of much discussion and conflict in a single church or parish. Further, navigating the treacherous political climate surrounding immigration in the United States could place significant strain on any community of citizens.

Despite the challenges, the Catholic Church in the United States maintains a storied practice of seeking out and caring for immigrants of all kinds, especially Latin American immigrants who left behind membership in Hispanic Catholic churches. The Catholic Church does have considerable motivation to tend to immigrants and immigration issues as the Hispanic population of the United States is growing rapidly, nowhere more evident than in North Carolina, which witnessed a 273% increase in its foreign-born population from 2009-2010.⁴³ That growth is largely the result of significant Hispanic migration to North Carolina. Paralleling this population growth, the Hispanic population of the Catholic Church in the United States reached 35% in 2012.⁴⁴ This growth means Catholic leaders must turn attention and efforts towards the plight of immigrants in the United States because not doing so would mean ignoring a large segment of their parishioners. Many in the Catholic Church have taken action, especially

⁴¹ Scaperlanda, Michael, "Immigration and Evil: The Religious Challenge," 836.

⁴² Ehrkamp and Nagel, "“Under the Radar.”

⁴³ Joselit, Jenna W., et al., “American Religion and the Old and New Immigration,” 1.

⁴⁴ Joselit, Jenna W., et al., “American Religion and the Old and New Immigration,” 9.

as large groups of American Catholics hold the opinion that “immigrants’ practice of their faith is remarkable when one considers most of them are poor workers struggling for their very survival”.⁴⁵

Catholic bishops in particular have worked in states across the nation to both fight for improvements in the treatment of immigrants and to move against laws aimed at extending the power and abilities of the U.S. Immigration and Customs Enforcement to seek out and detain undocumented immigrants. The involvement of Catholic bishops with immigrants extends back to the turn-of-the-century pastoral care efforts, but their legal and political advocacy labors have grown in prominence and taken root in the early 2000s. The U.S. Conference of Catholic Bishops has taken the lead in coordinating current efforts. The USCCB is the national network of Catholic bishops, cardinals, dioceses and archdiocese. The stated purposes under civil law of the USCCB are: “To unify, coordinate, encourage, promote and carry on Catholic activities in the United States; to organize and conduct religious, charitable and social welfare work at home and abroad; to aid in education; to care for immigrants; and generally to enter into and promote by education, publication and direction the objects of its being.”⁴⁶ In accordance with these purposes, the USCCB established the Justice for Immigrants Campaign to coordinate their awareness, advocacy, and educational strategies. Further, the USCCB created a division called Migration and Refugee Services to focus special attention on various immigration needs and concerns.

On Friday, April 23rd, 2010, former Arizona Governor Jan Brewer signed into law SB 1070, the Support Our Law Enforcement and Safe Neighborhood Act. The passage of the law added fuel to an already heightened firestorm that surrounded the controversial act. The stated

⁴⁵ Joselit, Jenna W., et al., “American Religion and the Old and New Immigration,” 7.

⁴⁶ “About USCCB,” *United States Conference for Catholic Bishops*, 2015, Accessed March 29, 2015, <http://www.usccb.org/>.

purpose of the law is as follows: “The legislature declares that the intent of this act is to make attrition through enforcement the public policy of all state and local government agencies in Arizona. The provisions of this act are intended to work together to discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.”⁴⁷ The law in theory would prohibit state and local law enforcement agencies from taking any measures to restrict the enforcement of federal immigration law. Additionally SB 1070, among a variety of stipulations, strengthened the deportation efforts within the state by specifically mandating law enforcement officials to determine the legal status of an individual if there is reasonable suspicion the individual is residing in the United States illegally. Governor Brewer then signed into law HB 2162 on April 29th, 2010 to address the tremendous concerns regarding the potential for racial profiling as a result of the SB 1070 provisions. HB 2162 prescribed that law enforcement officials could only reasonably seek to determine the legal status of an individual if in the process of a lawful stop, detention, or arrest, and could not consider race, color, or national origin when conducting these official duties. Further, Governor Brewer signed an Executive Order to create a training program to instruct Arizona law enforcement on how to conduct their new duties without infringing on the civil rights held by all persons in the United States or on the privileges and immunities enjoyed by United States citizens.

Despite the efforts taken by Governor Brewer and the Arizona state legislature to mitigate the controversial stipulations of SB 1070, groups around the country took immediate action to seek a permanent injunction against the implementation of SB 1070. None was more prominent than the United States Department of Justice, which filed suit in the U.S. District Court for the district of Arizona on July 6th, 2010. The Justice Department filed on the grounds

⁴⁷ Arizona State Legislature, “Support Our Law Enforcement and Safe Neighborhoods Act” (SB 1070). Phoenix: Accessed April 1, 2015, <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>.

that SB 1070 is preempted by federal law and foreign policy and thus violates both the Supremacy Clause and the Commerce Clause of the U.S. Constitution. The Justice Department was successful in receiving partial, preliminary injunctions from the U.S. District Court on July 28th, 2010. The State of Arizona appealed the District Court's decision, filing with the Ninth Circuit Court of Appeals on August 26th, 2010. Arizona eventually lost its appeal and thus filed suit with the United States Supreme Court. The case was henceforth known as *Arizona v. United States*. The case received a docket slot for April 2012 and preparations for oral arguments commenced.

