

**PROTECTING, CONTESTING,
AND ILLEGALIZING MIGRANTS:**

**THE ROLE OF THE SANCTUARY CITY
IN CONTEMPORARY U.S. IMMIGRATION POLICY**

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Dedication

A mi mamita y papito, who have given me nothing but unconditional love, support, and a thirst for knowledge since I arrived here. You have instilled in me such trust and confidence (and hubris...) that I know I can achieve anything I put my mind to, and that I will always be okay.

A mi Majito, without whom I would not have made it this far. Gracias por tu amor, tu fuerza, tu apoyo y tu amistad infalible. May we reach many more milestones at each other's sides.

A los migrantes, visible and invisible, who live in precarity around the world and without basic freedoms, this work is dedicated to you.

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Abstract

According to Loren Collingwood and Benjamin Gonzalez O'Brien, a 'sanctuary city' is defined as a locality or legal entity that has passed a resolution or ordinance expressing their refusal to cooperate and information-share with federal immigration enforcement authorities. In other words, sanctuary cities represent established protected communities that, through the adoption of sanctuary policies and practices, are intended to create a buffer between federal immigration law enforcement (such as ICE and CBP) and illegalized migrants at risk of deportation. As many scholars argue, including Harald Bauder, Muzaffar Chishti and Faye Hipsman, Jonathan Petts, and Nicholas de Genova, since the 1980s and the rise of the Sanctuary Movement, sanctuary cities play a dynamic role in immigration in their reception of migrants, protections from arrest, detention, and deportation, and assistance with integrating migrants into civil society. With a consistent increase in migrant arrivals at the U.S.-Mexico border, specifically, Central Americans seeking refuge from regional conflicts and destitute conditions, the sanctuary city emerges in a unique position. While many of these sanctuary and migration scholars cite the sanctuary city as an intriguing global phenomenon, there is a significant gap in the current literature on the multifaceted nature and function of the modern sanctuary city. The investigation explores the dynamic role of the sanctuary city, specifically the unique role of New York City, in contemporary U.S. immigration policy. This includes, principally, how they respond to and resist anti-immigrant politics, how they protect vulnerable migrant communities and are a driver of inclusion yet are also exploited and used as a broker for exclusion, how they are contested regarding their legitimacy, and efficacy, and how they pose a consistent threat to federal enforcement authorities and restrictionist border practices.

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Introduction

Existing between and across borders, sanctuary cities play a principal role in American contemporary immigration policy. With a consistent rise in cross-border migration along the southern border¹, specifically that of Central Americans escaping political and economic destitution, civil and gang violence, climate change, and in search for a better livelihood, the U.S. immigration system finds itself in the spotlight. As migrant arrivals increase and overwhelm the southern border, federal measures of border securitization are intensifying. Migrants at the border have faced an exhaustive revamping of the border violence originating in the mid-1800s, amplifying in the wake of the Mexican-American War. In the 20th and 21st centuries, this violence has newly taken the form of militarization en masse through practices of surveillance, the border wall, mass deportation, detention and family separation, deterrence methods, and continued vigilante violence along the border. In effect, sanctuary cities emerge in a special position, posing a powerful response to this continued violence and exclusion by the state against non-citizen migrants. As will be discussed in Chapter 2, sanctuary cities represent self-proclaimed protected communities, established at the local level through the adoption of sanctuary policies and practices meant to create a buffer between federal immigration authorities and irregular² migrants at risk of deportation. Many sanctuary cities (or ‘safe cities’) were created to allow migrants residing in the U.S. to report crimes to local law enforcement without

¹ Migrant arrivals at the U.S.-Mexico border surpassed 2 million in August of the fiscal year 2022, including Title 8 Apprehensions, Title 8 Inadmissibles, migrants seeking asylum and processed at ports of entry, and Title 42 Expulsions. Camilo Montoya-Galvez, “Annual U.S. Border Arrivals Top 2 Million, Fueled by Record Migration from Venezuela, Cuba, and Nicaragua.” CBS News. CBS Interactive, September 20, 2022.; “Southwest Land Border Encounters.” U.S. Customs and Border Protection, Last edited April 14, 2023.

² See Chapter 2, Illegality, Illegalization, and Irregular Migrants.

fear or intimidation of being detained and deported.³ This was achieved by localities “limit[ing] the extent to which it will volunteer resources in support of federal immigration enforcement agents’ responsibility to enforce immigration law,” pushing against the federal government’s ability to question migrants’ immigration status, gather information on migrants, detain them, and deport them.⁴ While their legality and function have changed over time, sanctuary cities have long influenced federal immigration policy since rising to prominence in the 1980s, and this thesis argues that they will be essential in forming a blueprint for a more inclusive, nonviolent, and capable immigration system.

The purpose of this thesis is to examine the role of sanctuary cities in the U.S.’ contemporary immigration system in the past six years to reveal the complex politics at play surrounding irregular migrants, specifically those without documentation, residing in the country. This investigation explores how sanctuary cities today respond to and challenge anti-immigrant politics disseminated from federal and state immigration law and scrutinizes the actions of several political leaders and the anti-immigrant agendas they pursue. I dissect the sanctuary city as a concept and a practice by investigating its origins, its legality and efficacy, its supporters and opponents, its vulnerability to exploitation, and its functions within immigration policy. I will illustrate how they work to keep migrant communities safe, yet are levied as scapegoats by select federal actors, such as for alleged increases in crime and as a solution to increasing migrant arrivals, for the purpose of excluding migrants from resettling and integrating. In other words, sanctuary cities not only respond to federal and state policy, but they are simultaneously undermined by policies challenging their jurisdiction, creating a cycle in which

³ See Naomi Tsu, “What Is a Sanctuary City Anyway?” Learning for Justice, May 22, 2017.

⁴ Naomi Tsu, “What Is a Sanctuary City Anyway?” Learning for Justice, May 22, 2017.

the sanctuary city evolves. Moreover, sanctuary cities intended to safeguard migrants from federal punishment can concomitantly contribute to the vulnerability of irregular migrants who find themselves still not entirely out of the federal government's reach.

This investigation proves significant for several reasons. Firstly, as many scholars note, the southern border has been a quintessential site of struggle dating back to the Mexican-American War and the Treaty of Guadalupe Hidalgo in 1848 which established the “territorial and legal sovereignty of the two nations by securing US rule over what was formerly Mexican territory” and ceded almost half of Mexico's territory to the U.S., thusly annexing 100,000 ethnic Mexicans.⁵ The border's rich history and the ramifications of this violence have long since challenged our traditional conceptions, for example, of the ‘migrant’, the ‘family’, the ‘nation’ and the ‘border’, and the ‘citizen’. In centering the southern border crisis and the migratory flows it bears witness to that frame contemporary U.S. immigration policy, this thesis aims to contribute to the vast existing scholarship on migration and bring to light the very real consequences of restrictionist border politics and anti-sanctuary policymaking on migrant bodies. The topic of government policymaking brings us to another source of significance, which is this thesis' discussion of the legislative tensions between local, state, and federal actors on irregular migrants. Chapter 2 delves into these tensions, the conflict over sanctuary jurisdictions that vary in scale, and how they shape sanctuary cities. Lastly, this thesis serves to integrate the current literature on illegality and illegalization with that of ‘sanctuary’ to demonstrate how immigration policy, namely the role of the sanctuary city within it, is sustained by the continuing *illegalization* of migrants.

⁵ Joshua J. Kurz and Damon T. Berry, “Normalizing Racism: Vigilantism, Border Security and Neo-Racist Assemblages.” *Security Journal*, 2015, 28(2): 151.

Following this section is an overview of the methods and methodology used in my research investigation, introducing this thesis' temporal scope and Chapter 3's case study. Chapter 1 begins by introducing several theoretical frameworks and key terminology, drawing on existing literature on sanctuary and sanctuary cities, as well as studies of illegalization, and the varying terminology used to identify migrants today. This discussion serves to typify the kinds of practices that compose the urban sanctuary city as well as locate this thesis within the larger body of International Relations scholarship. Chapter 2 traces the historical beginnings of the sanctuary city to its modern applications today. It then presents the debate between the dominant perspectives surrounding the role sanctuary cities play currently in immigration policy and how it challenges existing methods of migration management. Chapter 3 draws inferences from this debate to introduce a case study of New York City (NYC) as a contemporary sanctuary city. This chapter delves into the political, legislative, and judicial conflict that follows sanctuary cities as they try to establish themselves and gain legitimacy in acts of resistance against the federal government. Further, it will cover recent trends of political exploitation and instrumentalization by actors faulting fewer restrictionist policies for domestic instability against the backdrop of a worsening homelessness and housing crisis in NYC. Finally, the Conclusion will review the theoretical and empirical findings of the thesis, reiterate the purpose and significance of this investigation, and address further implications for both sanctuary city research and policy.

Methods and Methodology

This investigation is supported by a range of qualitative sources, both primary and secondary, and presents various statistical evidence throughout. Primary sources include

government legislation, reports, speeches, and statements from local actors such as police forces and county sheriff associations as well as from federal actors including U.S Presidents and departments. These sources are highlighted especially in Chapter 2 to frame the role of the government and immigration authorities in creating and contesting sanctuary cities, and then in Chapter 3 to set the scene for New York City’s journey to becoming one of the most noteworthy sanctuary cities in the U.S. Other primary sources like legal jurisprudence, congressional legislation, and governmental reports are also used. My sources also include reports from humanitarian and immigration organizations, such as the American Immigration Council, Migration Policy Institute, and International Organization for Migration, that serve to deepen the debate introduced in Chapter 2 through a more bottom-up, local perspective. Secondary sources include peer-reviewed journal articles and books, as well as an array of news articles, specifically from *The New York Times* in an effort to narrate the capricious situation of irregular migrants in NYC in Chapter 3.

While the scope of this thesis reaches back to the 1980s Sanctuary Movement,⁶ it focuses more on 21st-century developments, specifically the role and treatment of sanctuary cities under the Trump and Biden administrations. This is because the sanctuary city rose to special prominence during this period and the existing literature on the topic is interrogated within a similar scope. Notably, during the Trump administration, there were multiple efforts to erase the sanctuary city, such as his proposed Executive Order 13768 in 2017 that would defund sanctuary cities nationwide and his Attorney General’s efforts to remove the Department of Justice’s jurisdiction over sanctuary cities.⁷ Then, with the rise of COVID-19, the Trump administration

⁶ See Chapter 2, A Brief History of Sanctuary.

⁷ Jonathan Petts, “What Is ‘Sanctuary’ and How Does It Help Immigrants?” Immigration Help, May 30, 2022.

implemented extremely restrictive border policies that led to a stark increase in sanctuary cities, including Migration Protection Protocols, Safe Third Country Agreements, increased ICE raids and deportations, political attacks against DACA, and the invocation of Title 42⁸ in a continued effort to curb immigration from the southern border. Now, under President Biden - whose campaign promises largely depended on rescinding Trump's more hardline immigration policies - the sanctuary city has only come under further scrutiny.⁹ The administration has yet to end 287(g) agreements established in the Trump era that foster cooperation between local law enforcement and federal agencies to target irregular migrants and the DHS under Biden continues scrutinizing the sanctuary city, pushing for higher information-sharing and cooperation to make taking action against immigrants more tenable.¹⁰ Further, the U.S.-Mexico border witnessed a record number of approximately 2.4 million migrant arrivals in the fiscal year 2022, with unprecedented levels from Cuba, Venezuela, and Nicaragua¹¹ and well above the 1.7 million encounters in the fiscal year 2021, as reported by U.S. Customs and Border Protection

⁸ Title 42 is a presidential provision allowing the President to act extraordinarily and in emergency, usually through Executive Orders, specifically during a public health crisis as established in Section 265 of the Public Health Service Act. Before 2020, the statute was "last invoked in 1929 to bar the entrance of ships during a meningitis outbreak." "Title 42 Explained." Puente Human Rights. Accessed April 28, 2023.; Azadeh Erfani, "5 Facts about Title 42: Why Congress Should Not Codify the Trump-Era Expulsion Policy." National Immigrant Justice Center, July 27, 2022. As COVID-19 broke out in 2020, President Trump and Stephen Miller weaponized the provision to allow a shut-down of the southern border and, for the first time, implement mass 'Title 42 expulsions of migrants residing in the US without due process and stifle family-reunification processes. Title 42' creates a "shadow deportation system that moves quickly and is accountable to no one," having expelled almost 200,000 migrants living in the US and separated hundreds of families, keeping children in hotels guarded by private contractors hired by the US government [...]" Joseph, McKeown, "Asylum: Last Week Tonight with John Oliver." Daryanani Law Group, PC., October 30, 2020.

