

Shabbat shalom. I want to thank Rabbi Robbins for giving me an opportunity to address you this morning. Last week, we read parsha Shoftim which described a litany of commandments related to the leadership and administration of judicial, religious, military, and civil matters. This week, Ki Teitzei, picks up where Shoftim leaves off in regard to commandments affecting interpersonal, communal, and civil relationships. In fact, over one-tenth of the Torah's 613 commandments (both positive and negative) are mentioned in Ki Teitzei and they range from laws regarding the return of lost animals and levirate marriage to creditors rights, timely payment of wages, and even, building a parapet on your roof. While these commandments may appear disconnected, there is a strong theme that ties them together: social responsibility.

We are reminded not only in *Ki Teitzei*, but also throughout our tradition to remember the exodus from Egypt and that we were slaves. The permutations of remembering Egypt are many but can be summarized as when a stranger/foreigner resides among you, (a) there shall be one law for both of you and (b) you shall not oppress or wrong him/her because, remember, you too were strangers in the land of Egypt.

Today, I want to discuss strangers/foreigners. Well, we will actually call them immigrants or non-citizens. Specifically, I want to focus on the humanitarian situation along the Southern border.

During the week—and sometimes Sundays—I am an immigration attorney. I work for an immigrant-focused nonprofit legal services organization that advocates for equal justice for Michigan's immigrants, primarily focusing on vulnerable and low-income populations but addressing all matters affecting non-citizens in Michigan. We represent some of these children (and more soon). The ongoing humanitarian situation is something that we should all know about, not just as Americans (or permanent residents), but also as Michiganders because some of the children will be moving here, to Farmington Hills, shortly. Let me explain.

The United States is a nation of immigrants and laws. Every one of us either immigrated here personally or our parents, grandparents, great-grandparents, etc. did so, often fleeing persecution or violence or to start a better life. This is not a new phenomenon. Oppressed and persecuted individuals have always sought refuge in the United States, whether they traveled from Somalia, Iraq, FSU, Cuba, or other nations. The children from the Central American countries of El Salvador, Guatemala, and Honduras, some as young as six, are just the newest group seeking protection. They are the newest iteration of a phenomenon we have seen many times throughout our lives and will continue to see. Why are they coming here?

First, this is not a new phenomenon in Central America. People have been fleeing since the 1980s as a result of civil war and strife. In 2009, the Department of Health and Human Services reports 6,000 unaccompanied children being placed in federal custody. In 2010, 8,092. The number steadily increased. In 2013, that number jumped to 38,833. Before the end of the fiscal year, revised estimates are around 55,000.

Second, gangs. Transnational gangs, like MS 13 and Barrio/Calle 18, in effect, operate with

impunity in these nations. The gangs support themselves through the drug trade and kidnapping. Governments are unable to stop them and, in many cases, the local police are often complicit in their activities. When a boy is ten or eleven years old, he will likely be pressured to join a gang with significant consequences for refusal or failing to pay protection. These can be attacks against the child and/or the child's family. This is one of the main reasons why Honduras has the highest murder rate in the world. Girls, on the other hand, may be pressured into the sex trade by these same gangs. To avoid gang entrapment, parents or guardians often make the decision to send their children on a perilous journey to the United States, through Mexico, to escape the endemic violence and gangs. Sometimes, the children are making this decision and leaving on their own.

Third, family reunification. It is very common phenomenon for children in Central America to grow up with grandma or an aunt because mom and/or dad is living in the United States. Mom is sending back remittances to support her extended family in Honduras or Guatemala. The child may have not seen their parent for ten or more years, so, naturally, wants to reunite with mom in North Carolina or New Jersey. Imagine...

Fourth, misinformation. The coyotes and smugglers who extort thousands of dollars from these children and their families are deliberately spreading false information about *permisos* (work authorization) available to children who arrive before a specific date, right now October 2014. Why? Because it works for business and they get paid, regardless of what happens to the children. This scarcity approach has convinced thousands of parents to borrow more money than they can pay back in order to send their children to the United States believing (a) that the children will get work authorization right away and (b) that the child can then sponsor the parent. Neither of these claims are true nor have they ever been true.

So what happens to the children if they miraculously survive the perilous journey through Mexico, often on top of freight trains or stowed away in buses? The majority, in fact, walk up to a port-of-entry in Brownsville, El Paso, Nogales, or elsewhere and present themselves to a border patrol officer and request asylum. Remember, we are a nation of laws. And under our immigration laws, anyone who requests protection at any U.S. border is permitted to apply for immigration relief, regardless of age or nationality.

If it were an adult requesting asylum, border patrol might place him/her in immigration detention until s/he could be released on bond. Thankfully, we treat children differently because, well, they are children. Children do not go to jail. There was a federal court settlement in 1997 affirming that children be placed in the "least restrictive setting." Rather, within 72 hours, the unaccompanied child must be turned over from the Department of Homeland Security to the Department of Health and Human Services's Office of Refugee Resettlement which administers our federal foster care program.