The U.S. Conference of Catholic Bishops could scarcely stand to remain on the sidelines of the most heated immigration debate to occur on the national scale in recent decades, particularly as the Arizona law posed a threat to the Catholic mission to care for all people. Further, the passage of SB 1070 had initiated a series of copycat laws in other states, adding more cause for alarm and a greater threat to parishes around the country. Alabama, Georgia, South Carolina, Indiana, Utah and others all drafted legislations with similar provisions to the Arizona act. This growing trend moved the USCCB to voice its concern and defend the Catholic Church in the United States against a self-proclaimed attack on religious liberty. In addition to testifying before Congress and Congressional subcommittees on the issues at hand, on March 26th, 2012, the USCCB, in partnership with leaders from other Christian denominations, submitted an *amicus curiae* brief to the Supreme Court regarding *Arizona v. United States*. *Amicus curiae* is translated directly as "friend of the court". This type of legal brief can be drafted and submitted by any interested person or entity, regardless of standing or relation to the applicable court. An *amicus curiae* brief is meant to espouse the potential consequences of certain court decisions for society at large, directly involved parties or other specific groups

within society that will be affected. The Catholic Church in the United States has traditionally submitted such briefs to various courts to explain the ramifications that decisions could have on the church's interests and congregants. The USCCB followed the pattern by drafting an *amicus curiae* brief that addressed SB 1070 and other similar state laws, explaining how the provisions and stipulations of these laws prevented the Catholic Church from providing food, shelter, and other forms of compassion to legal and undocumented immigrants alike.

The overarching sentiment of the USCCB amicus brief propagated that the federal government takes precedent over states government regarding the control and implementation of national immigration policy. The brief stipulated that the federal government is able to consider the historical, widely supported American values of promoting family unity and preserving human dignity in crafting immigration policy. The brief argued that such nationally appreciated values could not be appropriately balanced if left to each individual state. The authors of the brief included the following adamant statement in addressing the protection of family unity and human dignity: "The provisions of SB 1070 at issue in this case would hinder these critical federal objectives by replacing them with the single goal of reducing the number of undocumented immigrants in Arizona at all costs." The USCCB further contended that individual state-determined immigration policies would not only infringe on human dignity and family unity, but a collection of varied state laws could breach the fortified stronghold of religious liberty long enjoyed by religious organizations in America. The Catholic Church and other Christian denominations in the United States largely believe its leaders and congregants have a religiously founded duty to care for persons in need, regardless of how individuals are viewed by the government as the authority of God supersedes the earthly authority when the two entities are in conflict. The USCCB claimed that the Arizona law restricted the Church's ability

to provide pastoral care and social services to immigrants, two tenants of the Catholic faith. The claim propagated that the SB 1070 essentially criminalizes actions the Church considers straightforward principles of Christian charity. These were the dominate arguments and sentiments expressed by the *amicus curiae* brief submitted by the USCCB to the Supreme Court.

Meet the Friend of the Court

The *amicus curiae* brief contains thirty-three pages of textual argumentation that ultimately call for the judgment of the United States Court of Appeals for the Ninth Circuit to be affirmed by the United States Supreme Court. The brief also includes a nine-page “Table of Authorities,” which cites numerous cases, states and regulations, Catholic commentaries and essays, published journal articles, and other publications produced by federal offices and agencies. The official supporting parties named in the brief are the USCCB, the Evangelical Lutheran Church in America, Lutheran Immigration and Refugee Service, and Reverend Gradye Parsons, the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). A “Statement of Interest” in which each supporting party describes its individual concerns and desires and affirms the necessity of drafting such a document introduces the brief. The main argument is divided into three central branches, which coincide with the sentiments described previously. The first section purports that, “The Supremacy Clause preempts State Laws that unbalance comprehensive Federal Regulatory schemes. The second section propagates that the four sections of SB 1070 under review by the Supreme Court, the four sections that were enjoined by the Court of Appeals, encumber the federal objectives of promoting family unity and preserving human dignity. The third and final section declares that S.B. 1070 and similar state immigration laws are a threat to religious liberty in the United States.

Discussion Part 1: Right to Ministry

One of the three primary purposes of the amicus brief is to defend against the infringement of religious liberty for the *Catholic Church*. Preserving religious freedom in the United States is rightfully an imperative undertaking for any organization, person, or entity. The diminishing of religious liberty in the United States would translate into the gradual disintegration of the core principles that make America a great and unique country, as well as violate the United States Constitution. The USCCB is taking up the torch to protect against a law that could supersede one form of religious liberty. As previously stated, the USCCB and other denominations argue in the brief that their charitable missions would be restricted because of stipulations that make certain acts, like providing shelter or transporting immigrants for any reason, criminal offenses. According to the amicus brief, ensuring a mission central to the Catholic Church and to the beliefs of Christian denominations can be pursued in full and without restraint is indeed a critical and respectable responsibility. However, in further examining this claim of religious liberty infringement, another aspect of the argument is the effect SB 1070 and similar laws have on the religiosity of immigrants themselves.