⁹ See Angelika Albaladejo, "Biden Promised to Protect Sanctuary Cities So Why Is Ice Still Partnering with Local Cops?" Capital & Main - Investigating Power & Politics. Capital & Main, June 9, 2022.

¹⁰ *Ibid.*

¹¹ Southwest Land Border Encounters." U.S. Customs and Border Protection, Last edited April 14, 2023.

(CBP).¹² This includes apprehensions and expulsions of those who entered illegally, as well as “22,437 migrants and asylum seekers processed at official ports of entry.”¹³

The situation has been exacerbated by lawmakers such as Texas’ Governor Abbott who launched a encumbering anti-immigrant campaign in April of 2022, continuing today, of bussing migrants arriving at the southern border to northern cities with sanctuary policies in place to relieve the burden of receiving migrants off of border states and goad the federal government into mounting a response to the border crisis.¹⁴ Whether they just crossed the border or had spent previous time in border shelters,¹⁵ newly arrived migrants are being tracked via DHS phone devices, GPS ankle bracelets, and telephonic reporting,¹⁶ and then forcibly relocated to sanctuary cities, such as Chicago, New York City, Washington D.C., and Philadelphia. This mass relocation is resulting in the severe overcrowding of homeless shelter systems and resources in place in receptor cities tasked with welcoming these incoming arrivals. While this thesis omits a discussion of the profound ethical implications of such heedless border control methods due to the limited space, the recent decisions of leaders like Abbott to mobilize the sanctuary city for

¹² See Ariel G. Ruiz Soto, “Record-Breaking Migrant Encounters at the U.S.-Mexico Border Overlook The Bigger Story.” Migration Policy Institute, October 25, 2022.

¹³ Camilo Montoya-Galvez, “Annual U.S. Border Arrivals Top 2 Million, Fueled by Record Migration from Venezuela, Cuba and Nicaragua.” CBS News. CBS Interactive, September 20, 2022.

¹⁴ Brian Bushard, “‘Purposefully Cruel’: Philadelphia Mayor Slams Texas Gov. Abbott as First Bus of Migrants Arrives.” *Forbes*. *Forbes Magazine*, November 17, 2022.

¹⁵ See Camilo Montoya-Galvez, “Annual U.S. Border Arrivals Top 2 Million, Fueled by Record Migration from Venezuela, Cuba and Nicaragua.” CBS News. CBS Interactive, September 20, 2022.

¹⁶ In 2004, the Enforcement and Removals Operation (ERO) under ICE, “res-pon-si-ble for managing detention as well as individuals and families released from ICE detention into the interior of the United States while their cases are pending or removal is deferred for other reasons,” began implementing “alternatives to detention” (ATD) programs to closely monitor those “non-detained” by ICE. These technologies mainly refer to the “use of ankle bracelets that employ GPS location monitoring, smartphone applications (SmartLINK) that utilize both facial recognition and GPS location monitoring, and telephonic reporting using frequent telephone check-ins (TR or voiceID).” “TRAC Immigration - Comprehensive, independent, and nonpartisan information about immigration enforcement,” Transactional Records Access Clearinghouse (TRAC), Syracuse University. Sandra Sanchez, “Record number of DHS phones, tracking devices assigned to migrants,” *Border Report*, October 3, 2022.

their own political gain are central to the current discourse surrounding sanctuary practices and will be discussed here at length.

Centered within this timeline is the growth of New York City as a sanctuary city; although introduced in Chapter 2, it is prudent to address here why this city has become such a crucial site at which sanctuary policies play out and why NYC makes for a valuable study. In addition to Albany, Ithaca, Franklin, Nassau, Onondaga, and St. Lawrence, New York City is a municipality with a range of policies preventing and discouraging local officials from cooperating with federal immigration authorities.¹⁷ Further, New York City in 2019 was the only locality in the state whose sanctuary policies were claimed by elected city officials, demonstrating the city's enduring commitment to protecting its vast immigrant community and welcoming new immigrants.¹⁸ Following New York City's long history of immigration and being a gateway for undocumented immigrants,¹⁹ the extension of sanctuary to (im)migrants has remained a priority for politicians and pro-immigrant, human rights activists in the city. In 2018, NYC boasted a record number of 3.1 million immigrants, making up nearly 38% of the population and 45% of the city's workforce.²⁰ As a result, NYC's sanctuary practices have become ubiquitous with several administrations passing legislation reducing local-federal

¹⁷ See Ethan Stark-Miller, "Where Are New York's Sanctuary Cities?" City & State NY. City & State New York, July 6, 2021.

¹⁸ *Ibid.*

¹⁹ Entities for migrant reception in New York City have historically included church and social service organizations, civil rights organizations such as the NAACP and ACLU, cultural organizations (especially Jewish and pan-Latino-led organizations), governmental assistance organizations, as well as Dreamer organizations and immigrant-led aid organizations. See Waters et al., "Immigrants in New York City: Reaping the Benefits of Continuous Immigration." American Academy of Arts & Sciences, March 25, 2021.; Nicolás Ríos, "Organizations Serving Immigrants in New York." Documented, August 28, 2020.

²⁰ Additionally, around 1 million households in NYC are reported to have at least one undocumented member. "State of Our Immigrant City, Annual Report March 2018." NYC Mayor's Office of Immigrant Affairs. March, 2018, pp. 9-12."

cooperation, refusing to honor ICE detainer requests, and decreasing the presence of immigration officials in city-run facilities.²¹ The city has repeatedly urged the executive branch in its efforts to secure the nation's borders to keep in line with the U.S. Constitution and its protections in relation to immigration laws and protections.²² In conclusion, New York City as a prominent place of sanctuary can be understood as a microcosm of the larger immigrant community across the U.S. - a community in which irregular migrants, many of whom are undocumented, continue to struggle for inclusion and pathways to residency while fighting for their safety and legal freedoms. My analysis will also lay bare how this struggle occurs *inside* cities of sanctuary, often under the pretense of sanctuary, which to some extent can undermine and challenge the measures taken to protect migrants within these areas. This underlying contradiction and its potential impacts will be explored more in later sections.

Chapter 1. Theoretical Approaches

Defining the “Sanctuary City”

To effectively investigate the role of the sanctuary city as part of immigration policy necessitates first an understanding of the term itself. As several migration and sanctuary scholars and organizations have pointed out, including Harald Bauder, Muzaffar Chishti and Faye Hipsmaning, Jim Corbett, Linda Rabben, and the American Immigration Council, the sanctuary city has come to mean many things. It is both a misnomer as well as an umbrella term.

Addressing this former issue: the sanctuary city is *not* always pertaining to a physical city, *nor*

²¹ “Executive Order No. 124 City Policy Concerning Aliens.” Nyc.gov, The City of New York, Office of the Mayor. August 7, 1989: 1-3.

²² *Ibid.*

does it offer sanctuary in the colloquial sense. While Chapter 2 offers a brief historical background of the sanctuary city, tracing the evolution of present-day sanctuary cities from the ancient religious practice of extending sanctuary to persecuted peoples, this section will define the operational term ‘sanctuary city’ as it is referenced throughout this thesis. According to the American Immigration Council, the term is “a misnomer when used to describe community policing policies which attempt to eliminate fear from those who worry that reporting a crime or interacting with local law enforcement could result in deportation.”²³ This is an important distinction; sanctuary policies are merely an obstacle for federal immigration authorities, but they do not nullify federal law. Instead, sanctuary policies are greatly contested.²⁴ Bauder sympathizes with this statement in his article “Sanctuary City: Policies and Practices in International Perspective,” “[U]rban sanctuary policies and practices do not eliminate illegalization; they merely enable illegalized migrants to better cope with their circumstances. Thus, sanctuary cities do not tackle the root of the problem but rather make life less difficult under the condition of illegality.”²⁵ Bauder’s statement includes irregular migrants already in targeted communities, not only those newly arrived in the U.S. which is also important as the term ‘sanctuary city’ inaccurately evokes a sense of security for and untouchability of illegalized migrants residing in these cities. Not only do sanctuary cities fail to insulate migrants from federal action like deportation, but the term has been also used by anti-immigrant rhetoric that

²³ “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

²⁴ See Chapter 2.

²⁵ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 177.

strategically extends an imagined power to the sanctuary city that it is thought of to actually supersede federal immigration law - instead of merely rebuking it.²⁶

Addressing the latter issue, ‘sanctuary city’ can also be problematic as it is a *catch-all phrase*. In reality, sanctuary policies “can be adopted at the state, county, or city level, or even by individual jails” and can be disseminated through “legislation, executive decree, or law enforcement agency policy,”²⁷ These policies involve a wide range of actions: including refusals to honor ICE or CBP detainer requests to hold migrants without a warrant or beyond the maximum time allotted in that locality (typically 48 hours); prohibiting the use of local funding and resources to aid in federal investigations or surveillance of migrants²⁸; prohibiting federal authorities from inquiring about migrants’ immigration statuses and recording or disseminating this information²⁹; restricting local compliance with 287(g)³⁰ and other cooperative ‘trust agreements’ with the federal government; and restricting the presence of federal immigration officials at city-run sanctuary facilities. For the purposes of this thesis, I built off Collingwood and Gonzalez O’Brien’s definition, defining ‘sanctuary city’ as a city or locality in which the

²⁶ See Chapter 2.

²⁷ Muzaffar Chishti and Faye Hipsman, “Sanctuary cities come under scrutiny, as does federal-local immigration relationship”. Migration Information Source – Policy Beat. Migration Policy Institute, 2015.

²⁸ Muzaffar Chishti and Faye Hipsman, “Sanctuary cities come under scrutiny, as does federal-local immigration relationship”. Migration Information Source – Policy Beat. Migration Policy Institute, 2015.

²⁹ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” International Migration, 2017. 55(2): 177.; See also San Francisco’s “City of Refuge” city ordinance (1989) and city resolution (1985)

³⁰ 287(g) agreements refer to the 287(g) program, named for Section 287(g) of the Immigration and Nationality Act (INA) which became law under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), promotes the cooperation and compliance of state and local law enforcement officers with federal immigration authorities and law. “Section 287(g) of the INA allows the Department of Homeland Security (DHS) to enter into formal written agreements (Memoranda of Agreement or MOAs) with state or local law enforcement agencies and deputize selected state and local law enforcement officers to perform certain functions of federal immigration agents” (i.e. within ICE, CBP). The program has historically targeted individuals with little to no criminal history, and has been detrimental to the communities’ trust in local authorities. “The 287(g) Program: An Overview.” American Immigration Council, July 9, 2021.

local government or local law enforcement entity (such as police departments or county sheriff offices) has passed a resolution or ordinance explicitly stating their non-cooperation, anti-information sharing, and community policing efforts, such as those aforementioned.³¹ Sanctuary *practices* in this thesis will specifically refer to localities implementing community policing and protections that overall aim to shield migrants from unlawful arrest, detention, and deportation, as well as methods of legalizing and regularizing migrants³² such as issuing migrants forms of legal identification.³³ Sanctuary practices may encompass sanctuary policies. This thesis will also use the term sanctuary *jurisdiction(s)* to signal areas with these policies and legislation in place, reflecting areas that have written migrant protections into law and is thus what is cited when the federal government takes unwarranted action against immigrant communities.

