Abolitionist futures and the US sanctuary movement

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Abstract: This article focuses on the histories, current challenges, and future directions of the sanctuary movement in the United States, which is becoming a central front of resistance to the administration of Donald Trump. The article is comprised of three main components. It discusses the history of the US sanctuary movement and situates it in the context of the rise of neoliberalism and its attendant escalating criminalisation, particularly since the 1980s, when the first iteration of the movement began. The article then discusses the limits of sanctuary, rooted in the movement’s liberal framework that risks reproducing the exclusions it has sought to dismantle. It nevertheless argues for the importance of sanctuary in opposing the Trump regime, while advocating that the movement adopt a more radical framework and solidarity-organising strategies inspired by the prison abolition movement.

Keywords: abolition democracy, Central America, criminalisation of migrants, Immigration and Customs Enforcement, Immigration and Naturalization Service, sanctuary movement, solidarity politics, Trump administration, Welcoming City Ordinance

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I write in April 2017 from the United States, which has come under the command of a new executive branch. Since the new president announced his run for the office in June 2015, the world has witnessed the rise of a candidate once dismissed as a joke to taking control of the US’s most powerful political office. We are beginning a long struggle. Donald Trump, who rode a platform of racism, xenophobia, misogyny, homophobia and corporate capitalism, is the president of the most powerful nation-state in the world; the commander-in-chief of the most lethal military force the planet has ever seen; and the head of the most expansive, yet unaccountable, surveillance apparatus ever assembled.

Since taking office, he has wasted no time in deploying violence against a range of targets, bombarding the public with a slew of executive actions in his first few weeks. These orders seek to: dismantle the Affordable Care Act, which provided health insurance to an estimated 20 million people in 2016; augment immigration enforcement, largely through arrests and deportations; build a wall on the US-Mexico border; and prohibit the entry of all migrants from seven (later revised to six) Muslim-majority countries, among many other restrictions, in the notorious ‘Muslim ban’. Three additional executive orders bolster policing and broadly expand the definition of what counts as criminal activity. The president also signed a memorandum supporting the Keystone and Dakota Access Pipelines which indigenous and environmental activists have been fighting since they run through multiple indigenous nations, violating their treaty rights and endangering the land and water with lethal pollution. Yet another memo strips funding from global health initiatives that provide access to safe abortions. And, even as he rode to office on purportedly populist bases, he is aggressively supporting the wealthiest 1 per cent through corporate and financial deregulation, substantial tax cuts, and other neoliberal economic policies that promise to further decimate the working and middle classes.

Though overwhelming, the new administration’s actions do not mark an un-American break from US history. All Trump did was channel currents of fear and hatred fundamental to US culture and politics. To be clear, this continuity does not mean that what we are seeing today is mundane. It is not. To argue otherwise is to normalise the terror stoked in millions of people. But we must also consider what is different about this moment: any veneer of democratic liberalism has been stripped away; instead, we have an autocratic leader who combines open disdain for democratic institutions and principles (whether a free news media, the Constitution, or the courts) with an embrace of corporate leadership that not only seeks to privatise everything public, but also envisions the people not as citizens, but as fans or adversaries. And this attack on democratic governance is wrapped in direct attacks on marginalised communities, as exemplified by the aforementioned executive orders. Our strategies must thus navigate between allowing the new administration’s vicious actions to normalise all that has come before it – that has, indeed, paved the way for it – and allowing our recognition of these deep histories to normalise our current condition. We should, too,
recognise that our familiarity with these troubling political conditions also means that we have resources to challenge the new regime. The resistance is already on the move – mobilising protests, filing lawsuits, organising immigrant communities against deportations, and more.

The sanctuary movement has emerged as a prominent front of this multifaceted struggle. Originally established in the 1980s and reinvigorated since the early 2000s, this movement encompasses a coalition of religious congregations, local jurisdictions, educational institutions, and even restaurants, that commit to supporting immigrants, regardless of status. Emerging from congregations that have provided shelter to refugees and immigrants under threat of deportation, the movement has spread to city, county and state governments that have passed sanctuary policies that limit their cooperation with federal immigration authorities in tracking down and deporting undocumented immigrants. The sanctuary campus movement has further unfurled across the US, with students, faculty and staff at over 200 colleges and universities petitioning their institutions to protect undocumented students from deportation, as well as primary and secondary schools and school districts mobilising to protect immigrant students and parents. Organisers and institutions that commit to sanctuary share an overriding concern with valuing immigrants as central members of their communities and protecting them against their increasing criminalisation and threats of deportation by the federal government. As it moves forward, the sanctuary movement is confronting crucial questions over its framework and limits. What does it mean to provide sanctuary under an emerging autocratic regime that targets not only immigrants, but everyone except the 1 per cent who are white, heterosexual, cis-gendered men? What resources does the history of the sanctuary movement provide for an expansive politics of defending each other in the face of invigorated state violence, one that resists co-optation into liberal multicultural strategies incapable of grappling with such sweeping violence?