Although not a narrative of great emphasis in the amicus brief, immigration policies in the United States have made tangible strides in significantly marginalizing the immigrant population from American society.⁴⁸ Relatedly, the laws and policies have succeeded in creating a climate of palpable fear for undocumented immigrants living and working in the United States. Over the past decade, there has been a distinct, anti-immigrant shift in both American sentiment and legislation. Accordingly, but despite assurances to the contrary, high percentages of total deported immigrants per state are immigrants who have never been convicted of a crime. They

⁴⁸ Scaperlanda, Michael, "Immigration and Evil: The Religious Challenge," 837.

are simply undocumented immigrants. Quotas remain in place for the number of immigrants deported from the United States each year and so enforcement officials cast the net wide in order to meet these quotas. Yet as the USCCB points out in the amicus brief, governmental policy advisors have consistently touted the legality of residence status as only one of many determining factors in the final decision of whether or not to deport an undocumented immigrant.

Regardless of these promises, undocumented immigrants who are working in the United States or who were brought to the United States as a child and have remained for decades live in constant fear of deportation. This fear has infiltrated all aspects of immigrants' daily lives and influences their banal decisions and choices. In addition to impacting daily life, current immigration enforcement tactics have also suppressed the religious life of immigrants. Such choices include whether or not to risk going to a church service or to attend humanitarian programs that are put on by religious organizations.⁴⁹ A traditional method of expressing faith and religiosity is attending a communal worship service of some type. Yet the enforcement measures and tactics discourage undocumented immigrants from seeking collective spiritual expression and nourishment. Undocumented immigrants are fearful enough to willingly forego a keystone component of exercising religious faith. If undocumented immigrants are not present at services and other religious programs, then the churches and religious leaders could not fulfill their mission, despite any ardent attempts or desires. Undocumented immigrants must be physically available in order to receive the benefits of personal ministry and services.

In reality, the Catholic Church and other Christian denominations face two distinct threats to their ministry and mission as a result of immigration laws and policies such as SB 1070: the criminalization of acts viewed as charity and duty, and the diminishment of

⁴⁹ Ehrkamp, Patricia, and Caroline Nagel, "'Under the Radar': Undocumented Immigrants, Christian Faith Communities, and the Precarious Spaces of Welcome in the U.S. South," 323.

engagement by undocumented immigrations in their congregations and organizations. The two potential threats could be fairly judged to pose an equal threat to religious ministries, because the definitive result of each is the decimation of the Church's ability to help and care for all persons including undocumented immigrants. Despite the potency of the second threat, the amicus brief does not appear to grant much consideration to how the fear of deportation subsequently produces the latter threat. The brief does not appear to portray significant concern for the effects the immigration law could have on the religiosity of undocumented immigrants. Yet as Ehrkamp and Nagel described, immigration can serve as a catalyzing experience for recent migrants to strengthen their religious beliefs and habits.⁵⁰ Such a reality would seem to further incentivize the Catholic Church and Christian denominations in the United States to ensure it is paying attention to the religious liberty and freedom of the immigrants themselves. If an effect of migrating is a desire to strengthen religious ties, beliefs, practices, or identities, the Catholic Church would be expected to aim to protect the channels, such as attending a worship service, that allow immigrants to pursue their religiosity. After all, the main purpose of the Church is to guide and shepherd the spiritual growth of its congregants.

Similar to the focus on the religious rights and freedoms of American citizens as opposed to those of undocumented immigrants in the first case, the efforts of the USCCB and the amicus curiae brief echo the Illinois case findings that undocumented immigrants receive access to and protection for religious rights and freedoms through the actions, rights, and freedoms of American citizens. The third section of the amicus brief includes the following statement:

“Broad interpretations of these states laws would obviously interfere with the Catholic Church's religious mission and liberty, which transcends the geographic borders in which

⁵⁰ Ehrkamp, Patricia, and Caroline Nagel, "Immigration, Places of Worship and the Politics of Citizenship in the US South," 626.

Catholic organizations operate...Forcing Catholic institutions to check the papers of all they serve (and turn away undocumented immigrants) would not only impose substantial administrative burdens, but also fundamentally violate the Church's religious beliefs that is cannot turn away others in need." (30-31)

While this statement clearly displays the desire of the Catholic Church to care for undocumented immigrants, it nevertheless highlights that these immigrants gain greater religious rights and freedoms as a result of the participation of American citizens. The threat to the religious liberty of American citizens is only a symptom of the greater threat to the religious freedom of undocumented workers. However, the remedy for this situation is occurring due to actions taken by American citizens not to directly protect the religious freedom of undocumented immigrants, but to protect the religious freedom of American citizens, thus transversely protecting the religious freedom of undocumented immigrants.