I introduce these distinctions to emphasize that ‘sanctuary city’ remains an umbrella term and there is no singular definition nor an established framework for what it constitutes. Therefore, anyone that deploys the term, such as I do here, should do so cautiously and with specific reference to the location, policies, practices, and subjects of sanctuary in question.³⁴ As this essay will explore, the sanctuary city, perhaps for this very reason, is so easily generalized and mobilized by actors to further various political narratives. What is important to this essay is that the general approach of the modern sanctuary city in the United States, and specifically in my case study, New York City is two-fold: 1) to stifle the powers of the federal government in targeting irregular migrants and limit the local government’s role in enforcing federal

³¹ Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019, Introduction and Chapter 1.

³² See Chapter 1, Illegality, Illegalization, and Illegal (Im)migrants

³³ See Chapter 3.

³⁴ It is also worth noting that “sanctuary cities” do not look the same globally, even though the term is used interchangeably. See Harald Bauder’s “Sanctuary City: Policies and Practices in International Perspective” which examines how sanctuary policies and practices vary greatly across national contexts.

immigration laws and 2) to participate in the inclusion, integration, and safeguarding of irregular migrants in vulnerable communities through means not extended by the federal government, such as legal identification or social assistance.³⁵ In these two objectives, the sanctuary city is akin to an emergency first responder. This specific function of the sanctuary city is crucial to its definition; the sanctuary city embodies, according to Bauder, a “contextualized response to these structural forces” working to target, exclude, and oftentimes harm migrants at the federal level.³⁶ In other words, the sanctuary city and its advocates cannot be detached from the anti-immigrant agenda historically infused into the politics of the U.S. federal government - a history too long to recount here. Bauder claims, “What motivates these activists and local political authorities is a dissatisfaction with exclusionary national policies toward migrants and refugees, and the desire to elevate the urban as the scale at which membership in the community and the policy is enacted.”³⁷ James (Jim) Corbett, Quaker activist, sanctuary theoretician, and one of the original leaders of the 1980s Sanctuary Movement, echoed this sentiment in his characterization of the movement as a “civil initiative” rather than “civil disobedience.”³⁸ Corbett asserted that “sanctuary as civil initiative had at its core the contention that, in assisting Central Americans on their journey to the United States and shielding them within houses of worship, sanctuary activists were not breaking national and international refugee law, but rather were upholding the law against the U.S. government’s immoral and illegal actions to curb the flow of migrants,”

³⁵ See Chapter 3.

³⁶ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 175.

³⁷ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 183.

³⁸ Linda Rabben, “The Twentieth-Century Heyday of Asylum.” In *Sanctuary and Asylum: A Social and Political History*, University of Washington Press, 2016, p 136.

namely the refusal to grant asylum for Central American refugees.³⁹ Corbett’s theoretical conceptions of the sanctuary city is of vital importance because it frames sanctuary actors as civil activists, holding the federal government accountable for its violation of domestic and international law, instead of civil insubordinates who are, through their work, themselves in violation of the law. This approach largely undergirds the analysis presented in this essay that questions who is at the center of sanctuary city politics and whose actions are deemed legitimate. This thesis builds on the theoretical scholarship presented in this section and in the following section to emphasize how they translate into policy and law directly affecting irregular migrants and underscore how and why the sanctuary city proves so relevant today in challenging anti-immigrant, illegalizing practices.

Illegality, Illegalization, and Illegal (Im)migrants

Central to the topic of sanctuary cities is the notion of migrant illegality, as the function of sanctuary city actors in the U.S. is largely to fight for migrant legalization in response to illegalizing national immigration laws and practices.⁴⁰ According to Nicholas P. De Genova, an eminent scholar of migration, borders, and citizenship, “migrant illegality (much like citizenship) is a juridical status that entails a social relation to the state.”⁴¹ In other words, it is a status and subsequent identity label imposed on certain individuals based on the state’s perception and subsequent incorporation into the state. This perception is argued by scholars Kristin Yarris and

³⁹ Adam Waters, “Alternative Internationalisms: The Sanctuary Movement and Jim Corbett’s Civil Initiative,” *Diplomatic History*, November, 2022, 46(5): 987.

⁴⁰ See Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 174.; Harald Bauder, “Why we should use the term ‘illegalized’ refugee or immigrant”, *International Journal of Refugee Law*, 2014, 26(3): 327–332.

⁴¹ Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 422.

Heide Castañeda in their article “Discourses of Displacement and Deservingness: Interrogating Distinctions between ‘Economic’ and ‘Forced’ Migration” is often based on “deservingness”.⁴² This deservingness follows a standard set by the state in which some individuals (and their families) are deemed worthy of receiving certain benefits like healthcare, having access to certain institutions such as schools or banks, or demonstrating the political rights allotted to them such as protesting or voting, while others are deemed unworthy.⁴³ Natasha King, another prominent migration scholar and activist, echoes this statement and emphasizes the role of the state in identifying its subjects, specifically in relation to their migration. She claims, “Migrant illegality is a (non-)status that’s produced by the regime of control and conferred on an individual when their movement is seen as problematic.”⁴⁴ She perceives the border as “productive [...]. It produces human illegality,” as it, regularizing and irregularizing certain forms of movement, which is essential to how the state codifies migrants based on their

⁴² Kristin Yarris and Heide Castañeda, “Discourses of Displacement and Deservingness: Interrogating Distinctions between ‘Economic’ and ‘Forced’ Migration.” *International Migration*, 2015, 53(3): 66.

⁴³ A good example of this deservingness assigned to individuals is reflected in California’s Proposition 187, passed on November 8, 1994, which sought to require state and local entities such as healthcare professionals and teachers and schools, to report the immigration status of individuals, including that of children, to the INS or the California Attorney General. As related to this essay, it was an effort to foster greater information-sharing and cooperation between state and local governments with the federal government and “to prevent illegal aliens in the United States from receiving benefits or public services in the State of California.” “CA’s Anti-Immigrant Proposition 187 Is Voided, Ending State’s Five-Year Battle with ACLU, Rights Groups.” American Civil Liberties Union, September 13, 2005. It was passed during a period of economic recession in California during which undocumented migrants largely took the blame. Shortly after Proposition 187 was passed, immigrant rights organizations such as “the Mexican American Legal Defense and Education Fund (MALDEF), the American Civil Liberties Union (ACLU), and the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)” argued it was unconstitutional and that to allow immigration regulation to be passed at the state level is inappropriate as it is a responsibility of the federal government. This latter argument will be discussed in Chapter 2. The political debate culminated in 1999 after a court-approved mediation agreement, although Arizona has since made similar proposals. “Research Guides: A Latinx Resource Guide: Civil Rights Cases and Events in the United States: 1994: California’s Proposition 187.” Library of Congress. Accessed April 28, 2023.

⁴⁴ Natasha King, *No Borders: The Politics of Immigration Control and Resistance*. London: Zed Books, 2016. p. 2.

“deservingness”.⁴⁵ These processes, against the backdrop of immigration laws, begin to engender a language that divides individuals based on their legal or illegal movement or standing in the U.S. This language, not far removed from the language of citizenship, is a mode of classification by the state (often gendered and racialized) to separate, exclude, and restrict persons from specific rights and opportunities granted to others.

According to the ethnographic research of sociocultural anthropologist Susan Bibler Coutin on Sanctuary Movement activists, illegality as a process operates through several dimensions of “alienation” that, reciprocally, work to uphold it.⁴⁶ I present some of these dimensions below in order to characterize methods of illegalizing migrants to which establishing sanctuary is a response.⁴⁷ These dimensions include “the delimitation of reality to that which can be documented,” which is important as migrants can have various forms of legal documentation one can have whether it be driver’s licenses, social security cards, state or municipal IDs, community IDs, immigrant, and non-immigrant visas, or legal permanent residency.⁴⁸ Then, there is a “temporalization of presence,” according to which individuals (mostly those without documentation) are considered qualified or disqualified from gaining legal documentation; migrants who are verifiably undocumented for extended periods of time factor into whether they can obtain documentation in the future.⁴⁹ “Legal aconsanguinity,” according to Coutin, is another

⁴⁵ *Ibid.*; Anderson et al., “Editorial: why no borders?” *Refuge*, 2009, 26(2): 5-18: 6

⁴⁶ Susan Bibler Coutin qtd. in Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 423.

⁴⁷ Susan Bibler Coutin qtd. in Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 427.

⁴⁸ Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 427.

⁴⁹ Susan Bibler Coutin qtd. in Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 427.

dimension whereby one's legal status depends on family ties.⁵⁰ These dimensions are constantly changing as immigration policy evolves in response to national developments, for example with Title 42 under Covid-19, creating the potential for an individual who initially entered or resides in the U.S. legally to become exogenously *illegalized*. Another is the "transformation of mundane activities - such as working, driving, or traveling - into illicit acts," demonstrating the pervasiveness of illegalization such as through the restriction of daily actions.⁵¹⁵² Lastly, Coutin refers to the restricted "physical" and "social mobility" of a person who has been illegalized or as a method of illegalization; the inability to travel or participate in political activism, for instance, of an already unauthorized migrant is further compounded.⁵³ Why does this matter for a conversation about sanctuary cities? These dimensions and the changing parameters of membership generate and regenerate illegality as they are institutionalized. It is this phenomenon of 'illegality' that these scholars work to define that upholds and justifies the unfair and usually violent methods of policing levied against the migrant. Moreover, sanctuary cities represent an intervention within immigration policy - a bottom-up, collaborative intervention between both state and non-state actors - that serves to protect individuals who are illegalized in these ways.

⁵⁰ *Ibid.*

⁵¹ Nicholas P. De Genova, "Migrant 'Illegality' and Deportability in Everyday Life." *Annual Review of Anthropology*, 2002, 31: 427.

⁵² An important example of government-sanctioned mechanisms of illegalization is Arizona's SB 107. A highly contested, anti-immigrant statute that allowed law enforcement officers to stop, question, and detain migrants perceived to be undocumented. According to the ACLU, the law and its string of copycat laws essentially legalized "show me yours papers" provisions and "invite[d] racial profiling of Latinos and others who may look or sound "foreign." The statute's provisions overall allowed police officers to demand to see one's documentation and investigate their immigration status if suspected of being undocumented, allowed them to arrest suspects without a warrant, criminalized immigrants who do not carry legal documentation, and criminalized immigrants who sought and accepted work without prior authorization (criminalized at the state level). "SB 1070 at the Supreme Court: What's at Stake." American Civil Liberties Union, 2023.

⁵³ *Ibid.*

Historically, the term ‘illegal alien’ applies to foreign nationals who are born outside of the U.S. and who clandestinely enter the U.S. or reside in the U.S. without formal legal status. However, while unauthorized immigration has existed since the late 19th century, the term ‘illegal’ emerged in the latter 20th century used mostly in newspapers in reference to the rise of Border Patrol and Operation Wetback.⁵⁴ Then, according to the research of author and activist Joseph Nevins, “illegal alien” was used as a term for unauthorized immigrants around 1969 until it began being replaced by “illegal immigrant” in the U.S. in the 1980s.⁵⁵ Others argue it was popularized around World War II to refer to Jewish refugees fleeing to Palestine without prior authorization.⁵⁶ The problem is, as suggested in earlier paragraphs, that the word illegal effects a kind of tautology within immigration narratives. This is made clear by the comment made by Californian Representative Duke Cunningham (R): “It is illegal to cross into this country illegally, it is illegal,” in a 1996 debate.⁵⁷ This cyclical kind of argument is a perfect representation of the actual tests of eligibility migrants undergo; if one is illegal, they cannot become legalized *on the basis that they are illegal*.⁵⁸ This harkens back to the concept of amnesty and how if illegalized migrants are to be granted amnesty by their host state, they are required to admit their illegal (again, illegal in the eyes of the state...) actions. Writer Lawrence Downes reveals not only the absurdity of such a closed cycle but its very real ramifications for

⁵⁴ Joseph Nevins qtd. in Ackerman, Edwin F. “The rise of the “illegal alien.” *Contexts*, American Sociological Association. 2013, 12(3): 73.

⁵⁵ *Ibid.*

⁵⁶ Isabel Johnston, “Words Matter: No Human Being Is Illegal: Immigration and Human Rights Law Review.” *Immigration and Human Rights Law Review | The Blog*, May 20, 2019. <https://lawblogs.uc.edu/ihr/r/2019/05/20/words-matter-no-human-being-is-illegal/>.