Two of the largest federal foster care providers are here in Michigan—Bethany Christian Services and Lutheran Social Services of Michigan. Both Bethany and Lutheran have administered short-term and long-term placements and reunited children with their families for decades. They have

excellent, caring, and capable staff. If there is a suitable family member in the United States to place that child with, s/he will often go there as soon as that person is identified and is capable of care. It may be a reunification with a parent or guardianship with a relative. If reunification is not feasible—for lack of a relative or if abuse/neglect/abandonment exists—the child will be placed with a longer-term foster care family. Whether with a family member or in foster care, the child will be treated like a child. S/he will go to school and live like other children do. However, his/her case will still be proceeding through immigration court at the same time.

Immigration is an area of civil law. That means that individuals in immigration court, unlike anyone charged with a criminal offense, will not be provided attorneys at government expense under the Sixth Amendment. S/he must provide their own. It is tremendously unlikely that the child, his/her parent or guardian, or the foster care family has the resources to pay for a private immigration attorney. Unfortunately, when the child has his/her hearing in immigration court, s/he must meet the same burden as any other person requesting asylum or other relief. If the child cannot provide adequate evidence, the case will be denied and s/he will be deported. To be eligible for asylum for example, the child will need to prove that s/he has a well-founded fear of persecution by the government (or the government is unable to protect him/her) on account of his/her political opinion, race, religion, national origin, or membership in a particular social group. This is not easy to prove. It is unlikely that MS13, after beating up the child, will write a note explaining the reasons why it did so AND that the child was able to bring that note to the United States. Essentially, that is the level of evidence needed to prevail in an asylum claim.

Thus, when you hear or read that the majority of these children will be returned to El Salvador, Guatemala, and Honduras, it is not because they do not have viable legal claims. Rather, it is that they do not have anyone to make the claims for them. Recent statistics from Syracuse University show that children who appeared unrepresented have, since 2005, a 10% chance of staying lawfully in the United States. With counsel, that number jumps to 47%. In the legal service world, we are working with local law schools and legal service providers to train non-immigration attorneys to handle these cases pro bono, including MSU College of Law which has a robust Immigration Law Clinic with three nationally-renowned experts on these juvenile matters. Unfortunately, these are complex cases and often, take years to go through the immigration courts so it is not always easy to find an attorney willing to take the case. There are less-involved opportunities for family law attorneys when it comes to the guardianships.

About 124 children have come to or through Michigan from January 1 to July 31. The number might be a little misleading as it could indicate that at any given time, there are 124 children in the short-term group homes and foster care facilities awaiting placement OR, that only 124 children have arrived since January and are in a short-term placement, long-term placement, with relatives, and/or with guardians. I would guess the former because the programs, for safety reasons, do not disclose this information as it might tip off human traffickers and gangs.

If no extended family can be found, the majority of children will be placed with foster-care families near Grand Rapids because that is where the largest Central American population lives. However,

we do have smaller pockets of Central Americans in Detroit and Ypsilanti. Of course, children can be placed in non-Central American homes and both Bethany and Lutheran are looking for foster care families around the state. In Farmington Hills, Wellspring Lutheran Services is operating a short-term group home for 24 boys, ages fourteen to seventeen. To my knowledge, they have not arrived yet but when they do, the children will be enrolled in school like any child in any foster care program.

So why did I ask to speak about this situation?

- (1) To demystify what is happening. This is a humanitarian situation that did not happen overnight. It has been occurring for decades but the numbers are now increasing.
- (2) We must remember that the children coming to the United States are just that, children. They are not criminals. They are not in gangs. If anything, they are fleeing gangs. Accordingly, they must be treated as children.
- (3) These children are not illegals. No human being is illegal. Illegal should refer to an action (such as illegal immigration), not a person (illegal immigrant). A person is, perhaps, here without authorization or undocumented, but not illegal. From a grammar point of view, illegal is an adjective.
- (4) We must remember that we are a nation of immigrants. While some of our ancestors entered the United States lawfully, many did not. Over the centuries, xenophobic American lawmakers continuously sought to restrict the flow of immigrants, ranging from banning the Chinese altogether in the late 19th century to severely limiting Eastern/Southern Europeans in the early 20th century to denying hundreds of thousands fleeing Nazi persecution prior to and during WWII.

Yet, America still beckoned the world over to those seeking refuge. Emma Lazarus's "The New Colossus", engraved on the pedestal to the Statue of Liberty, reads:

Give me your tired, your poor,  
Your huddled masses yearning to breathe free,  
The wretched refuse of your teeming shore.  
Send these, the homeless, the tempest-tost to me,  
I lift my lamp beside the golden door!

We, as Americans and Jews, ought to keep these words close as they mirror both our national and religious heritage. In *Ki Teitze*—and throughout the Torah—we are reminded of being strangers in Egypt and because of this, must act kindly to those in our midst. Further, our tradition requires that we act compassionately to the widowed, orphaned, and impoverished. The Torah mentions over and over that there shall be one law for you and the stranger among you. And when the stranger is a small child fleeing the most violent nation on earth, we must remember these values and act accordingly. Our heritage and nationality requires this of us. Shabbat shalom.