Discussion Part 2: Right to Care

The Catholic Church is motivated by a desire to care for the welfare of undocumented immigrants and as such, they acknowledge the fact undocumented immigrants possess certain rights in the United States regardless of their legal status. In the introductory section of the amicus brief, "Summary of the Argument", the USSCB confirms its view of undocumented immigrants as worthy of certain rights and protections afforded to all persons living in the United States:

"Concerns for human rights have long animated federal law. Our Constitution recognizes the fundamental worth of all humans, and protects against laws that would undermine their dignity. Undocumented immigrants are thus entitled to constitutional

protection...The Catholic Church shares these objectives, insisting upon respect for the inalienable rights of all people, including undocumented immigrants.” (p. 7-8)

This statement provides a strong reminder that the U.S. Constitution is indeed blind to legal status in affording certain rights to undocumented immigrants. That is a reality that is sometimes lost in the messy myriad of immigration conflict and debate. The leadership of the Catholic Church in the United States affirming the Constitutional standing of undocumented immigrants is certainly a respectable and powerful assertion. However, it should be noted that throughout the amicus brief the claim is staked for the rights of the Catholic Church as an entity, and not for the rights of undocumented immigrants as a separate entity. The rights of the undocumented immigrants are inseparably tied to the claim for rights of the Church per the charges in the amicus brief. Certainly, the USCCB affirms that rights should be granted to undocumented immigrants, but that is a byproduct of preserving religious liberty for the Church.

In following the strand of affirming rights possessed by undocumented immigrants, the amicus brief highlights and explains certain positive rights granted to undocumented immigrants by federal policy and law. Coinciding with the stated federal goal of preserving family unity that the USCCB claims is violated by SB 1070, the authors of the amicus brief remind the Supreme Court that federal law retains the ability to cancel the deportation of an undocumented immigrant if the removal could prove to “result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child.” Further rights, or rather potential safeguards against deportation, afforded to undocumented immigrants include: the ability to seek asylum after entering the United States if they fear persecution on the grounds of race, religion, nationality, social or political class; the ability to receive lawful status if they can prove they have been the victims of human trafficking or domestic violence at the hands of a United States citizen; and the ability to

remain in the United States if they serve as primary caretakers for persons with a mental or physical disability. These provisions provide a measure of compassion for undocumented immigrants and demonstrate that federal policy indeed aims to preserve human dignity in all matters. Further, the amicus brief affirms several times that in accordance with the family unity and human dignity goals, the reasons for an undocumented immigrant to seek work in the United States should be taken into consideration when developing immigration law. The USCCB indicates that Section #5 of SB 1070 is an affront to such consideration as it criminalizes the act of asking or accepting work if an immigrant is undocumented. As such that is clear evidence the state law is incompatible with certain stipulations of federal policy.

However, throughout the amicus brief, the above provisions and the explicit statement that undocumented immigrants retain certain unalienable rights are the only mention of positive rights granted to undocumented immigrants. A common trend within these provisions, stipulations, and arguments is the fact they seldom address human aspects of an immigrant beyond their ability to work and care for a family. There is little mentioned of religious rights or freedoms. In fact, there is no reference to religious liberty, religious freedom, or religious rights for the undocumented immigrant in relation to any of the twenty-three usages of the term “undocumented immigrant”. Not one of the religious liberty arguments included in the brief discusses the religious freedoms retained by undocumented immigrants to engage in religion in the United States. While the need for the Catholic Church to attend directly to the religious freedom of undocumented immigrants is argued above, it is nonetheless intriguing that the Catholic Church does not appear to truly examine those aspects of the undocumented immigrant. The majority of the arguments in the amicus brief center upon the religious liberty of the Catholic Church in relation to undocumented immigrants, how the mission of the Catholic

Church benefits undocumented immigrants, and how undocumented immigrants should be treated with dignity and respect. Yet the absence of clear and straightforward statements about the religiosity of undocumented immigrants and their ability to engage in religious practice and traditions remains particularly notable.

Concluding Remarks for Case Study #2

The saga of the campaign conducted by the U.S. Conference of Catholic Bishops to block the implementation of SB 1070 is a concrete example of the direct and dynamic engagement the religious organizations, particularly the Catholic Church, has with government and societal politics. This second case provides further evidence of the contingent relationship between undocumented immigrants and American citizens in regard to religious rights and freedoms. Additionally, this case reveals glimpses of the complex perspectives held by citizens regarding undocumented immigrants. For example, the Catholic Church undoubtedly views undocumented immigrants as humans deserved of dignity and respect. Yet, as evidenced by the arguments in the *amicus curiae* brief, the Catholic Church appears to only lightly acknowledge the independent religiosity of undocumented immigrants. Thus the perspectives on identity appear to be shaped by the dependent access to religious freedom retained by undocumented immigrants.

Chapter Discussion

An overarching theme that emerges from both case studies is the relative contingency of undocumented immigrant's religious freedom on the religious rights of United States citizens. The first case provides an overtly clear example of such dependency, as the detained immigrants would be unable to engage in religiosity through receiving pastoral care if not for the actions of

United States citizens both in fighting for admittance into detention centers and in volunteering their time to provide such care. The second case reveals the subtle pervasiveness of the inequality of rights reserved for undocumented immigrants versus U.S. citizens. The United States Conference of Catholic Bishops submitted an *amicus curiae* brief demonstrating the extensive ways SB1070 infringes on the religious freedom of the Catholic Church, and transitively on the religious freedom of undocumented immigrants. The case illustrates the ramifications that new enforcement policies have on the Church's ability to serve undocumented immigrants.