⁵⁷ Congressional Representative Duke Cunningham qtd. in Ackerman, Edwin F. “The rise of the “illegal alien.” *Contexts*, American Sociological Association. 2013, 12(3): 72.

⁵⁸ Ackerman, Edwin F. “The rise of the “illegal alien.” *Contexts*, American Sociological Association. 2013, 12(3): 72.

progressive policymaking: “America has a big problem with illegal immigration, but a big part of it stems from the word ‘illegal’. It pollutes the debate. It blocks solutions [...] It spreads, like a stain that cannot wash out. It leaves its target diminished as a human, a lifetime member of a presumptive criminal class.”⁵⁹ The term carries with it heavy meaning; it not only dehumanizes and alienates, but it physically strips the individual of certain rights and opportunities.⁶⁰ Further, the term is inaccurate as it is argued by many. For example, some criminals are not labeled illegal, nor do all (im)migrants lack legal status or legal documentation, as described in the next paragraph.⁶¹ The term has morphed into an umbrella term for individuals with various legal standing - not even mentioning the role of media narratives in perpetuating the term - overall rendering it especially unproductive for any debate about immigration whether scholarly or political. I interrogate the productivity of established words throughout this thesis, similar to De Genova who claims, “the conceptual problems embedded in terminology are symptomatic of deeper problems of intellectual - and ultimately political - orientation,” as normalized terms are often taken for granted, left unquestioned, yet they shape our understanding of the topics they describe.⁶²

While De Genova uses the term “undocumented” throughout his essay “Migrant ‘Illegality’ and Deportability in Everyday Life,” instead of “illegal” and terms such as

⁵⁹ Lawrence Downes qtd. in Ackerman, Edwin F. “The rise of the “illegal alien.” *Contexts*, American Sociological Association. 2013, 12(3): 72.

⁶⁰ These can include access to banks and financial institutions, public facilities such as libraries and gyms, access to housing, access to schools, education and training, healthcare and health services, access to workplace justice, legal services, etc. See more on “Know Your Rights Provides Resources to Guide the Community.” Make the Road New York, August 2, 2021.

⁶¹ Isabel Johnston, “Words Matter: No Human Being Is Illegal: Immigration and Human Rights Law Review.” *Immigration and Human Rights Law Review | The Blog*, May 20, 2019.

⁶² Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 421.

“unauthorized”, “clandestine”, “extra-legal”, and “irregular” because they are “problematic,” this thesis contends that the term ‘irregular’ is the more suitable and less problematic term.⁶³ Anne McNevin, author of *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political* defines irregular migrants as “noncitizens who have crossed state borders or remain in state territory without the host state’s explicit and ongoing sanction”; those who “do not possess the status that fully legitimize their presence or that makes certain rights [...] available to them.”⁶⁴ While noncitizen is yet another contentious term, it relates the legality of the migrant back to the nation-state’s construction of citizenship and thus is clearly codified in law and in our dominant political imaginary. McNevin’s definition also emphasizes that it is not the status or lack of status that characterizes many migrants but what that status entitles them to. This is an important distinction as someone can hold the legal status of refugee and still not hold the same privileges of a citizen, or, more complicatedly, a migrant could have clandestinely entered the U.S., eventually be discovered and documented by ICE, protected from deportation under detainer discretion policies, and still essentially live the restricted and silenced life of an undocumented immigrant. ‘Irregular migrant,’ I argue, has a greater value, despite being far-reaching, because it is more specific as it includes a wider range of migrants who do not fit into the aforementioned labels. ‘Irregular’ includes those who enter a state illegally; those who entered before or after new immigration legislation was passed (*thus legitimizing or illegitimizing their presence*); those on seasonal visas; those who overstay beyond their visa status expiration; children of these aforementioned types; stateless persons; asylum seekers not

⁶³ Nicholas P. De Genova, “Migrant ‘Illegality’ and Deportability in Everyday Life.” *Annual Review of Anthropology*, 2002, 31: 420.

⁶⁴ Anne McNevin, *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political*. New York: Columbia, 2011. pp. 18-19.

yet granted refugee status; those in processing centers, refugee camps, and detention camps; internally displaced persons; and all migrants denied legal statuses.⁶⁵ Contrary to De Genova, McNevin posits that the term “undocumented” not only perpetuates this notion of illegality but it is an inaccurate term as many irregular migrants manage to obtain various kinds of legal documentation legitimizing their presence in a host state like the U.S.⁶⁶ While ‘irregular’ is not without its shortcomings, such as assuming a ‘regular’ kind of migrant or arguably being too all-encompassing to the point where specificity is lost, in agreement with McNevin, I argue that it is fitting for a contemporary investigation into immigration. The term ‘irregular’ detaches migration from the nation-state and its borders, revealing the underlying subjectivities and origins of political belonging that cannot be explained through state-centrism.⁶⁷ Irregular urges us to examine the *why* behind what is considered regular (or legal) migration and what is considered irregular (or illegal), in addition to asking *what* structures produce this regularity and irregularity. Even the term ‘non-citizen’, which begs important questions like “What makes a citizen?” and “What constitutes citizenship?”, still tethers political belonging and membership to the boundaries of the sovereign nation-state.

Because sanctuary cities include individuals who fit into all of these categories, this thesis joins McNevin and other scholars in using the term ‘irregular’ to refer to (im)migrants with varying non-legal statuses. In instances when I talk specifically about people without a legally adjudicated status or without standard documentation, I will use the term ‘undocumented’. This

⁶⁵ See Anne McNevin, *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political*. New York: Columbia, 2011. pp. 19-20.

⁶⁶ See Anne McNevin, *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political*. New York: Columbia, 2011. p. 20.

⁶⁷ See also Anne McNevin, *Contesting Citizenship: Irregular Migrants and New Frontiers of the Political*. New York: Columbia, 2011. pp. 20-21.

thesis concurs with those who argue that you cannot impose legality onto an individual; no one is inherently legal or illegal.⁶⁸ However, this section reveals that people are, in fact, *illegalized* and *irregularized* through institutional power structures - structures that rely on methods of illegalization to simplify the codification and subsequent exclusion of certain people. Also worth noting: this thesis will use the terms ‘migration’ and ‘immigration’ distinctively, with immigration referring to systems of U.S. immigration such as law, enforcement officials and authorities, policy, status, control and rhetoric, and migration more often in reference to migration studies, activists, and the broader cross-border movement of people. ‘Migrant’ and ‘immigrant’ will follow the same guidelines or will be written as ‘(im)migrant’ when referring to either. Quotation marks will accompany any terminology I deploy which is intended for the reader to pause and interrogate these terms against their prior conceptions. Thinking critically about the language we as scholars use, especially when covering emergent topics such as the sanctuary city, is important because we are narrators wielding tremendous discursive power when framing certain subjects, and it casts a shadow on those who follow. This thesis is far from setting any standard, but it strives to use non-discriminatory language with the purpose of returning a sense of humanity and agency to the migrant that has been stripped from them

⁶⁸ Elie Wiesel, Nobel Peace Prize winner and Holocaust survivor, famously said toward undocumented migrants, referencing Salvadorans escaping death squads in the late 20th century: “*You, who are so-called illegal aliens, must know that no human being is illegal. That is a contradiction in terms. Human beings can be beautiful or more beautiful, they can be fat or skinny, they can be right or wrong, but illegal? How can a human being be illegal?*”. Isabel Johnston, “Words Matter: No Human Being Is Illegal: Immigration and Human Rights Law Review.” *Immigration and Human Rights Law Review | The Blog*, May 20, 2019. Also, in an interview with CNN, when asked why the media should stop using the term “illegal”, Wiesel responded “*Because once you label a people ‘illegal,’ that is exactly what the Nazis did to Jews.’ You do not label a people ‘illegal.’ They have committed an illegal act. They are immigrants who crossed illegally. They are immigrants who crossed without papers. They are immigrants who crossed without permission. They are living in this country without permission. But they are not an illegal people.*” “No Human Being Is Illegal and Elie Wiesel.” *Long Island Wins*, July 7, 2016.

historically. Moreover, by problematizing terminology that has become so normalized, we also practice recognition of one's privilege, such as my own, in being born a citizen or easily obtaining an array of official documentation that separates us from others. As explained, such privileges rely on others being denied the same. It is this reinforcing cycle of the 'we' and the 'other' that makes invisible the very real systems of exclusion at work.

Chapter 2. An Introduction to the Debate

A Brief History of Sanctuary

The concept of sanctuary stems from ancient histories of offering protection of persecuted peoples and criminals associated with several different religions, such as “Buddhism, Christianity, Judaism, Hinduism, and Sikhism.”⁶⁹ Even the Bible recounts stories of sanctuary relating to “cities of refuge for people who have accidentally killed another person.”⁷⁰ According to Bauder, these stories connote that sanctuary was never “spatially-fixed”, meaning that sanctuary represented an abstract, ill-defined space able to pervade borders and be self-proclaimed by a range of actors represented in this thesis; it is “a relational and mobile practice.”⁷¹ However, under Ancient Rome and later in medieval times, Bauder describes that sanctuary became a practice of physical churches shielding not only criminals but also refugees, such as serfs escaping the land to which they were bonded, reflecting an expansion of sanctuary to the *migrant*.⁷² Then, “With the increasing illegalization of migrants

⁶⁹ See Jennifer J. Bagelman, *Sanctuary City: A Suspended State*. New York, Palgrave Macmillan, 2016.

⁷⁰ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 175.

⁷¹ *Ibid.*

⁷² *Ibid.*

and refugees through exclusionary national immigration policies in Western countries in the second half of the 20th Century, churches in Denmark, France, Finland, Germany, Norway, Sweden, the United States, and other countries began to offer sanctuary to rejected refugee claimants, asylum seekers, and illegalized migrants,” once again focusing sanctuary on the illegalized migrant or the migrant seeking legalization in another country.⁷³ The first institution of the contemporary sanctuary city was cited to be in Berkeley, California, in 1971, when the city offered protections to soldiers aboard the USS Coral Sea who resisted serving in the Vietnam War; this instance is exemplary of the role sanctuary cities take on as an actor of resistance, whether of federal immigration policy or a growing anti-immigrant discourse.⁷⁴ The first officially recognized sanctuary was in San Francisco in 1985 under the “City of Refuge” resolution which was followed by a “City of Refuge” ordinance restricting the allocation of local resources to aid in federal immigration investigations as well as the dissemination of information of one’s immigration status.⁷⁵

The 1980s also gave birth to the ‘Sanctuary Movement’ which emerged as a religious and political campaign advocating for the sanctuary of refugees in the wake of increasingly restrictionist federal immigration policies refusing to recognize the asylum claims of Central American migrants and intent on deporting them en masse.⁷⁶ The movement was spurred on by the actions of ordinary citizens and activists such as Jim Corbett who organized sanctuary and

⁷³ Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 176.

⁷⁴ See Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 176.

⁷⁵ *Ibid.*

⁷⁶ See Linda Rabben, “The Twentieth-Century Heyday of Asylum.” In *Sanctuary and Asylum: A Social and Political History*, University of Washington Press, 2016, pp. 122-147.

safe migratory routes for Central American refugees, chiefly Salvadorans and Guatemalans,⁷⁷ fleeing civil conflict in their region.⁷⁸ These refugees were being detained at the border under Immigration and Naturalization Service (INS) custody after illegally entering the U.S.⁷⁹ According to Linda Rabben, a prominent sanctuary scholar, when the Sanctuary Movement was at its height, it reflected more than a legal or political phenomenon but rather the “revival” of an ancient tradition of extending protection to illegalized individuals.⁸⁰ The campaign was supported by churches and temples that offered physical protection to undocumented migrants targeted by ICE raids and family separation along the border,⁸¹ thus reflecting a change from the non-spatial orientation of sanctuary to more spatially-oriented, delineated territories. This 1980s movement was revived in 2007 under the New Sanctuary Movement (NSM) which shifted the focus from asylum seekers and refugees to those already residing in the U.S. without a legally acknowledged immigration status, leading to a change in the meaning of sanctuary from protection from harm to policies and practices of legalization.⁸² Sanctuary practices began to emphasize a need to recognize and protect those who were unassimilated, unintegrated and essentially made invisible to society all due to their lack of documentation, which today reflects the urban sanctuary policies that will be described in this thesis.⁸³

⁷⁷ CBS SF Bay Area. “Timeline: how San Francisco became a sanctuary city for undocumented immigrants”, 2015.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ Linda Rabben, “The Twentieth-Century Heyday of Asylum.” In *Sanctuary and Asylum: A Social and Political History*, University of Washington Press, 2016, p. 136

⁸¹ See Muzaffar Chishti and Faye Hipsman, “Sanctuary cities come under scrutiny, as does federal-local immigration relationship”. Migration Information Source – Policy Beat. Migration Policy Institute, 2015.