In what follows, I examine the history, limits and potential of the sanctuary movement in the United States, seeking to heed its cautionary lessons, and argue for radicalising its purview for the work ahead. On the one hand, sanctuary provides a ground floor for survival and a strategy of resistance against the violence mobilised against targeted populations like immigrants and Arabs and Muslims. On the other hand, dominant approaches to sanctuary operate with two limitations – one of historical analysis and another of political framing – that constrain its political horizon. The first limitation emerges from an interpretation of history that obscures the neoliberal foundations that have paved the way for the criminalisation of targeted peoples – including those of colour, immigrants, and Arab and Muslim people. Furthermore, the sanctuary movement has functioned within a liberal democratic framework that not only confines its potential intervention, but can also lead it to reproduce the very exclusions it seeks to challenge. To mobilise against the political forces that target such broad swathes of people, I
argue, it must adopt abolitionist strategies that not only grapple with populations under duress, but also with the structures through which they become targeted.

**Histories of sanctuary in the US**

As its name indicates, the sanctuary movement traces its roots to religious philosophy, as well as in histories of resistance movements to state injustices. The term indicates a site of refuge where the authority of God prevails over the authority of the government. Its genealogy extends back to the origin stories of Exodus and of Jesus, Mary and Joseph, stories that speak to our obligation to welcome the stranger. Historically, civil authorities recognised religious sanctuary as providing temporary refuge for people accused of breaking state laws in the Graeco-Roman and early Christian era, under Roman Catholic law, and under seventeenth-century English common law. US history also provides historical examples of sanctuary; for example, in the Underground Railroad and resistance to the Fugitive Slave Acts (1793, 1850). Abolitionists not only defied these federal laws by helping slaves escape to freedom, but, as historian Eric Foner highlights, states and courts also obstructed the federal government, passing state laws prohibiting their officials from assisting in recapturing escaped slaves and using writs of habeas corpus to prevent the return of recaptured slaves.4

While drawing on these deep foundations, the term ‘sanctuary’ as used in the movement remains unbound by a specific or legal definition. Instead, its meaning has adapted over time in specific locations, with each iteration adjusting scope according to its particular conditions. The sanctuary movement began in the 1980s to challenge the US government’s refusal to grant asylum to certain Central American refugees and later revived in response to the escalating deportations of undocumented immigrants in the 2000s. Now, communities are building on these foundations as they confront the intensified white supremacy and nationalist xenophobia fomented by the new administration.

Faith-based groups in the US Southwest initially drove the movement of the 1980s, with eight churches publicly declaring sanctuary in March 1982.5 These congregations responded to the predicament of people fleeing the Dirty Wars of El Salvador and Guatemala that ultimately became proxy battlegrounds of the cold war. As part of its foreign policy of containing communism while facilitating capitalism in the Third World, the US supported the military governments that brutally suppressed leftist and indigenous opposition movements, ultimately killing more than 75,000 Salvadoreans and 200,000 Guatemalans.6 Because it fostered the violence that forced people to flee their homes, the US state refused to recognise Salvadorean and Guatemalan refugees as such, thereby affirming its support of gross human rights violations. It instead declared nearly all refugees from these countries ‘economic migrants’ fleeing not persecution and death, but ‘mere’ poverty.7 Whereas the overall approval rate for refugee admissions between 1983 and 1991 stood at about 24 per cent, the Immigration and
Naturalization Service (INS) granted asylum to only 2.6 per cent of Salvadorean and 1.8 per cent of Guatemalan claims, this summary denial achieved in part by disregarding due process, obstructing legal counsel and using imprisonment and abuse as deterrents to future applicants.\(^8\) The US government repatriated the vast majority of refugees to the deadly conditions they had escaped.

It was this unjust law that sanctuary activists openly violated. As John Fife, a minister and movement leader, wrote in a letter to Attorney General William Smith: ‘Southside United Presbyterian Church will publicly violate the Immigration and Nationality Act … [W]e will not cease to extend the sanctuary of the church to undocumented people from Central America. Obedience to God requires this of all of us.’\(^9\) Over ten years, hundreds of congregations joined the movement, offering transportation, shelter, food, legal aid and medical care. As the movement grew, about twenty city and state governments across the nation also joined, by passing policies of non-cooperation with the INS.

The federal government, under President Reagan, responded by criminalising the movement. Though the churches had openly communicated their activities, the FBI launched an undercover investigation, with infiltrators capturing nearly 100 hours of recordings. In 1986, federal courts convicted eight sanctuary activists for ‘masterminding and running a modern-day underground railroad’ that ‘smuggled, transported, and harbored’ ‘illegal aliens’.\(^10\) While prosecutor Donald Reno proclaimed that the case sounded ‘the death knell for the sanctuary movement’,\(^11\) the trial actually emboldened it. Not only did the number of sanctuary congregations double, but the case also offered organisers a platform to speak against the unjust laws they defied in defence of refugees. They represented themselves not as criminals, but as champions of moral law.\(^12\)

Although peace accords in Central America closed this first iteration of the sanctuary movement in the early 1990s, the criminalisation of migrants only intensified. As discussed below, immigrants, particularly the undocumented, have become increasingly swept up for exclusion and deportation. In 2006, Elvira Arellano took sanctuary in the Adalberto United Methodist Church after exhausting all options for legal recourse to her deportation order.\(^13\) Responding to the predicament of immigrants like Arellano, the New Sanctuary Movement (NSM) launched during a meeting of representatives from cities and religious organisations in January 2007.\(^14\) As during the 1980s, the NSM involves religious congregations, which have provided shelter and direct aid to immigrants under deportation orders, as well as local jurisdictions that limit cooperation with Immigration and Customs Enforcement (ICE). Because immigration enforcement lies under the purview of the federal government, local jurisdictions can choose to assist ICE or not on a voluntary basis. Even the judiciary and Justice Department had long argued that immigration enforcement should rest with federal agencies. And while this jurisdictional distinction has withered with the escalating criminalisation of immigrants, local jurisdictions are not
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required to co-operate with ICE. Indeed, ‘localities may face liability for enforcing civil immigration laws’, the Immigrant Legal Resource Center emphasises. However, even though the federal government remains responsible for immigration enforcement and ICE retains the largest staff and budget of all federal law enforcement agencies, ICE still does not have enough manpower or resources to sweep away millions of people on its own. It therefore depends on the assistance of local authorities to identify and hold removable immigrants in pursuit of wide-ranging deportations.