In comparing the two case studies, we might draw several conclusions regarding the legal right to religious freedom for undocumented immigrants. Primarily, the case studies demonstrated that the freedom to religion does seem dependent upon legal status, a conclusion that might be anticipated from Ehrkamp and Nagel's research. The first case study demonstrates that undocumented immigrants clung to their religion after being detained as a means of support for themselves and for their families. The second case study provides evidence that undocumented immigrants are fearful of practicing their religion through traditional methods such as attending a worship service. The revelations of the second case study thus begs the question of the undocumented immigrants detained in Illinois facilities, would they have engaged with religion in a public manner, beyond private expressions of personal religiosity, had they not been detained? Was their detention the unhappy catalyst that provided the opportunity to receive religious counsel without fear that engaging in such public religious practice could lead to deportation? If this statement describes even a handful of the detained immigrants now receiving counsel at the Broadview facility or in McHenry County Jail, that reality is a tremendous commentary on the overall climate for the religious freedom of undocumented

immigrants in the United States. The Free Exercise Clause of the First Amendment mandates that the government shall not interfere with the religious exercises of any person in the United States, save the notable exceptions discussed earlier. Yet both acknowledged and likely instances of government interference with the free exercise of religion by undocumented immigrants exist. Therefore, it appears the values of individualism and undeniable choice do not extend all the way to undocumented immigrants in the United States. The narrative of expansive freedoms permeating American society does not include all who live in the United States. Undocumented immigrants are not included in the “any person” category in the eyes of the American government.

A second conclusion extends the question of whether or not undocumented immigrants are to be treated as “all persons” under constitutional law, as it pertains to religious freedom, into the realm of public opinion. Take for example the refusal to admit Sister JoAnn and Sister Pat into the Illinois detention centers. Since religious ministry is a staple in American prisons, concern for the safety of religious workers cannot be a reason for the denial of entry. Perhaps, the basis for preventing pastoral care to detained immigrants is sourced from the American perspective on illegal immigration and, more pointedly, the way in which Americans view undocumented immigrants as people. The discussion of undocumented immigrants as complex individuals with personal beliefs and religious convictions, similar to many U.S. citizens, is not a strand of dialogue often heard in popular conversation regarding immigration. The lack of discussion could stem from ignorance about the religious practices of immigrants, although intersections of immigration and religion are hardly absent from American dialogue. The lack could grow from a passive omission of examining persons who are relatively similar to ourselves. Nevertheless, if considering the right to freedom of religion for the undocumented

immigrant, the weight of the stated value the American populace gives to equal constitutional rights to all persons is in jeopardy.

CHAPTER 4: CONCLUSION

General Discussion

In summarizing the findings of this paper, the primary revelation is a simple and straightforward supposition: religious rights, referring to the protected, constitutionally-mandated ability to practice religion freely, appear to be granted in full measure to United States citizens alone. The first case study highlighted the ability of detained immigrants in Illinois to receive pastoral care only after a hard-fought legislative campaign. The second case revealed the fear of the Catholic Church that the exercise of their ministry duties was gradually being restricted as a result of Arizona's new enforcement law. Victories were garnered for the rights of immigrants in the United States as the result of citizens taking action to protect their religious liberty. Therefore, as described earlier, an immigrant's religious right remains a negative right at best. The immigrant's status as a person does not appear to be positively or actively protected under the religious freedom clauses of the First Amendment. This reality begs the question, "Who is the religious immigrant?"

The few responses received as part of the service provider survey reveal possible answers to the aforementioned question. The third question of the survey asks the following: "Have you ever seen the freedom of religion or expression of religion restricted for an immigrant due to his/her legal status?" One subject, who currently works at a medical clinic in Chicago that serves immigrants and who had previously worked at a humanitarian immigration legal non-profit, named transportation and fear of detention as the biggest restrictions she had witnessed in working with immigrants. This observation supports the discoveries Ehrkamp and Nagel uncovered in their research with religious leaders in the South. This subject also stated:

“I think one of the strongest intersections between religion and immigration is that for many people, they are forced to leave their country because of religious/political persecution. This reality can make for a complex relationship with religion, compounded by trying to practice religion in a new cultural context. At the same time, I think despite the complexity, for many immigrants I have seen them cling even more to their religion during the transition to the U.S. and it has contributed both to their ability to make meaning of their situation and thrive in their new country.”

There is demonstrated significance of religious belief and practice for undocumented immigrants, especially after their arrival in the United States. Yet as the religiosity of an immigrant strengthens, barriers to their practice and expression are erected through governmental and societal agents. A revitalized view of the immigrant as a complex individual could lead to renewed protections of religious freedom for the undocumented immigrant. Another respondent, who provides legal services to immigrants as part of a faith-based humanitarian immigration non-profit, affirmed this sentiment stating: “Many low-income immigrants come from religious communities and should be served utilizing a biopsychosocial-spiritual framework according to the best practice in behavioral health field. Public and private agencies that serve immigrants are not being culturally sensitive when they brush over or ignore the religiosity of the immigrant.” Prescribers to the humanitarian immigration movement understand the importance of treating immigrants as complex persons. The American populace and government leaders should shape their perspective with the concept of immigrants as “whole people”.

The history of constitutional rights in the United States is not complete without understanding the storied pattern of selective application. As discussed in Chapter 2, the freedoms the United States has reputedly championed for centuries have been withheld and

restricted for certain groups by persons in power at the time. The same inequality is true for the application of constitutional rights. Take for example, the right to vote in the United States. After the end of the Reconstruction era, literacy tests and poll taxes were introduced in the southern United States as attempts to prevent African Americans and former slaves from voting despite the passage of the Fifteenth Amendment. The restriction of the constitutional right to religious freedom for undocumented immigrants thus serves as another example of this selective application and tangible restriction.