⁸² Harald Bauder, “Sanctuary City: Policies and Practices in International Perspective.” *International Migration*, 2017. 55(2): 176.

⁸³ *Ibid.*

While sources vary in their report of the number of so-called sanctuary cities,⁸⁴ the Washington Post reported in 2022 a total of 180 total counties and cities across the U.S. with sanctuary jurisdictions in place.⁸⁵ Whereas, the Federation of Immigration Reform (FAIR) compiled a report in 2018 that estimated the total number of sanctuary policy jurisdictions themselves, including localities' ordinances, directives, and resolutions refusing some level of cooperation with the federal government, was 564-600.⁸⁶ These localities have implemented "Don't Ask, Don't Tell" policies, policies prohibiting local-to-federal information-sharing and cooperation efforts, municipal identification processes regardless of status, and community policing policies allowing migrants without legal statuses to report crime without fear of deportation.⁸⁷ This next section will explore the competing perspectives surrounding sanctuary city policies and practices in the U.S.

Competing Perspectives

The role of the sanctuary city in immigration policy is a dynamic, complex, highly politicized one. This section investigates the sanctuary city in terms of two dominant debates

⁸⁴ For the purposes of this thesis, and in line with other scholars discussed, sanctuary cities include municipalities and counties, cities, and entire states, such as in the case of New York, California, and Illinois.

⁸⁵ Domenic Vitiello, "Perspective | as Red States Send Migrants to Blue States, Sanctuary Cities Are Crucial." The Washington Post. WP Company, September 15, 2022.; Stephen Dinan, "Half of all Americans now live in 'sanctuaries' protecting immigrants". *The Washington Times*, May 10, 2018.

⁸⁶ FAIR's report drew data from a wealth of primary sources (i.e. the sanctuary policies themselves), as well as secondary sources from the U.S. Department of Homeland Security's Declined Detainer Outcome Report, scholarly reports and media coverage. FAIR admits that they included localities that do not self-reference as sanctuary cities but have in place policies that align with sanctuary such as refusing to honor ICE detainer requests, prohibiting information-sharing, and refusing to engage in federal immigration investigations. "State Sanctuary Policies." Federation for American Immigration Reform, October 20, 2021.

⁸⁷ Harald Bauder, "Sanctuary City: Policies and Practices in International Perspective." *International Migration*, 2017. 55(2): 176.

identified after reviewing existing scholarly literature on the modern sanctuary city today. While these debates overlap and contradict each other, they are separated here in an effort to map the complexities (and ironies) of political actors and their beliefs belonging to either debate. The first debate questions whether or not immigration and border policy is the onus of the federal government. For example, some believe immigration is a federal responsibility and state and local governments should cooperate with federal authorities and comply with federal immigration law. Others argue that although immigration may be in the purview of the federal government, they have proven inept at handling such a responsibility, hence the creation and institutionalization of local solutions such as sanctuary cities. The second debate calls into question more the legality and effectiveness of sanctuary policies and practices. Indeed, certain political actors, most often at the federal level, perceive the federal government as permitted to delegate immigration enforcement to local governments, at the same time believing sanctuary policies are in violation of federal law. On the other hand, this thesis finds that local actors push against this notion, claiming that the government cannot mandate their compliance with federal immigration law, and that localities are well within their legal right to institute sanctuary jurisdictions whether or not they diverge from federal legislation. These simultaneous debates serve as a loose framework for the next few sections to interrogate the various ways in which sanctuary cities are viewed and treated by different actors, including whether the sanctuary city is (or will be) part of greater immigration reform or whether it is merely a community solution, whether sanctuary cities are in violation of federal law or in keeping with the U.S. Constitution, and lastly, whether or not there is efficacy in establishing sanctuary jurisdictions.

Federalism and the Responsibility of Immigration Enforcement

Actors at the federal level who perceive immigration as a federal responsibility claim that local governments can and should be inclined to cooperate with federal immigration enforcement authorities. As a result, they often argue that sanctuary policies allegedly violate federal law by gatekeeping undocumented immigrants and shielding them from deportation. As detailed in the Introduction, these policies came under special scrutiny under the Trump Administration which was hellbent on dismantling sanctuary policies from the bottom up as well as delegating the responsibility of immigration enforcement to local law agencies. President Trump stated in Executive Order 13768 in 2017 to defund sanctuary cities nationwide, “We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct all executive departments and law enforcement agencies to employ all lawful means to enforce the immigration laws of the United States.”⁸⁸ However, the order was met with widespread condemnation as it violated the anti-commandeering principle protected under the Tenth Amendment protecting states being forced or coerced into complying with federal law. Nonetheless, the Trump administration continued to refuse the legitimacy of sanctuary jurisdictions and instead called on localities to be “the main engine of the deportation system,” as dubbed by Lena Graber, a senior attorney with the Immigrant Resource Center.⁸⁹ This dependence of the federal government on its partnerships with local enforcement agencies, for example through 287(g) agreements, erupted into a web of over 140 local agencies tasked with cooperating and information sharing with ICE under the Trump administration to aid in the

⁸⁸ Donald J. Trump, “Executive Order: Enhancing Public Safety in the Interior of the United States.” National Archives and Records Administration, January 5, 2017

⁸⁹ Lena Graber qtd. in Angelika Albaladejo, “Biden Promised to Protect Sanctuary Cities So Why Is Ice Still Partnering with Local Cops?” Capital & Main - Investigating Power & Politics. Capital & Main, June 9, 2022.

detection, detention, and eventual removal of undocumented migrants.⁹⁰ ICE ERO New York field office director Thomas R. Decker said, after conducting an operation resulting in 54 migrants in violation of immigration law in the NYC Metropolitan area and surrounding counties, “It’s frightening that New York City politicians created laws that force local law enforcement agencies to release dangerous criminals back into the community despite the seriousness of their crimes.”⁹¹ According to the agency, “ICE has no choice but to conduct more at-large, targeted enforcement actions [to] achieve its congressionally mandated mission,” regardless of sanctuary policies in place. This is exemplary of an ongoing narrative that not only are sanctuary policies protecting criminals rather than removing them, but that immigration enforcement remains a federal responsibility. Now, under the Biden administration, reportedly these partnerships remain in place as Congress remains divided on the issue of immigration reform and the status of several current pro-immigration bills.

Interestingly, this notion of immigration as a federal responsibility is echoed by the United States Supreme Court case *Arizona v. The United States*⁹² which ruled the hard-on-migrant Arizona Statute Support Our Law Enforcement and Safe Neighborhoods Act (or S. B. 1070), passed by the state legislature and signed by Governor Jan Brewer on April 23 of 2010, unconstitutional on several counts. In response to an increasing number of illegal immigrants, Arizona was looking to increase local law enforcement’s implementation and compliance with federal immigration laws in order to “discourage and deter the unlawful entry and presence of

⁹⁰ Angelika Albaladejo, “Biden Promised to Protect Sanctuary Cities So Why Is Ice Still Partnering with Local Cops?” Capital & Main - Investigating Power & Politics. Capital & Main, June 9, 2022.

⁹¹ Thomas R. Decker qtd. in “New York’s Sanctuary City Policy Leads to Increased Ice Activity, Dozens of Arrests throughout Metropolitan Area.” ICE, October 20, 2020.

⁹² See “Arizona v. United States,” Legal Information Institute. Cornell Law School.

aliens and economic activity by persons unlawfully present.”⁹³ It was taken to federal district court on July 6 where it was decided that four specific provisions of the statute were precluded by federal immigration law. Together, these include the creation of “state-law crimes” for being unlawfully present in the United States and those seeking unauthorized work, the requirement of local officials to verify migrants’ status of those lawfully arrested and detained, and the authorization of warrantless arrests of illegal immigrants.⁹⁴ The Supreme Court ruled that all but one provision was unconstitutional and preempted by federal immigration law, such as pre-existing registration requirements of illegal immigrants, local-federal cooperation agreements, and the federal government’s authority over the removal of illegal immigrants.⁹⁵ Conclusions of the case revealed that while three of the provisions in some way usurped federal law, such practices already existed at the federal level and state laws such as the Arizona statute would become an obstacle in carrying out said law. In other words, the statute’s provisions either undermined the federal government’s ability to effectively enforce immigration, including at the local level, or, as Justice Scalia dissented, merely worked to increase local cooperation and enforce federal policy more effectively.⁹⁶ For this reason, *Arizona v. United States* outlines the quintessential dilemma of who holds the responsibility of national immigration, and how, if it is to be supremely governed by federal law, what the role of local governments should be. Most importantly, the case reaffirmed immigration as a federal responsibility:

⁹³ “Arizona v. United States,” Legal Information Institute. Cornell Law School.

⁹⁴ “Arizona v. United States.” Oyez. Accessed March 03, 2023.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens [...] The federal power to determine immigration policy is well settled. Immigration policy can affect trade, investment, tourism, and diplomatic relations for the entire Nation, as well as the perceptions and expectations of aliens in this country who seek the full protection of its laws.”⁹⁷

Legality, Compliance, and Efficacy of Sanctuary Cities

The second debate complicates the former, as conflict over federal and local jurisdiction over immigration engenders conflict over whether or not sanctuary cities are constitutionally legal. Most notably, Tenth Amendment jurisprudence, such as in *Printz v. United States*, holds that, “The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers [...] to administer or enforce a federal regulatory program. It matters not whether policymaking is involved [...]; such commands are fundamentally incompatible with our constitutional system of dual sovereignty.”⁹⁸ In practice, this means that while states are permitted to partake in immigration enforcement under federal law, they cannot be mandated. Moreover, the voluntary compliance of localities is not always authorized under state law and local officers can be held liable for unlawful detention.⁹⁹ For this reason, there’s a growing skepticism of local law enforcement toward federal immigration officers and the legality of their actions. For example, the Fourth Amendment protects against

⁹⁷ “Arizona v. United States,” Legal Information Institute. Cornell Law School.

⁹⁸ “Printz v. United States, 521 U.S. 898 (1997).” Justia Law. U.S. Supreme Court, 2023.; “Amdt10.1 Overview of Tenth Amendment, Rights Reserved to the States and ...” Constitution Annotated, Analysis and Interpretation of the U.S. Constitution. Accessed May 2, 2023.

⁹⁹ *Ibid.*

warrantless (or without probable cause) detention for longer than the legally allotted 48 hours, causing several localities that honor ICE detainees being held in violation of the amendment in court.¹⁰⁰ The issue is made worse by statistics showing that ICE involvement in localities through 287(g) agreements has promoted widespread racial profiling and discrimination. For example, a 2011 Department of Justice investigation in Maricopa County, Arizona revealed that county officials “routinely conducted ‘sweeps’ in Latino neighborhoods and that Latino drivers in certain parts of Maricopa Country were up to nine times more likely to be stopped than non-Latino drivers.”¹⁰¹ A 2012 investigation in Alamance County, North Carolina revealed patterns of unlawfully detaining and arresting Latinos by setting up checkpoints in predominantly Latino neighborhoods, and “that Latino drivers were up to 10 times more likely to be stopped than non-Latino drivers; and that Latino drivers were often arrested for traffic violations for which non-Latino drivers received only citations.”¹⁰²

This pro-sanctuary city perspective is further supported by expanding research that has repeatedly demonstrated that sanctuary policies have no effect on crime, and often make communities safer.¹⁰³ As explained in Chapter 2, many sanctuary cities have established

¹⁰⁰ See “Sanctuary Cities,” Trust Acts, and Community Policing Explained. American Immigration Council. 2015.; “Fourth Amendment Searches and Seizures.” Constitution Annotated, Analysis and Interpretation of the U.S. Constitution. Accessed May 2, 2023.