This dependence on non-federal assistance also means that localities’ refusal to collaborate with ICE can blunt the force of its deportation regime. This is the central force and logic driving the sanctuary movement among the cities, counties, and states that have passed policies affirming their commitment to immigrants and non-cooperation with ICE. While local sanctuary declarations cannot prevent ICE from using its own staff and resources to execute its work, they do resolve to deny collaboration with ICE. Sanctuary policies range from refusing to detain immigrants on its behalf, use local police to enforce civil immigration laws, lease jail beds for immigrant detention, and/or allow ICE officers access to local jails. Sanctuary policies can further prohibit local government agencies from inquiring about immigration status or place of birth and restrict the use of local resources for immigration enforcement. For example, both Cook County and Chicago, whose ‘foreign born’ population stands at 21 per cent, adopted Welcoming City ordinances, sanctuary policies that ensure equal protection for immigrants and prohibit requesting information about immigration status, disclosing immigration information to federal authorities, or enforcing civil immigration laws. These ordinances dramatically reduced the number of detainer requests to Cook County Jail (requests to hold a person after they should be released so that ICE agents may take them into custody), from 1,400 in the year before the sanctuary policy to seventy in the year after. As ICE assistant field office director James McPeek stated, ‘Once the ordinance started, it went to zero.’

Since the 2016 election and the promises of the administration to deport millions of undocumented immigrants and prohibit the entry of all Muslim persons, the number of sanctuary jurisdictions has jumped, from a few dozen in 2010 to more than 600 nationwide in 2017. The non-cooperation of local municipalities has provided important protections for immigrant communities and will be critical to stifling the administration’s anti-immigrant purge (see, for example, Figure 1). And so the Trump administration is attacking sanctuary, seeking through executive orders and budget proposals to compel local jurisdictions to fulfil ICE detention requests, rather than rely on their voluntary assistance. Before arguing for an abolitionist vision of sanctuary, I want to first pause and take stock of the history of neoliberalism and criminalisation that has created the conditions the sanctuary movement must contest, as well as the cautionary lessons the sanctuary movement provides for the work ahead.
Neoliberalism and criminalisation

The Trump administration’s current attacks on vulnerable people have roots in the deep histories of US racist and gendered exclusions and in the more recent rise of neoliberalism and its attendant processes of criminalisation, crucial to securing its political and economic order. As the following historical sketch demonstrates, though cast as violators of the law and therefore deserving of discipline, criminalised populations are in fact produced as an effect of the law, which has ensnared them through an ever-expanding scope of law-breaking behaviour.22

Building on the already expanding grounds for mass incarceration,23 the Reagan administration asserted a tough stance against crime and ‘illegal’ immigration, promoting the War on Drugs and intensifying border control and regulation of immigrants. It passed laws and policies like Operation Pipeline (1984) that funded, trained and militarised police forces committed to fighting the War on Drugs. Local policing strategies emerged to deploy these federal policies and funding streams. Most notably, broken windows policing, which advocates a zero tolerance approach to minor infractions as a means to maintain social order, has criminalised socially annoying, benign conduct like loitering and crimes of poverty like unauthorised street vending.24 As ‘the political expression of neoliberalism at the urban scale’, broken windows policing ‘has regulated space appropriate for capital, targeting the poor, people of color, queers, trans and gender-nonconforming people, immigrants, the homeless, and youth when their...
existence is not conducive to the accumulation process,’ 25 Jordan Camp and Christina Heatherton argue. These policing strategies not only terrorise entire communities, but they also create the contact with law enforcement that can ultimately lead to an immigrant’s deportation.

Reagan-era law enforcement policies ensnared immigrants in their breathtaking sweep. For example, the Anti-Drug Abuse Act (1988) not only instated mandatory minimums for drugs like crack cocaine, but also created the ‘aggravated felony’, which applies only to non-citizens, rendering them deportable and ineligible for asylum. While originally specifying drug and arms trafficking and murder, the category has since expanded to include misdemeanours that are neither aggravated nor felonies, like failing to appear in court. 26 The federal government also passed immigration-specific laws like the 1986 Immigration Reform and Control Act (IRCA), which ballooned the INS budget and stretched immigration enforcement into the US interior.