The narrative of immigration in the United States describes a long-stated valuing of religious freedom in the United States. This honoring of religious freedom thus conflicts with the observation that not all persons in the United States are awarded the same religious rights. This tension between two competing realities carries significant implications for our nation's leaders and politicians. Religious freedom is championed across party lines in the United States, and if these case studies, for example, gained traction with the popular press, politicians could soon encounter a more muddled and volatile immigration debate, or could face serious pressure from the American populace to evaluate all perspectives of immigrants in the United States. This however depends upon the American people to see and recognize the implications our nation's constitutional principles and the fundamental importance of protecting First Amendment rights for all persons in the United States. Potentially, the lack of religious rights for undocumented immigrants could signify that religious freedom is more a privilege for American citizens than a right. I do not believe such a sentiment would be widely accepted by the American populace. Perhaps the importance of religion in the fabric of the United States will catalyze the American people to end the selective application of all constitutional rights by the representative government. Idealistically, the restriction of religious rights for undocumented immigrants could

be the stimulant eye-opener necessary to invoke permanent change. After all, weak protection of constitutional rights for a particular group signifies there are cracks stretching into the foundations of our country.

In evaluating the research design of my thesis, I am pleased with the applicable results of the case study analysis. Often, comprehensive case studies can be utilized in both future educational efforts and in the construction of legal arguments. The importance of such applicability cannot be understated. Interestingly, one survey subject, who identified himself as an immigration attorney, stated he had not seen or observed any restriction of religion or expression of religiosity for immigrants in the United States. He specifically stated, “No, not in the United States.” This response showcases the need for greater understanding and education that communicates the personal ramifications resulting from the lack of protected religious rights for undocumented immigrants.

Each case study in this paper revealed the precarious nature of religious freedom for undocumented immigrants in the United States. As the immigration debate continues, the applied pressure by the humanitarian immigration debate will hopefully force policy makers to look at the immigrant as a whole, complex being. Such complexity should include individual religiosity. The changes in societal perceptions regarding immigrants’ identities make this reevaluation even more necessary. Society does not describe undocumented immigrants in a manner informed by their religious identity. Unlike the popularity of “Irish Catholic,” the phrase “Mexican Catholic” is atypical at present.⁵¹ This lack of common association between an immigrant and his/her religious identity means the revelation that undocumented immigrants do not enjoy protected religious rights needs integration into American immigration dialogue. Therefore, a significant

⁵¹ Joselit, Jenna W., et al., "American Religion and the Old and New Immigration," 15.

positive aspect of this research design is the findings that can be utilized in the construction of future policy that directly impacts immigrants in the United States.

This study stands as a split between a geographical and legal review. While the legal observations produced by the research have clear implications for future policy and immigration reform, the geographical observations are also applicable to the current trends in the geographies of religion subfield. Identity, as defined in this paper by the legal status of the immigrant, has been shown to affect the banality of an immigrant's life. Identity has further implications for the spaces in which an immigrant is able to engage in their personal religiosity. This relationship between identity and space is not only important for an immigrant, but for an American citizen. An American's identity as a citizen provides access to religious spaces and a platform from which to freely engage in religiosity due to the constitutional rights afforded to the citizen identity. Continued preservation of this relationship between identity and constitutional rights awarded as a result of an identity should remain a priority for United States citizenry.

Recommendations for Future Study

This study provides the foundation for a deeper examination of the religious rights afforded to various immigrant groups and at different stages in the immigration process. This study focused on the undocumented immigrant both those detained and those residing and working in the United States, but there are other groups of immigrants to examine. There are the immigrants who are distinctly different than American citizens, the ones fitting the stereotypical image of a religious immigrant. There are those residing with a quasi-legal status that provides them more protection in the eyes of the government but are certainly not equivalent to citizens.

Studying the scattered groups of immigrants across the United States could provide a better snapshot of the nature of religious freedom for immigrants as a whole.

I would readily recommend retrying the survey method and soliciting a wide pool of service provider perspectives. The responses themselves can reveal the understanding of the American public regarding religious rights for immigrants. Further, the first-hand experiences of the service providers in working with immigrants could provide invaluable insight into the daily religiosity and restrictions facing immigrants. If possible, pursuing the survey of undocumented and documented immigrants themselves would greatly enhanced research regarding the restrictions of religious freedom for immigrants. However, this method involves tremendous risks and as such, should be approached with much care and consideration.

Other potential avenues for study can include the incorporation of the findings into intersectional research into the quality of life in the United States for undocumented immigrants. The constitutional rights that should be afforded to all persons in the United States provide the foundation for potential success in the United States. However, if other constitutional rights are restricted for undocumented immigrants in the same manner as First Amendment religious rights are restricted, what are the implications for both undocumented immigrants and the American populace? Relating these observations to other measures of quality of life could reveal further understanding of the perspective American society holds regarding immigrants.