¹⁰¹ “The 287(g) Program: An Overview.” American Immigration Council, July 9, 2021.

¹⁰² *Ibid.*

¹⁰³ See also Doris Marie Provine, Monica W. Varsanyi, Paul G. Lewis, and Scott H. Decker, *Policing Immigrants: Local Law Enforcement on the Front Lines*, The University of Chicago Press, Chicago, Illinois. 2016, p. 76.; Daniel E. Martínez, Ricardo D. Martínez-Schuldt, and Guillermo Cantor, “Providing Sanctuary or Fostering Crime? A Review of the Research on ‘Sanctuary Cities’ and Crime,” *Sociology Compass*, October 7, 2017 (Demonstrates that there is null or negative relationship between sanctuary policies and crime).; Alex Nowrasteh and Andrew C. Forrester, “Sanctuary Jurisdictions in Florida Do Not Have Higher Crime Rates,” CATO, Washington, DC. March 29, 2019 (Shows that sanctuary policies do not have a significant effect on crime in Florida).; Yuki Otsu, *Sanctuary City and Crime*, Washington University in St. Louis, St. Louis, Missouri. 2020 (“Using a difference-in-differences approach, this paper finds no evidence that sanctuary policies cause an increase in crime and some evidence that they may lead to a decrease in property crime”); Catalina Amuedo-Dorantes and Monica

community policing policies that allow migrants without valid immigration statuses to report crime in the community without fear or intimidation, especially of deportation, and to safeguard them against being questioned and detained by immigration officials. The underlying belief is that if illegal immigrants who fear removal perceive local and state law officials as immigration agents, then they are more unlikely to report crime in their localities or, more pressingly, take any action which, according to Tom Manger, President of the Major Cities Chiefs Association, “creates conditions that encourage criminals to prey upon victims and witnesses alike.”¹⁰⁴ In this regard of community safety, sanctuary policies are largely successful. A 2017 report by the Center for American Progress,¹⁰⁵ using data from ICE, found that localities specifically refuse to honor ICE detainer requests have lower crime rates and several higher socioeconomic indicators, outperforming those that authorize such requests.¹⁰⁶ It revealed that “on average, 35.5 fewer crimes committed per 10,000 people in the non-detainer countries compared to counties that do honor ICE detainers,” which agrees with several other findings showing no correlation between sanctuary policies and increasing crime rates.¹⁰⁷ The study also revealed lower poverty rates, higher median household incomes, lower use of public assistance programs, and several higher employment rates.¹⁰⁸

Deza, *Can Sanctuary Policies Reduce Domestic Violence?*, Center for Growth and Opportunity at Utah State University, Logan, Utah. 2020 (“Sanctuary policies contribute to a reduced domestic homicide rate among Hispanic women by between 52 and 62 percent”).

¹⁰⁴ Tom Manger, Chief of Police for Montgomery County and President of the Major Cities Chiefs Association, qtd. in “Understanding trust acts, Community Policing, and "sanctuary cities". American Immigration Council, October 10, 2015.

¹⁰⁵ See Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*. Center for American Progress, Washington, DC. January 26, 2017, p. 6.

¹⁰⁶ See also “Sanctuary Policies: An Overview.” American Immigration Council, December 2, 2020.

¹⁰⁷ *Ibid.*

¹⁰⁸ See Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*. Center for American Progress, Washington, DC. January 26, 2017. p. 6-10

Essential to this perspective is the deepening evidence that sanctuary policies do not actually constrain enforcement of federal immigration policies in sanctuary cities as many believe, nor do they keep federal agencies from detecting undocumented (im)migrants.¹⁰⁹ Generally speaking, “there is no local or state community policing policy that prevents ICE from enforcing federal immigration laws,” meaning that while sanctuary cities are arguably not in violation of federal law, federal immigration enforcement continues to supersede localities’ sanctuary jurisdiction.¹¹⁰ Undocumented immigrants are still being investigated, arrested, detained, and deported in communities with sanctuary policies across the U.S. and these actions rely on the numerous existing partnerships between local and federal governments such as trust agreements. In March of 2022, more than 140 local law enforcement agencies were partnering with ICE to share information when undocumented immigrants were detained and arrested.¹¹¹ Further, under the Priorities Enforcement Program (PEP) which replaced Secure Communities in November of 2014, “when a law enforcement agency takes a suspect into custody and books him or her, the person’s fingerprints are sent automatically to ICE,” giving them full agency to take action against undocumented immigrants with no oversight from local officials.¹¹² ICE is also granted access to numerous information databases used by police agencies, such as LexisNexis and Palantir, that aid immigration officers in obtaining data on undocumented immigrants.¹¹³ In

¹⁰⁹ See “Sanctuary Policies: An Overview.” American Immigration Council, December 2, 2020.; David K. Hausman, “Sanctuary policies reduce deportations without increasing crime,” Proceedings of the National Academy of Sciences, November 3, 2020, 117(44): 262-267.

¹¹⁰ “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

¹¹¹ See “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

¹¹² “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

¹¹³ See Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

all, sanctuary policies do not thoroughly shielded immigrants from being questioned, detained, arrested, or deported, and several pipelines of cooperation between localities and federal immigration authorities remain intact today.

However, there is an effort to expand sanctuary jurisdictions and to integrate sanctuary practices into federal immigration law, potentially removing the gridlock between the different levels of government in regard to sanctuary policy making and reducing the “micromanag[ing of] how states and localities interact with the Department of Homeland Security”.¹¹⁴ In this vein, there are advocates on either side of immigration reform that believe everyone has a right to be documented and receive access to some form of identification.¹¹⁵¹¹⁶ Identification serves not only as proof of identity for undocumented immigrants but to reduce the fear of law enforcement in immigrant communities and build foster trust between them. Localities such as Los Angeles, New Haven, San Francisco, Oakland, Washington D.C., and New York City have introduced community-based identification for undocumented immigrants apprehensive of revealing themselves to federal, state, or municipal authorities that are accepted by local agencies, medical offices, banks, schools, libraries, affordable housing, and other community organizations.¹¹⁷ As a

¹¹⁴ “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, October 10, 2015.

¹¹⁵ Article 6 of the Universal Declaration of Human Rights (UDHR) states, “Everyone has the right to recognition everywhere as a person before the law”, regardless of their citizenship or immigration status, for example. “The Declaration recognizes the human rights of individuals who are not nationals of the country in which they live and recognizes the need to expand the guarantee of human rights specifically to persons who live in countries without having citizenship.” Several humanitarian organizations have interpreted this as everyone has a right to be legally acknowledged and therefore documented under national law. “Universal Declaration of Human Rights (1948): 30 Articles - 30 Documents: Exhibit for the 70th Anniversary, Equal Protection of the Law, Effective and Fair Judicial Process.” Dag Hammarskjöld Library. United Nations, February 22, 2023.

¹¹⁶ Types of legal documentation have expanded to include consular ID cards, state-issued driver’s licenses including REAL ID-noncompliant driver’s licenses, social security cards, or, more recently, municipal ID cards. Silva Mathema, “Providing Identification to Unauthorized Immigrants.” Center for American Progress, November 24, 2015.; “About IDNYC.” IDNYC, City of New York, 2023.

¹¹⁷ See “Municipal ID Cards Help Undocumented Residents, Boost Local Economies.” PolicyLink. 2022.

result, undocumented migrants have increased rates of “spending and entrepreneurship” as well as the ability to “sign leases and give access to government buildings, all of which are methods by which local economies are boosted by providing them with identification.”¹¹⁸ Access to identification is an example of how sanctuary protections can be standardized within a locality for all undocumented migrants.

An important argument of both those for and against the sanctuary city is that the cost of trust agreements and federal-local partnerships runs high. The dependency on the federal government on local agencies to enforce immigration law has been reported to significantly drain local budgets and resources. A 2016 Brookings Institution study found that Prince William County, Virginia’s 287(g) agreement cost \$6.4 million in its first year and would cost \$26 million over five years, requiring them to raise property taxes and cut \$3.1 million allocated to buy police cameras to protect against racial profiling.¹¹⁹ In 2011, Maricopa County incurred a \$1.3 million deficit in only three months before DHS revoked its 287(g) agreement.¹²⁰ Many city officials argue that 287(g) agreements also redirect local budgets away from policies keeping local communities safe in the first place. According to the Law Enforcement Immigration Task Force which includes police chiefs, sheriffs, commissioners, and lieutenants nationwide, “Immigration enforcement at the state and local levels diverts limited resources from public safety. State and local law enforcement agencies face tight budgets and should not be charged with the federal government’s role in enforcing federal immigration laws.”¹²¹ Especially after the

¹¹⁸ “Municipal ID Cards Help Undocumented Residents, Boost Local Economies.” PolicyLink. 2022.

¹¹⁹ “The 287(g) Program: An Overview.” American Immigration Council, July 9, 2021.

¹²⁰ *Ibid.*

¹²¹ “Understanding trust acts, Community Policing, and “sanctuary cities”. American Immigration Council, February 23, 2017.; “Oversight of the Administration’s Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims.” Major Cities Chiefs Association, July 21, 2015.

murder of Kathryn Steinle on July 1, 2015, by an illegal immigrant, Jose Inez Garcia Zarate, in San Francisco, ‘grant penalties’ were introduced to further secure the compliance of sanctuary cities with federal immigration policy by cutting localities’ funding. In late 2017 for example, the Department of Justice sent letters to 29 New York municipalities affirming their compliance with U.S. Code 1373, written in alliance with law enforcement agencies such as the INS. The Trump era statute that mandates that localities cannot refuse information-sharing with ICE.¹²² DOJ warned that localities in violation of this code would lose their federal justice assistance.¹²³ Earlier in March, President Trump and Attorney General Jeff Sessions under an executive order threatened to withhold up to \$4.1 billion in federal grants from sanctuary cities unless they revoked their sanctuary jurisdictions limiting cooperation with federal authorities, even citing Steinle’s death in Session’s White House briefing.¹²⁴ This policy particularly targeted the Edward Byrne Memorial Justice Assistance Grant (JAG) Program - which administers to NYC - and is the leading source of justice funding from the federal government to state and local authorities.¹²⁵ However, many law enforcement associations came forward to argue that grant penalties are an inappropriate response to crime in immigrant-heavy communities as they not only drain and divert local funding, but reportedly failed to address “the core issue of a broken immigration system and lack of information sharing between state and locals,” as argued by Major County Sheriffs Association in response to a hearing on immigration enforcement policies

¹²² Amanda Fries, “Albany Stands Firm on Sanctuary City Status.” Times Union, January 9, 2018.

¹²³ *Ibid.*

¹²⁴ Jessica Taylor. “Attorney General Orders Crackdown on 'Sanctuary Cities,' Threatens Holding Funds.” NPR.org. *National Public Radio*, March 27, 2017.; Sessions, Jeff. “Attorney General Jeff Sessions Delivers Remarks on Sanctuary Jurisdictions.” The United States Department of Justice, March 31, 2017.