This criminalisation of immigrants, always tied to the escalating criminalisation of targeted populations, has continued to intensify. In the pivotal year 1996, President Bill Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Antiterrorism and Effective Death Penalty Act (AEDPA). Together, these laws drastically entrenched the criminalisation of immigrants, even documented long-term residents, by hardening punishments for immigration infractions and constricting due process. They also swelled the list of ‘aggravated felonies’ and made their deportation mandates retroactively applicable – meaning, an immigrant could be removed years after serving their sentence, even if they committed the offence before its inclusion in the category’s ever expanding terms. 27

September 11, 2001 marks another watershed, as these devastating terrorist attacks granted the George W. Bush administration broad authority not only to mobilise existing laws like AEDPA and IIRIRA but also to pass new, sweeping policies in the name of national security. The signature PATRIOT Act further limited due process, expanded AEDPA’s provisions to US citizens, and created the Department of Homeland Security (DHS), which houses ICE and Customs and Border Protection (CBP), the newly created replacements of the INS. Moving these agencies to the DHS, whose mission is ‘to secure the nation from the many threats we face’, 28 casts immigrants as a threat to national security. These escalated practices of surveillance, detention and deportation targeted ‘persons who appear “Middle Eastern, Arab, or Muslim”’, a new racial category consolidated by 9/11 in which, as legal scholar Leti Volpp argues, ‘members of this group are identified as terrorists, and are disidentified as citizens’. 29 For example, the National Security Entry-Exit Registration System (NSEERS) required men from twenty-four Muslim majority countries and North Korea to be interviewed and registered. Of the approximately 84,000 individuals who came forward between 2002 and 2003, nearly 14,000 were placed into removal proceedings. Eleven had suspected terrorist affiliations. 30
surveillance, arrest, detention and deportation to pursue Arab and Muslim people, it could mobilise them against different groups identified as threats, whether criminal, ‘illegal’ or terrorist.

The Bush administration also unleashed multiple policies aggressively intensifying immigration enforcement. This enhanced policing of immigrants occurred amidst broader debates over comprehensive immigration reform, which mobilised immigrant communities nationwide to fight for their rights and protest their increasing criminalisation. For example, on May Day 2006, grassroots activists organised huge ‘Day Without an Immigrant’ rallies for immigration reform that brought hundreds of thousands of people to the streets of seventy cities across the country.31 These immigrants enacted a form of citizenship through active, public political engagement in the community.32 Against such demonstrations of citizenship, however, the US government deployed an escalating arsenal of strategies to discipline immigrant communities. Operation Streamline (2005) moved the prosecution of unauthorised crossings of the US-Mexico border from civil to criminal courts, where a fast-track ‘judicial assembly line’ determines migrants’ cases en masse with effectively no due process.33 In October 2006, Congress passed the Secure Border Act, authorising the construction of hundreds of miles of fencing along the US-Mexico border. In May 2006, just weeks after the May Day rallies, ICE initiated Operation Return to Sender, which, as DHS Secretary Michael Chertoff asserted, sought to ‘crack down hard’34 on ‘illegal’ immigration. These ICE raids swept up nearly 2,200 immigrants in the first month. While justified in terms of public safety, emphasising the capture of sexual assailants and gang members, the majority were arrested on administrative immigration violations. Further, as with the ‘aggravated felony’, the definition of ‘criminal alien’ is so expansive that it ensnares migrants whose only ‘crime’ is entering the US without authorisation.

Bush administration policies also withered the distinction between federal and local law enforcement, thereby expanding the manpower to capture immigrants. The administration mobilised the 287(g) programme created by IIRIRA that deputises local police, essentially turning them into ICE-like officers.35 It also launched the notorious Secure Communities (S-Comm) programme (2008–2015) that required local police to detain any arrested person flagged by ICE until its agents could pick them up. Because S-Comm pursued people at the moment of arrest, it swept up people who would never be charged with a crime.36 Again, ICE emphasised that S-Comm targeted dangerous criminals, but in fact over half of the people removed have no criminal convictions.37 It even apprehended citizens through regular policing practices.38 President Obama enhanced these policies, tripling the ICE budget, earning him the disreputable moniker ‘deporter-in-chief’, responsible for removing 2.5 million immigrants.39 Meanwhile, the concurrent targeting of Arab and Muslim immigrants as suspected terrorists never abated. The same year S-Comm launched, the US Citizenship and Immigration Service (USCIS) introduced the Controlled Application Review and Resolution Program
(CARRP), a ‘secret program’ that indefinitely delays the determination of visa, green card, and citizenship applications of anyone who may ‘pose a threat to national security’. Between 2008 and 2012, CARRP affected more than 19,000 people from twenty-one Muslim-majority nations, indicating that it targets Muslim migrants under a thin cover of national security.

This recent history of criminalisation shows that the Trump administration has a robust foundation on which to build its platform to further target marginalised populations. We have been living with aggressive policing practices, miles of border fencing, ICE raids, and the exclusion and surveillance of Muslim and Arab communities for decades. To reiterate, the administration’s actions are not exceptional and should not be used to normalise this history. But what we are seeing now is not normal. In its efforts to ‘Make America Great Again’, the new administration has wasted no time in terrorising its targets by creating chaos. For example, the disorderly roll out of the ‘Muslim Ban’ – with no preparation with DHS or CBP and confusion even within the White House – led to disarray at airports across the US and internationally, marked by CBP detentions of travellers at airports and the resistance of protesters in response (see Figure 2). Indeed, creating chaos seems integral to the new administration’s ruling strategy, with the Muslim ban providing what Laleh Khalili has identified as a ‘prototype for the anti-democratic political process’ the new administration seeks to implement. This terror reaches beyond airports to the nation’s interior, with increased border patrol checkpoints...
up to 100 miles inside US borders and with ICE raids invading urban spaces nationwide. In the first week of February 2017, ICE agents arrested nearly 700 immigrants in a dozen states and have continued to arrest immigrants outside their homes, workplaces and children’s schools; as before, many are ‘criminal aliens’ only by virtue of their undocumented status. While ICE refers to the Obama-era sweeps to claim that these arrests are ‘routine’, Trump asserted, ‘The crackdown on illegal criminals is merely the keeping of my campaign promise.’