Lastly, extending the legal examination of this research, beyond the geographical contributions, is a natural segway from this study into understanding the detailed legal climate of constitutional and immigration law. Greater legal understanding could provide key tools for the humanitarian reform efforts being undertaken to fix the broken immigration system in the United States.

Who is the Religious Immigrant?

The religious immigrant is ultimately defined in the United States by the law. The law of the land informs the creation of identity for immigrants and constructs the lens through which Americans perceive immigrants. The legal status of an immigrant is a singularly defining feature. Regardless of the nuances and qualifiers surrounding the protection of constitutional rights in the United States previously discussed, the reality remains that undocumented immigrants are constructed in the United States as lesser persons. Whether an immigrant is documented or undocumented serves as the greatest indicator of the quality of life an immigrant will lead in the United States and the circumstances that will mark their residency. The precarious nature of being undocumented affects all aspects of life for immigrants: their work, their education, their religion, and their social community. Living daily with fear of deportation as a constant companion likely creates tremendous strain for immigrants.

Religion acts as a humanizing agent, a way to construct an undocumented immigrant as a full and complex person. If the American populace can relate to the struggles facing an immigrant or can mutually share in their dependency on faith for strength, the immigrant becomes relatable and familiar. The USCCB utilized humanizing language in their brief. They called for the preservation of family unity and human dignity, not only because the United States government has professed to champion those ideals for all people, but also because family and dignity are two essential characteristics of humanity as a whole. Humanizing the immigrant could lead to irresistible changes in the American immigration system. If persons being processed through the system have become more human, more relatable, more similar to us, we would be hard-pressed to stand by and watch their humanity be degraded. For a man could far more easily deny an alienated stranger than deny his brother.

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APPENDIX 1

Figure 1. The Religious Immigrant Survey Questions and Subjects' Responses

1. Please provide a general description of the work you conduct with members of the local immigrant population.

Subject 1	I currently work at a medical clinic where many immigrant individuals seek services. In the past I worked at a legal non-profit specializing in humanitarian immigration.
Subject 2	We provide free and reduced-cost civil and immigration legal services.
Subject 3	Immigration attorney.
Subject 4	I am a justice AmeriCorps Attorney assigned to represent children who cross the border (without guardians) alone and are in deportation proceedings in Charlotte immigration court.

2. Has religion, or expressions of religiosity, ever been a part of the work you have completed with an immigrant? (For example, is religion or faith a component of the work you conduct? Or have you ever discussed religion/faith with an immigrant during the time you worked with him/her?) Please describe your experiences.

Subject 1	Yes, both organizations I have worked for have been rooted in religious principles. For these organizations, religion was the motivating factor for the staff working with clients- but no client was required to have religious views. At times, I would offer to pray with clients.
Subject 2	Yes, we are a faith-motivated nonprofit and share this with all potential clients in their initial intake appointment with us. We serve all clients regardless of religious identification and do not require clients to engage in religious activities or conversations. However, we seek to respect and care for our clients as "whole people", acknowledging that their legal issues are often intertwined with critical social, economic, cultural, emotional, or physical issues and taking time to discuss these issues, should the client desire, and provide counsel and/or referrals to other excellent agencies as needed and appropriate. More specifically, in order to offer culturally sensitive services in a manner that empowers clients we utilize a biopsychosocial-spiritual assessment during the intake process to assist in determining clients' needs. Clients are then offered a list of services we can provide in view of their unique case. This list includes general service options and the client is able to identify the services they would like us to provide and whether they would like referrals to other agencies. This is in keeping with our duties under the North Carolina Rules of Professional Conduct for lawyers and with best practices for trauma-informed care in the behavioral health field.
Subject 3	I have discussed it in connection with various immigration applications. Sometimes it is the basis for asylum. It can also be used to show strength of character and rehabilitation.
Subject 4	No, my clients are children and we have not discussed religion. It could come up though if a child fled their country because of religious reasons, which would make them potentially eligible for an asylum claim, but I have not come across this issue as of yet.

3. Have you ever seen the freedom of religion or the expression of religion restricted for an immigrant due to his/her legal status? These restrictions can be formal (legal restriction, laws, etc.) or informal (fear of detention, inability to access religious spaces, etc.).

Subject 1	I think the biggest restriction I have seen is a transportation restriction and a fear of detention.
Subject 2	No, but it is possible that some of our clients have experienced restriction but have not specifically disclosed this to us. For instance, many of our clients are undocumented survivors of human trafficking or crime here in the United States and it is possible that the perpetrators of crime against them restricted their freedom of religion or expression of religion as a way to exert or maintain control over them. (For example, not allowing our client to participate in a faith community in order to keep the client individual more vulnerable and reliant on the perpetrator. This could be interrelated with legal status in a number of ways - involvement in a faith community comprised of undocumented individuals could empower a human trafficking victim to run away or report to law enforcement because the faith community is able to support them and assure them that other undocumented individuals have done so safely and were not deported.) Furthermore, religion can be utilized as part of the force, fraud, and/or coercion that human traffickers use in trafficking individuals. (I.e. psychological coercion such as - "if you don't do what I say, I won't let you go to mass and take communion, and then God will never forgive you and you will go to hell".) NOTE: these are all plausible situations but not direct client quotes or stories.
Subject 3	Not in the united states.
Subject 4	I have not seen this, but once again many people flee from their countries and come to the US because of religious persecution. These people are potentially eligible for status as an asylum here in the US. I could see how some families, already here in the US, might have problems finding a a place to worship in because of a language barrier. All of my clients speak Spanish and have little English skills, so if they live in a small town, which is very southern and rural, they may not have access to a church with services in Spanish.