¹²⁵ Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019: 68.

in sanctuary cities.¹²⁶ The National Fraternal Order of Police wrote to Congress in opposition to the legislation for grant penalties stating that the withholding of federal funding to “coerce a policy change in so-called sanctuary cities” is misplaced as sanctuary policies are also derived from politicians and not law enforcement officials.¹²⁷ Moreover, law officials require their budgets to operate within their current sanctuary policies which “present an array of challenges for state and federal governments and will continue to do so without a clear solution that addresses the foundation of the problem.”¹²⁸ Both letters urge the federal government to explore other sources of funding for immigration enforcement efforts and to stop using local budgets as a coercive mechanism to further federal immigration agendas. Local mayors commented similarly, including mayor Kathy Sheehan of Albany, stated in 2017 that while the city is in compliance with federal law, the federal government lacks understanding of “what is happening in our cities and why a city like Albany would choose to label itself as a sanctuary city.”¹²⁹

This draining of local resources in an effort to allay federal immigration responsibilities is especially relevant in the aftermath of Governor Abbott’s recent relocation program consisting of bussing thousands of undocumented migrants to northern cities in an opportunistic political stunt to pressure the federal government to resolve the border crisis. Launched in April of 2022, the Republican governor mandated the state’s Division of Emergency Management to charter buses from Texas to Washington D.C., Chicago, and New York City to relocate over 13,200 migrants “until the Biden Administration does its job and provides Texans and the American

¹²⁶ “AILA - Major County Sheriffs' Association Statement in Response to Hearing on ‘Sanctuary Cities.’” American Immigration Lawyers Association, *AILA Doc. No. 15080467*, July 21, 2015.

¹²⁷ “AILA - National Fraternal Order of Police Letter to Congress Opposing Legislation Penalizing Law Enforcement.” American Immigration Lawyers Association. *AILA Doc. No. 15080465*, July 15, 2015.

¹²⁸ *Ibid.*

¹²⁹ Amanda Fries, “Albany Stands Firm on Sanctuary City Status.” *Times Union*, January 9, 2018.

people with sustainable border security.”¹³⁰ Arizona’s Governor Doug Ducey and Florida Gov. Ron DeSantis (R) followed in turn, launching an initiative to fly migrants to northern municipalities to relieve the border states.¹³¹ These relocation programs are a consequence of record levels of migrant arrivals at the border which is leading to overcrowding of homeless shelters and a reduction in emergency resources in northern receptor cities. In July of 2022, Washington D.C. Mayor Muriel Bowser requested assistance from the National Guard to handle roughly 9,400 migrants that arrived in the city via bus; similarly, NYC Mayor Eric Adams declared a state of emergency and “directed city officials to create ‘humanitarian relief centers’ for asylum seekers, in addition to the 42 shelters it had already opened for asylum seekers.”¹³² These tactics of removing and forcibly relocating undocumented migrants is instead generating new humanitarian crises in receptor cities whose dwindling emergency food and housing resources are leaving migrants homeless and relegating them to the streets.¹³³ Sanctuary cities are being targeted both from underneath with the threat of restricted funding, and from the inside as southern governors utilize sanctuary cities as dumping grounds for newly arrived migrants. Here, we see the border and the state itself as “productive and generative” of vulnerability and crisis, as characterized by scholars Bridget Anderson, Nandita Sharma, and Cynthia Wright, opposed to the state-centric, pro-sovereignty view of the border and the state as *crisis-responders*.¹³⁴ The sanctuary city under these conditions is in many ways falling short, as will be discussed below,

¹³⁰ Brian Bushard, “‘Purposefully Cruel’: Philadelphia Mayor Slams Texas Gov. Abbott as First Bus of Migrants Arrives.” *Forbes*. *Forbes Magazine*, November 17, 2022.

¹³¹ Adam Edelman, “Florida legislature expands Ron DeSantis’ program to fly migrants to blue states,” *NBC News*, February 10, 2023.

¹³² Brian Bushard, “‘Purposefully Cruel’: Philadelphia Mayor Slams Texas Gov. Abbott as First Bus of Migrants Arrives.” *Forbes*. *Forbes Magazine*, November 17, 2022.

¹³³ See Chapter 3.

¹³⁴ Anderson et al., “Editorial: why no borders?” *Refuge*, 2009, 26(2): 5-18: 6; see also 11.

of their designated purpose to safeguard and protect migrants. Finally, we are also reminded in this conversation of the enduring paradox of states pushing iron-fist border policies “at precisely the time when migration has become an increasingly important part of people’s strategies for gaining access to much-needed life resources.”¹³⁵

Chapter 3. New York City: A Sanctuary City Under Attack

Introduction

As introduced in Chapter 2, New York City for several reasons makes for a quintessential case for studying the role of sanctuary cities in contemporary U.S. immigration policy. NYC in 2018 was host to 3.1 million immigrants, an estimated 18% (approximately 560,000) of them undocumented, including those under Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS).¹³⁶ This, in turn, has led to one of the most widely-recognized sanctuary cities in the United States.¹³⁷ The issue of sanctuary city arose in New York during the Republican party’s presidential race in 2008, specifically between former Massachusetts Governor Mitt Romney and NYC Mayor Rudy Giuliani and their stances on illegal immigration.¹³⁸ Romney accused Giuliani of treating NYC as an open-invitation sanctuary to undocumented migrants, as he himself remained conservative on immigration issues throughout previous years.¹³⁹ Giuliani remained mostly steadfast in his stance of criticizing harsh

¹³⁵ Anderson et al., “Editorial: why no borders?” *Refuge*, 2009, 26(2): 5-18: 5.

¹³⁶ “State of Our Immigrant City, Annual Report March 2018.” NYC Mayor's Office of Immigrant Affairs. March, 2018, pp. 9-12.

¹³⁷ “State of Our Immigrant City, Annual Report March 2018.” NYC Mayor's Office of Immigrant Affairs. March, 2018, pp. 9-12.

¹³⁸ See Jake Tapper and Ron Claiborne. “Romney: Giuliani's NYC 'Sanctuary' for Illegal Immigrants.” ABC News. ABC News Network, August 8, 2007.

¹³⁹ *Ibid.*

immigration policies and touting NYC as successful in offering protections to undocumented migrants established in former Mayor Ed Koch's executive order on August 7, 1989 "City Policy Concerning Aliens," and favoring educating undocumented children in the city.¹⁴⁰ Giuliani stated at a press conference in 1993, "Some of the hardest-working and most productive people in this city are undocumented aliens [...] If you come here and you work hard and you happen to be in an undocumented status, you're one of the people who we want in this city. You're somebody that we want to protect...".¹⁴¹ Giuliani had long since faulted the federal government for not doing enough for illegal immigration, bringing them to court over provisions encouraging government employees to turn in undocumented immigrants seeking welfare benefits from the city.¹⁴² Koch's Executive Order No. 124 emphasized two main concerns, the "confidentiality of information respecting aliens" and the "availability of city services to aliens," arguing that such protections and services should be extended to all residents regardless of immigration status and acknowledging the pervasive fear migrants have of drawing attention, specifically from federal immigration authorities.¹⁴³ The order recognized the disadvantages to all New Yorkers when undocumented migrants live in this fear and cannot contribute (and exist) equally in society in comparison to others. The document concludes by stating:

¹⁴⁰ *Ibid.*

¹⁴¹ Jake Tapper and Ron Claiborne. "Romney: Giuliani's NYC 'Sanctuary' for Illegal Immigrants." ABC News. ABC News Network, August 8, 2007.

¹⁴² See Jake Tapper and Ron Claiborne. "Romney: Giuliani's NYC 'Sanctuary' for Illegal Immigrants." ABC News. ABC News Network, August 8, 2007.

¹⁴³ "Executive Order No. 124 City Policy Concerning Aliens." Nyc.gov, The City of New York, Office of the Mayor. August 7, 1989: 1.; See also "CA's Anti-Immigrant Proposition 187 Is Voided, Ending State's Five-Year Battle with ACLU, Rights Groups." American Civil Liberties Union, September 13, 2005.

Federal law places full responsibility for immigration control on the federal government. With limited exceptions, the City therefore has no legal obligation to report any alien to federal authorities. The executive order, in recognition of this lack of obligation and the importance of providing the services covered herein, requires City agencies to preserve the confidentiality of all information respecting law-abiding aliens to the extent permitted by law.¹⁴⁴

I argue that Koch’s executive order represents the key underpinnings of policies in cities dubbed as “sanctuary cities” for both documented and undocumented migrants across the United States today. There is an expanding effort for them to take a range of actions to protect migrants from harm, namely from detention, arrest, and deportation. This includes refusing federal warrantless detainer requests, refusing to allocate local funding, resources, and personnel to aid in federal investigations, and prohibiting questioning one’s immigration status. It includes an overarching effort to reduce the cooperation and information-sharing between local authorities and federal immigration authorities, as well as remove the presence of federal immigration officials at city-run prisons and other facilities. Finally, the actions of sanctuary city actors are to help include, resettle, and integrate disadvantaged migrants via humanitarian assistance, social services, and civic rights not extended by the federal government as they are conditional upon immigration status.¹⁴⁵ Since 1989, New York has undergone both legislative and sociopolitical turbulence concerning its sanctuary policies and practices, yet these aforementioned objectives

¹⁴⁴ “Executive Order No. 124 City Policy Concerning Aliens.” Nyc.gov, The City of New York, Office of the Mayor. August 7, 1989: 2.

¹⁴⁵ “Executive Order No. 124 City Policy Concerning Aliens.” Nyc.gov, The City of New York, Office of the Mayor. August 7, 1989: 1-3.

largely remain the same. While this chapter recounted NYC's recent past of implementing sanctuary policies, this next section will turn toward more current developments in NYC, including the striking growth of the migrant community - compounded by an escalating housing crisis - overall resulting in the extreme precarity of persons, particularly irregular migrants residing in NYC.

A Discourse of Discord: Legislative Practices Around Sanctuary in New York City

While Chapter 2 introduced the dominant competing perspectives on sanctuary policies in the current political-legal discourse, this section analyzes the debate with respect to New York City. This section provides a brief overview of the conflicting involvement of several political actors, including legislators, judicial authorities, local officials including city council, city commissioners, and local law enforcement, in addition to federal authorities, in relation to NYC as a sanctuary city. In exploring how these actors have worked to implement, enforce, expand, fund, denounce, restrict, withhold funding, and overall respond to sanctuary policies and practices, this thesis strives not only to understand the role of the sanctuary city in U.S. immigration policy but also the role and success of *U.S. immigration policy* within broader American politics.

Since Ed Koch's 1989 executive order, the next notable legislative action in NYC on the topic of sanctuary was in 2011. Under former Council Member Melissa Mark Viverito, NYC became one of the first cities to write into law limitations to local cooperation with ICE detainer requests; shortly after, over 200 policies across the U.S. established detainer discretion policies.¹⁴⁶ It reflected a new wave on the horizon of U.S. immigration policy of cities, usually liberal-leaning

¹⁴⁶ "Mayor Bill De Blasio Signs into Law Bills to Reduce NYC's Cooperation with U.S. Ice Deportations." Nyc.gov, The City of New York, Office of the Mayor, November 14, 2014.

cities, in acknowledging their large irregular migrant populations and the myriad of sociopolitical implications of those without documents on civil society. Then, in 2014, Mayor Bill de Blasio signed into law two bills, Introductions 486-A and 487-A, that drastically reduced the cooperation of local officials with federal immigration enforcement except when public safety is concerned, effectively ending the city's compliance with ICE detainer requests and removed ICE agents from Rikers Island and other city-run facilities.¹⁴⁷¹⁴⁸ The laws mandated that the NYC Department of Corrections (DOC) and NYPD do not honor requests "to detain an individual for up to 48 hours beyond their scheduled release unless ICE provides a judicial warrant as to probable cause, and the individual in question has been convicted of a violent or serious felony within the last five years or is a possible match on the terrorist watch list."¹⁴⁹ They also limited information-sharing about immigrants held by DOC and prohibits ICE from pursuing enforcement practices in city-run prisons and facilities.¹⁵⁰ According to a report from the Office of the Mayor, these laws "balance public safety with the City's commitment to being a welcoming and safe place for immigrant families" and reflect Mayor de Blasio's "One New York Rising Together" platform to eventually

¹⁴⁷ See "Mayor Bill De Blasio Signs into Law Bills to Reduce NYC's Cooperation with U.S. Ice Deportations." Nyc.gov, The City of New York, Office of the Mayor, November 14, 2014.