These ‘crackdowns’ and the chaos they induce do not operate solely by banning and removing millions of immigrants from the United States. They function to further ostracise those who remain, effectively disciplining them by instilling a radical insecurity that they or their family or neighbours could be next. These state technologies – the ban, border checkpoints, ICE raids, and so on – and discourses casting targeted people as national threats produce what immigration scholar Rachel Ida Buff calls the deportation terror that, for immigrants, ‘creates a culture of fear, which in turn, constitutes de facto immigration policy’. Indeed, the disciplining reverberations of this state terrorism seem to be the point. ICE raids have terrorised immigrants into staying home from work, keeping their children home from school, and entering public space in general. Even rumours of ICE raids or leaked documents bolster the strategy. While speaking to the millions of US voters who supported Trump precisely because of his attacks on immigrants, Muslims, and other marginalised people, these executive actions also seek to make the US so terrifying to migrants that they will no longer come to the country or will ‘self-deport’, as Attorney General Jeff Sessions suggested and as seen in the migrations of refugees fleeing the United States for Canada. But the deportation terror depends not just on federal policies and enforcement actions, but also on daily interactions with local public services, like police, courts, schools, hospitals and regular people. And this is where the sanctuary movement intervenes – through local practices that combat this orchestrated insecurity of vulnerable peoples.

Cautionary histories

Sanctuary – of congregations and of local jurisdictions – stabilises access to substantive rights and provisions; only people who can go to the hospital, take their children to school, and move in public space can take these abilities for granted. On a practical level, it sets up potential confrontations between local and federal governments and offers a first line of defence against immigration enforcement. Indeed, San Francisco has already sued the new administration, challenging the constitutionality of its attack on sanctuary cities. Sanctuary policies – as proclamations of widely held public values – can also operate in civil society to highlight the injustice of a raid, arrest, detention, or deportation order and to consolidate public opposition under its banner, even if that opposition ultimately fails to secure the targeted immigrant’s safe harbour. Indeed, Elvira Arellano’s predicament and her effort to ward off deportation launched the NSM as a
national movement. However, the fact that the US ultimately deported Arellano points to the limits of sanctuary.

As they stand, many existing sanctuary policies leave much leeway for law enforcement to circumvent their protections. Since the president took office, ICE has found ways to meet its deportation orders despite sanctuary policies, which, while refusing cooperation, cannot ban ICE from performing its work on its own. ICE agents have stalked courthouses, accosting people and crosschecking publicly posted bond sheets against DHS databases. As ICE spokeswoman Virginia Kice confirmed, ‘because many of the agency’s arrest targets provide false address information, locating these individuals at a courthouse is, in some instances, the agency’s only likely means of affecting their capture’.50 Furthermore, while city officials, including police chiefs, have reaffirmed their sanctuary commitments even in the current climate of intensifying hostility, some police officers have not. ‘Make no mistake about it’, Ed Mullins, the New York Police sergeants’ union president, asserted, ‘the members of law enforcement in the NYPD want to cooperate with ICE.’51 As these workarounds indicate, a core component of the deportation terror lies in the mundane policing practices that create contact with ICE-friendly police officers, court cases, bond lists and so on. The centrality of law enforcement in targeting immigrants also means that processes of criminalisation and policing practices in general, not solely for immigrants, must be core arenas in the fight for true sanctuary.

The limits of sanctuary, however, emanate not just from external forces of the state, but also from the movement’s history of espousing liberal frameworks that affirm the legitimacy of law enforcement, thereby neutralising its ability to contest the invigorated terrors sweeping the US. The religious congregations that physically harboured refugees and immigrants have maintained their own selection requirements. Some participant churches in the 1980s screened refugees, providing safe harbour to those who were ‘high risk’ with a story of abuse so compelling that it might influence public opinion on US foreign policy. While criticising the US state’s disregard of Salvadorean and Guatemalan refugees as ‘illegal aliens’, these congregations nevertheless selected deserving refugees in ways that risked reproducing the logic of the system they challenged. And while the scope of the NSM among churches has expanded to encompass anyone facing deportation orders, it, too, selects immigrants ‘whose legal cases clearly reveal the contradictions and moral injustice of our current immigration system’. The chosen must be facing a deportation order and have US citizen children, a ‘good work record’, and a ‘viable case under current law’.52 These criteria were important for the public relations component of the movements, which called for the refugees of the 1980s to perform their plight as refugees and for the immigrants of the 2000s to perform the role of the ‘good immigrant’ and thereby expose US policy failures.

While existing local sanctuary policies can obstruct ICE, they nevertheless ultimately prove insufficient safeguards for immigrants, given the far-reaching information sharing between agencies and the ever widening definition of ‘criminal’
behaviour. Because of the breadth of DHS’s reach, even the strongest sanctuary jurisdictions are still enmeshed in its infrastructure and weakened by the use of shared federal immigration databases. Police regularly share the fingerprints of anyone they arrest with the FBI, which then transfers to DHS databases. Thus, even if local officials do not inquire into a person’s immigration status and ultimately drop the charges against an immigrant, ICE will still learn about the arrest. Many local sanctuary policies also emphasise law-abiding immigrants and exclude those even alleged to have committed a felony.