4. Have you ever directly worked with or heard of an immigration case that involved any aspect of religion? Please describe any applicable experiences.

Subject 1	No I have not.
Subject 2	I have heard of traffickers exerting religious manipulation such as the situations described previously.
Subject 3	This question is very broad. Religion plays a central role in many asylum cases. Faith also plays a part in rehabilitation, which is always an issue where an immigrant must overcome a criminal past. So I have seen many, many cases.
Subject 4	I have not worked directly with one yet, but as I mentioned many asylum claims are religion based and so there are many examples of cases for this, please contact me and I can send you some resources for religion based asylum claims.

5. Please share any thoughts or other experiences you have regarding immigrants' religious rights and freedoms, as well as any general intersections between religion and immigration that come to mind.

Subject 1	I think one of the strongest intersections between religion and immigration is that for many people, they are forced to leave their country because of religious/political persecution. This reality can make for a complex relationship with religion, compounded by trying to practice religion in a new cultural context. At the same time, I think despite the complexity, for many immigrants I have seen them cling even more to their religion during the transition to the US and it has contributed both to their ability to make meaning of their situation and thrive in their new country.
Subject 2	Many low-income immigrants come from religious communities and should be served utilizing a biopsychosocial-spiritual framework according to best practice in behavioral health field. Public and private agencies that serve immigrants are not being culturally sensitive when they brush over or ignore the religiosity of the immigrant.
Subject 3	I think the faith of many of my clients is a big part of how they manage to persevere despite the many hardships they face as immigrants in this country.
Subject 4	My clients are all from similar backgrounds and situations, and I have not seen any impediments or issues with religious freedoms, but once again my clients are children generally fleeing violence in their home countries because of gang violence, government corruption and poverty.

Figure 2. UNC Chapel Hill Internal Review Board Approval

To: Katharine Batchelor
Geography

From: Non-Biomedical IRB

Approval Date: 2/16/2015

Expiration Date of Approval: 2/15/2016

RE: Notice of IRB Approval by Expedited Review (under 45 CFR 46.110)

Submission Type: Initial

Expedited Category: 7.Surveys/interviews/focus groups

Study #: 15-0189

Study Title: Who is the Religious Immigrant? An Examination of the Religious Rights and Freedoms Afforded to Immigrants and the Subsequent Effect on Immigrants' Religiosity

This submission has been approved by the IRB for the period indicated. It has been determined that the risk involved in this research is no more than minimal.

Study Description:

Purpose: To explore an intersection of religion and immigration through a geographical lens. This study aims to determine the religious rights and freedoms granted to undocumented immigrants upon their arrival in the United States. Further, this study aims to explore how the afforded rights shape an immigrant's religiosity as well as to understand the American perceptions of the immigrant as a religious being. This study is being conducted as part of the research for an honors thesis in the Geography Department.

Participants: In an effort to explore the above concepts, I aim to contact organizational professionals that provide services to documented and undocumented immigrants. Such service providers may include humanitarian immigrant attorneys, employment specialists, educational instructors, mental health professionals, health services professionals, and other support service specialists.

Procedures (methods): The main avenue of facilitating this study will be interviews. I plan to send out emails to various contacts in the non-profit community that provides services to immigrants asking for professionals interested in speaking about any experiences they have had related to religion and immigration.

Regulatory and other findings:

The IRB has determined that the study-specific rationale provided by the investigator is sufficient to justify a waiver of written (signed) consent according to 45 CFR 46.117(c)(2).

Investigator's Responsibilities:

Federal regulations require that all research be reviewed at least annually. It is the Principal Investigator's responsibility to submit for renewal and obtain approval before the expiration date. You may not continue any research activity beyond the expiration date without IRB approval. Failure to receive approval for continuation before the expiration date will result in automatic termination of the approval for this study on the expiration date.

Your approved consent forms and other documents are available online at http://apps.research.unc.edu/irb/index.cfm?event=home.dashboard.irbStudyManagement&irb_id=15-0189.

You are required to obtain IRB approval for any changes to any aspect of this study before they can be implemented. Any unanticipated problem involving risks to subjects or others (including adverse events reportable under UNC-Chapel Hill policy) should be reported to the IRB using the web portal at <http://irbis.unc.edu>.

Please be aware that additional approvals may still be required from other relevant authorities or "gatekeepers" (e.g., school principals, facility directors, custodians of records).

The current data security level determination is Level II. Any changes in the data security level need to be discussed with the relevant IT official. If data security level II and III, consult with your IT official to develop a data security plan. Data security is ultimately the responsibility of the Principal Investigator.

This study was reviewed in accordance with federal regulations governing human subjects research, including those found at 45 CFR 46 (Common Rule), 45 CFR 164 (HIPAA), 21 CFR 50 & 56 (FDA), and 40 CFR 26 (EPA), where applicable.

CC:

Elizabeth Olson, Geography

IRB Informational Message - please do not use email REPLY to this address