Chicago’s Welcoming City Ordinance provides a telling example. Its provisions hold true ‘unless an agency … is acting pursuant to a legitimate law enforcement purpose.’ Specifically, its protections do not apply if an immigrant under investigation has a criminal warrant, a felony conviction, a pending felony charge, or if s/he has been identified as gang member in the police database. These exceptions to sanctuary are broad. An immigrant does not have to be convicted to be excluded, and, as noted, the ‘aggravated felony’ has expanded to include such minor contraventions as shoplifting. Furthermore, the gang database sweeps up people not for gang activity but for signs of gang affiliation that, according to the Chicago Police Department (CPD), include wearing baggy pants and untucked shirts, and merely associating with known gang members. Toddlers have been included in similar databases, and it is difficult to even know if you are included on them. Resonant with terrorist watch lists that target Arab and Muslim people, gang databases purport to promote public safety from violent criminals, but in fact racially profile Black and Latina/o people, who are vastly disproportionately represented. These exceptions to sanctuary essentially communicate that immigrants with mere affiliation to expansive definitions of crime have lost the privilege of sanctuary, that they are not welcomed in the welcoming city.

Furthermore, sanctuary policies often justify their protections in terms of law enforcement objectives. Again, Chicago’s ordinance emphasises, the ‘cooperation of all persons, both documented citizens and those without documentation status, is essential to prevent and solve crimes and maintain public order’. It thereby binds its notion of sanctuary to the policing practices that purportedly secure these interests. Yet policing in Chicago shows that ‘maintaining public order’ involves violating the very communities the sanctuary ordinance purports to provide with a safe haven. The CPD consistently operates through racist policing practices, from spectacular abuses like the killing of unarmed Black teenager Laquan McDonald to the torturing of suspects in the ‘domestic black site’ of Homan Square. Research by activist groups like We Charge Genocide, independent task forces and federal agencies have shown that racial profiling, abuses of (lethal) force, and a culture of impunity pervade the CPD. The Chicago police are ten times more likely to shoot Black people than whites and four times more likely to search the cars of Black and Latino/a drivers. In early 2017, the Justice Department released its 161-page report on the CPD illustrating ‘a picture of a department that does not enforce the law, but frequently operates outside of it’. As its past and present demonstrate, the CPD does not protect all Chicagoans. It
has instead proven to be an assailant and taker of life, targeting Black and Latina/o people, who are cast as the threats that must be subdued in service of public order.

Many existing sanctuary policies operate within the framework of liberal democracy and law, even of law and order, conveying that immigrants should be included in our communities, but implicitly conceding that their membership is provisional. By selecting certain immigrants or carving out exceptions, religious congregations and local governments play into a dichotomy that valorises ‘good immigrants’ against unspoken ‘bad immigrants’, who do not deserve protection. Such liberal versions of sanctuary challenge the US state’s exclusions, but only to expand the terms of inclusion, rather than to disrupt their logic altogether. Indeed, they draw on terms of neoliberal subjectivity – law-abiding, hard-working, gainfully employed, and normatively reproductive contributors to the economy (always at depressed wages precisely because they lack the full protections of citizenship or documentation) – that are part of the problem. Liberal sanctuary shores up the notion that undocumented immigrants deserve inclusion in the community, but contingent on their submission to the capitalist extraction of their labour and to the state’s (racialised) criminal justice apparatuses. While sanctuary policies refuse cooperation with ICE, in the final analysis they grant the state legitimacy over law enforcement. But any bind tying sanctuary to law enforcement objectives negates the meaning and purpose of sanctuary, despite best intentions. As the history outlined above elucidates, what counts as a crime is not static, but is constantly shifting, indeed, expanding.

Put differently, criminalisation is a process that produces criminals as objects to be feared and therefore targeted for discipline, punishment, and removal via incarceration and deportation. As the escalating criminalisation of immigrants, supposed terrorists, and even sanctuary indicates, criminalised people ‘are unable to comply with the “rule of law” because US law targets their being and their bodies, not their behavior’. As immigration scholar Lisa Cacho argues, such persons, whose criminalisation is written on their bodies, ‘do not have the option to be law abiding’, regardless of how hard-working, family-oriented, and deferential to law enforcement they try to be. Thus, though many immigrants and their advocates respond to federal deportation regimes by asserting that they are not criminals, this defence does not destabilise, but affirms, the legitimacy of criminalisation overall, even while demanding exception to it. The core paradox of liberal sanctuary lies here: being a law-abiding, ‘good’ immigrant will not save you as long as the state can determine what it means to be a law-abiding, ‘good’ immigrant.

**Abolitionist approaches to sanctuary**

Even with its limits and contradictions, sanctuary nevertheless offers a mode of resistance to the current administration, but it will also need to continue to adapt to this era, as the logic of criminalisation expands to ensnare more and more people.
Beyond its grounded interventions of non-cooperation and safe harbour, sanctuary already performs conceptual work that can undermine the criminalisation of migrants and other vulnerable peoples. Whether through official policies or popular struggle, sanctuary seeks to secure local commitments to all people living in a given community, thereby enacting a notion of citizenship that is not beholden to the sovereignty of the nation-state. Sanctuary policies exemplify the translation of supranational human rights discourses into subnational contexts. Human rights provide an established lexicon that can make legible the demands for rights made by those excluded from the domain of national citizenship. Yet, while offering a powerful discursive formation, human rights can rely on few mechanisms to enforce its claims, especially when challenging state sovereignty. This constitutes the enduring difficulty of the disjuncture between the articulation of human rights principles and the enforcement of human rights institutions. Local jurisdictions, however, can draw on the political intelligibility of human rights to break out of the state’s narrow conception of the proper subject of rights recognition, while also backing up those demands through its governance structures. Even the provisional protections of sanctuary policies, insufficient as they are, give some institutional support to their ethical claims.

Sanctuary thus not only marks a sub-national contestation of the federal policies that criminalise the mere presence of our neighbours, but also acknowledges that mere presence secures membership in our social and political community. It recognises a broader conception of citizenship beyond the legal status privileged by the state and communicates to undocumented people that legal status matters less than the fact that you are here with us. It suggests an understanding that, as long as the US state implements exclusionary immigration policies, we will have undocumented immigrants living in our communities. It is immigration law, Mae Ngai argues, that produces the ‘illegal alien’ whose ‘inclusion within the nation [is] simultaneously a social reality and a legal impossibility’. Sanctuary recognises this social reality – the enduring presence of ‘impossible subjects’ – and attempts to navigate this legal impossibility, however imperfectly. But the future of sanctuary depends not only on closing the loopholes in current policies. More importantly, it will require a radical vision of what it should stand for in these dire times.

As discussed above, mundane policing practices are fundamentally classed, racialised and gendered in the US in ways that target marginalised people by profiling certain bodies and the spaces they inhabit. Broken windows policing constitutes just one arm of the practices of state violence whose ubiquity renders them ordinary, even as they kill people for selling cigarettes, walking in the street, shoplifting, playing with toy guns, changing lanes without using a turn signal, experiencing mental health crises, fighting with one’s family, or holding a mobile phone. And yet, the fact that these practices are so pervasive means that the connections for building an expansive vision and a radical movement that challenges different forms of domination already exist. As the multitudinous attacks on indigenous land and life ways, immigrants, Muslims, Jews, women, people of
colour, and queer and gender non-conforming people show, the new administration is fortifying the violence tying our fates together and highlighting the urgent need for a multitudinous front of struggle. A radical sanctuary depends on mobilising these connections that the state has already made and the Trump administration seeks to thicken.

Activists across the US recognise not only that people can be targeted by multiple, intersecting forms of domination, but also that defending one group demands defending all oppressed peoples. These organisers are already building this solidarity movement – from the Movement for Black Lives advocating for sanctuary and ‘an end to all deportations, immigrant detention, and ICE raids’ to Arabs for Black Power articulating a geography of ‘Ferguson to Palestine’ that ‘connects anti-Blackness as well as anti-Muslim and anti-Arab racism in the US with global imperial wars in the rest of the world’, to the indigenous activists who declared that there would be ‘no ban on stolen land’. Welcoming the excluded into the US, these indigenous activists not only asserted their claims on US territory as its original peoples, but also challenged the state’s sovereignty, arguing that, as a settler nation, the US ‘does not have the final say on who or what comes into the country’ or ‘exclusive ownership over who and what counts as human’, as Nick Estes of the Lower Brulé Indian Reservation stated. Estes draws on both indigenous politics that fundamentally refuse to recognise the legitimacy of the US state and on human rights frameworks that challenge the exclusions central to defining a nation’s citizenry. He thus articulates another way of asserting claims to the social and political community – which is the precondition for (human) rights to have meaning – that are not beholden to the nation-state, but are instead created by members of the community, particularly those dehumanised by the US, cast as illegal, terrorist, criminal, expendable.

These models of solidarity politics suggest that the future of the sanctuary movement must fight for all oppressed peoples. This effort will require obstructing forces of state violence at all levels of government, but it will also require creating alternatives and positive investments in the communities targeted for removal and suppression. Put differently, sanctuary must take an abolitionist perspective. In tracing its genealogy to the Underground Railroad, the sanctuary movement is already linking its project to abolitionist histories, which it can extend to contemporary movements for prison abolition and what Angela Davis calls ‘abolition democracy’, which ‘is not only, or not even primarily, about abolition as a negative process of tearing down, but it is also about building up, about creating new institutions’. Abolition democracy seeks to dismantle prisons and the economic, social, and political conditions that feed them; but it is, more importantly, an affirmative process of creating the world we want to live in – one in which we refuse to solve problems by resorting to violence or to create (illusions of) safety for some by violating others. An abolitionist vision of sanctuary, then, would continue to fight against federal immigration enforcement like ICE raids, as well as local policing practices that criminalise entire communities through gang databases and broken windows tactics – all of which would reduce arrests
and diminish the pipeline feeding deportations. Accordingly, while liberal sanctuary contests the federal government’s threat to defund sanctuary cities, an abolitionist approach might embrace this threat, to lose police funding, as a positive divestment from agents of state violence and criminalisation. As important are affirmative investments – in legal representation for immigrants and refugees, in enhancements to the public defender system overall, and, fundamentally, in ‘community institutions that provide long term safety’, like quality schools, housing, and hospitals, as Mijente, a radical Latinx organisation leading the sanctuary movement, has argued.

While some of these strategies look to government agencies to pass policies beyond the purview of civil society, the sanctuary movement must also grapple with the contradictions of looking to the state to address the problems the state itself creates. Indeed, as they increasingly invest in neoliberal economic and social policies – fatally coupling anti-state divestments from the social good with massive investments in militarisation, policing, and totems to sovereign power like walls – state agencies at all levels are hurling us deeper into the crisis that the sanctuary movement is confronting. The chaos of the first weeks of the new presidency enacts a ‘strategic attack on democracy’, that produces such radical uncertainty as to destroy the ground from which resistance could be mounted. But as Khalili notes, the onslaught of attacks coming from the White House has also fomented a resurgent demos engaging in democratic assembly, protest, and speech against the state violence we oppose and for the support of each other. The solidarity organising that must drive the sanctuary movement cannot rely on institutions to save us. And this organising is about defending and protecting each other, but it is also, fundamentally, about protecting the very grounds of democracy, of our ability to defend each other in the first place.

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References

2 The most updated information on the sanctuary campus movement is maintained by Xavier Maciel on this map: https://www.google.com/maps/d/u/0/viewer?ll=42.23127622934998%2C-92.93801341977522&hl=en&z=4&authuser=0&mid=1LcIME474-lYWbTf_xQC hlhSSN30.
3 I write from the perspective of a professor at a large, public research university in the United States who is organising for the campus sanctuary movement. I offer this critique humbly, recognising that my analysis builds on the work – both academic and activist – that many others have done for years, even decades, for which I am deeply grateful.


The ILRC identifies seven broad types of sanctuary policies: no ICE holds (the jail will not hold an arrested person until ICE can pick them up for deportation); no 287(g) (officers will not perform the work of ICE agents); no ICE Detention Contract (the jail will not accept payment to hold immigrants during deportation proceedings); no ICE alerts (the jail will not inform ICE when a person is about to be released so ICE can pick them up); limits on ICE in local jails (ICE cannot enter the jail for interrogation purposes without a warrant); prohibitions on inquiries into immigration status and/or place of birth (local government employees will not ask any person’s immigration status or place of birth); and general prohibitions on use of resources to
assist immigration enforcement (a locality will not allocate any resources to assist immigration enforcement, including police assistance). A single jurisdiction may include several in its overarching policy. Graber and Marquez, *Searching for Sanctuary*, p. 5.


32 As Volpp argues, ‘civic participation in the political community’ remains a central component to the definition of citizenship, beyond the conferral of status or rights. Leti Volpp, ‘“Obnoxious to their very nature”: Asian Americans and constitutional citizenship’, Asian Law Journal 8 (2001), p. 78.


36 ‘Secure Communities (S-Comm)’, ACLU, [website], https://www.aclu.org/other/secure-communities-s-comm (accessed 4 April 2017).


39 Obama replaced S-Comm with the Priority Enforcement Program (PEP) in 2015, which supposedly narrowed the criteria for deportation, but has removed immigrants with no


53 Graber and Marquez, Searching for Sanctuary, pp. 5 and 9.

54 City of Chicago, ‘Welcoming City Ordinance’.


58 Winston, ‘You may be in California’s gang database’.

59 City of Chicago, ‘Welcoming City Ordinance’.


64 Lisa Cacho, Social Death, pp. 6, 8. Her emphasis.


66 See the cases of Eric Garner, Michael Brown, Tamir Rice, Shelley Frey, Sandra Bland, Rexdale Henry, Jeanetta Riley, Mah-hi-vist Goodblanket, Kayden Clark and Daniel Covarrubias. Stephanie Woodard, ‘The police killings no one is talking about’, In These Times, 17 October


71 The federal money Sessions is threatening to pull from sanctuary cities is the Edward Byrne Memorial Justice Grant allocated to police departments that has been crucial to the War on Drugs. Charlie Savage, ‘Sanctuary cities face aid cuts as Justice Dept. tightens screws’, New York Times, 21 April 2017, A10.


73 In addition to the policy agenda of the Trump administration, the same city governments contesting federal immigration policies are enacting neoliberal policies that will further devastate targeted communities. For example, Chicago has committed to hire nearly 1,000 new police officers by the end of 2018 at the cost of $135 million annually, even though it not only has the second largest police force in the nation but has also divested from public education, closing forty-nine schools primarily in working-class neighbourhoods inhabited by people of colour. Indeed, 87 per cent of students in Chicago’s public schools come from low-income families, and more than 90 per cent are from ‘minority families’. Monica Davey, ‘Chicago to hire many more police, but effect on crime is debated’, New York Times, 21 September 2016, https://www.nytimes.com/2016/09/22/us/chicago-to-hire-many-more-police-but-effect-on-crime-is-debated.html (accessed 4 April 2017). Doreen S. Ahmed-Ullah, John Chase and Bob Secter, ‘CPS approves largest school closure in Chicago’s history’, Chicago Tribune, 23 May 2013, http://articles.chicagotribune.com/2013-05-23/news/chi-chicago-school-closings-20130522_1_chicago-teachers-union-byrd-bennett-one-high-school-program (accessed 4 April 2017)

74 Khalili, ‘With Muslim ban’.