¹⁴⁸ These laws also underscore how cities like New York resist and challenge federal immigration procedures, such as the 100 mile border zone, and implement sanctuary jurisdictions by self-proclamation. Federal law states that CBP can "board vehicles and vessels and search for people without immigration documentation 'within a reasonable distance from any external boundary of the United States,'" even without a warrant. These external boundaries, essentially the U.S. coastline, are patrolled within a "reasonable distance," which is defined by federal law as 100 air miles from the external boundaries. This notion of a mobile, active border in which ICE and CBP claim jurisdiction within the 100 mile border zone is especially complicated by the establishment of sanctuary jurisdictions, such as in New York City which is included in this border zone region, in addition to Los Angeles, Chicago, and Florida. The 100 mile border zone allowing warrantless stops and seizures compounds migrant communities' vulnerability to detention and deportation, but is also significantly undermined by successful sanctuary policies such as di Blasio's Introductions 486-A and 487-A. "Know Your Rights: 100 Mile Border Zone: ACLU." American Civil Liberties Union, April 6, 2020.

¹⁴⁹ "Mayor Bill De Blasio Signs into Law Bills to Reduce NYC's Cooperation with U.S. Ice Deportations." Nyc.gov, The City of New York, Office of the Mayor, November 14, 2014.

¹⁵⁰ *Ibid.*

“end cooperation with federal ‘detainer requests’”¹⁵¹ Di Blasio stated how mass deportation is separating families, undermining public safety, disadvantaging already vulnerable immigrant households, and contributing to an entrenching fear and distrust of law enforcement: “Today, we send another message to Washington that the time to act has come to provide relief to so many individuals who contribute to our nation’s growth.”¹⁵²

The sanctuary city then returned to the political agenda after the 2015 shooting of Kathryn Steinle in San Francisco by José Inez García Zárate, an undocumented immigrant with a previous criminal record who had been deported five previous times.¹⁵³ Despite being diagnosed with schizophrenia, and acquitted of homicide charges, García Zárate was convicted on firearms charges and charges of being illegally in the U.S. and in possession of a firearm.¹⁵⁴ This case served as the basis for much of former President Trump’s public outcry against sanctuary cities and its mobilization to promote restrictionist border measures.¹⁵⁵ Sanctuary cities took a sharp turn under the Trump Administration and his anti-immigrant, pro-securitization campaign. Trump re-centered immigration as a national priority, implementing hard-line border and interior enforcement and setting an unprecedented record of executive action related to immigration with over “472 administrative changes” to the nation’s immigration system over his 4-year term.¹⁵⁶

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*

¹⁵³ See “Time Served for Man in 2015 San Francisco Pier Killing of Kate Steinle.” KCRA, June 6, 2022.

¹⁵⁴ The judge at García Zárate’s sentencing told him, “If you return to this country again and you are back in front of me, I will not spare you. Let this be your last warning: do not return to this country.” such a threatening statement reflects not only the inhumanity imposed on the irregular (im)migrant but the relation to criminality and legalization - legal belonging to a host state for example. This creates, in the case of García Zárate a double crime - residing illegally in the U.S. and the homicide of Kate Steinle. “Time Served for Man in 2015 San Francisco Pier Killing of Kate Steinle.” KCRA, June 6, 2022.

¹⁵⁵ Kristina Cooke and Ted Hesson, “What Are ‘Sanctuary’ Cities and Why Is Trump Targeting Them?” Reuters. Thomson Reuters, February 25, 2020.

¹⁵⁶ Jessica Bolter and Emma Israel. “Four Years of Profound Change: Immigration Policy during the Trump Presidency.” Migrationpolicy.org. Migration Policy Institute, February 17, 2022.

Sanctuary cities were included in this affront which became heavily partisan, specifically attacking sanctuary cities on the basis of shielding irregular migrants from removal and contributing to crime,¹⁵⁷ despite numerous studies revealing there are no consistent patterns between localities with sanctuary policies and increases or decreases in crime.¹⁵⁸

There have also been several sanctuary resolutions on behalf of the city, such as the Immigration Equal Protection and Sanctuary City Resolution written by the Manhattan Community Board in 2016. The resolution calls on the federal government to generally uphold the Constitution by securing our nation's borders, not barring individuals from entering in the U.S. that are otherwise eligible, facilitating a "transparent, accessible, fair, and efficient" immigration system, and supporting the equal protection of immigrants and asylum seekers by allocating sufficient funding to processing casework.¹⁵⁹ It also refuses to honor ICE and CBP detainer requests and disclosure requests, refuses to give those agencies access to question migrants in custody, refuses to use local agency resources for information-sharing efforts, and prohibits the stopping of migrants and questioning of their status.¹⁶⁰ Overall, these resolutions and aforementioned legislation underpin the designation of NYC as a sanctuary city and serve to protect NYC residents from harm regardless of their immigration status.

The following section depicts the migrant situation on the ground in New York City, characterized by a stark influx of migrants as a result of bussing campaigns from southern border states and an escalating housing crisis unable to safely re-settle and address the needs of

¹⁵⁷ See Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019: 68.

¹⁵⁸ See Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019: 150.

¹⁵⁹ "Immigration Equal Protection and Sanctuary City Resolution." Manhattan Community Board 10 Resolution No. MIH 2016, City of New York, 2016.

¹⁶⁰ *Ibid.*

incoming migrants. It will also address the role of local actors such as politicians and officials, law enforcement officials, and aid organizations in supporting and defending sanctuary policies. These sections aim to exemplify the greater debate over sanctuary policies in the United States and how this debate continues to shape and affect the illegalized migrant communities aimed to be protected under these policies. Moreover, it is the continued exploitation and mistreatment of irregular migrants described below, fueled and justified by an increasingly normalized inflammatory, xenophobic, and anti-immigrant rhetoric, that inspired this thesis to be written. For this reason, it is with the utmost sensitivity and respect for migrants currently in NYC and other sanctuary areas, as well as those who have yet to end their journey arriving at the border and the adversity, they face that I conduct this case study. As much as this thesis is supported by qualitative and quantitative research methods, it is also made possible by the cruel hardships and the endless consequences of the continued legislative deadlock over the nation's immigration policy endured by these migrants every day. For this reason, this thesis is participatory in a larger, very specific effort in academic scholarship to not write away or re-write the autonomous narratives of migrants, but rather make visible their existence and their experiences as they relate to my investigation.

Political Instrumentalization and an Escalating Housing Crisis

We now fast forward to April of 2022 when Governor Abbot of Texas launched a campaign of loading migrants seeking asylum across the border, mainly Latin Americans, onto busses in record numbers to northeastern cities to relieve southern border states as part of a larger scheme to pressure President Biden and Democrats in Congress to respond to the intensifying

border crisis,¹⁶¹ namely by increasing border control and deportation programs.¹⁶² The majority of these migrants have been released from federal custody after illegally crossing the border and allowed to remain in the U.S. under certain conditions.¹⁶³ Eventually reaching the tens of thousands, Abbott began chartering buses from border cities such as Eagle Pass and Del Rio to sanctuary cities in the north such as NYC which he deemed “the ideal destination for these migrants, who can receive the abundance of city services and housing that Mayor Eric Adams has boasted about...”.¹⁶⁴ Abbott’s campaign came after Mayor of New York Eric Adam’s announcement of an emergency procurement declaration in response to the already overwhelmed shelter system in NYC catering to approximately 4,000 new asylum seekers since late May of 2022.¹⁶⁵ The purpose of the declaration was to facilitate the acquisition of emergency housing services by declaring emergency conditions among the city’s asylum seeker and resident unhoused population and calling on the support of government agencies such as the Human Resources Administration, Department of Homeless Services, and Department of Housing Preservation and Development, for example, to help relieve the situation.¹⁶⁶ As of February of this year, the city has received more than 50,000 migrants through its intake system since the

¹⁶¹ Even President Trump in 2019 considered “placing illegal immigrants” in sanctuary cities to *test* liberal-leaning sanctuary cities as a response to failing migration management methods at the southern border: “We’ll bring them to sanctuary city areas and let that particular area take care of it [...] “We can give them a lot. We can give them an unlimited supply,” Trump stated. Eileen Sullivan, “Trump Says He Is Considering Releasing Migrants in ‘Sanctuary Cities.’” *The New York Times*. *The New York Times*, April 12, 2019.

¹⁶² Andy Newman and Raúl Vilchis. “Seeking Asylum in Texas; Sent to New York to Make a Political Point.” *The New York Times*, August 6, 2022.

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*

¹⁶⁵ See Andy Newman and Raúl Vilchis. “Seeking Asylum in Texas; Sent to New York to Make a Political Point.” *The New York Times*, August 6, 2022.

¹⁶⁶ Gary P. Jenkins, Commissioner. “Declaration of Emergency for Asylee Services and Shelter.” *Nyc.gov*. NYC Department of Social Services, Human Resources Administration and Department of Homeless Services, July 29, 2022.

Spring of 2022, with the majority remaining in the city’s care.¹⁶⁷ This has resulted in over 70,000 total persons in the city’s homeless shelter population excluding thousands in emergency shelters.¹⁶⁸ According to *New York Times* journalist Karen Zraick’s continued coverage of the migrant crisis in NYC, this overwhelming of the city’s social safety net has resulted in an array of shelters and relief operations, now including around 100 upscale hotels and several cruise line ships and terminals converted into barracks-style temporary shelters, primarily organized by nonprofit organizations contracted out by the Department of Homeless Services in addition to NYC Health and Hospitals.¹⁶⁹ The city has had to create new intake centers for processing migrants and their families and assessing their needs, as well as providing food assistance, medical care, schooling, healthcare referrals, legal and case-work services, housing and resettlement, connecting migrants to potential family members and friends in the area, and enrollment in the city’s municipal ID program - all regardless of immigration status.¹⁷⁰ These intake centers are also actively engaging in sanctuary practices by not tracking individuals’ immigration status in any form to protect individuals from being detained or deported.¹⁷¹ Most impressively, the city is planning to open a 24-hour intake center in addition to instituting a new agency, the Office of Asylum Seeker Operations, to cope with the migrant crisis and centralize

¹⁶⁷ Jeffery C. Mays. “New York City Will Create New Agency to Cope With Migrant Surge.” *The New York Times*, March 7, 2023.

¹⁶⁸ Karen Zraick, “Migrants Protest Move From Midtown Hotel to Barracks-Style Shelter,” *The New York Times*, Jan. 30, 2023.

¹⁶⁹ Karen Zraick, “How Manhattan Hotels Became Refuges for Thousands of Migrants.” *The New York Times*, March 23, 2023.

¹⁷⁰ Gary P. Jenkins, Commissioner. “Declaration of Emergency for Asylee Services and Shelter.” Nyc.gov. NYC Department of Social Services, Human Resources Administration and Department of Homeless Services, July 29, 2022.; Karen Zraick and Brittany Kriegstein. “As Migrants Arrive in New York, Adams Says a New Wave Would Strain the City.” *The New York Times*, December 19, 2022.

¹⁷¹ “Mayor Adams Announces Emergency Procurement Declaration to Rapidly Procure Shelter Services for Asylum Seekers.” Nyc.gov, The City of New York, Office of the Mayor, August 1, 2022.

operations such as rehousing and legal services.¹⁷² While this recent proposal reflects an optimistic turn of events, the situation remains untenable with the city’s current budget and dwindling resources, and the sweeping lack of attention and support from the nation’s executive branch.

More specifically, as it was reported, these unsustainable solutions were anticipated to cost \$1 billion per year in response to migrant arrivals, including \$600 million for the city’s current unhoused population and services and \$400 million reserved for “humanitarian emergency response and relief centers” (‘HERRCs’) as mandated by the city’s Emergency Executive Order No. 224 in October of 2022¹⁷³; this number has now risen to \$4 billion for the 2023 and 2024 fiscal years.¹⁷⁴ The order describes the tens of thousands seeking shelter in NYC, criticizes Texas’ refusal to give notice to NYC of migrant arrivals, and calls for a suspension of the Uniform Land Use Review Procedure and “community-review processes” that could slow the creation of temporary shelters.¹⁷⁵ Overall, the order declares a state of emergency across the city in an effort to coordinate a greater humanitarian response for the incoming migrants, as well as directs all city and state agency heads to take all steps necessary to “preserve health and public safety during this crisis.”¹⁷⁶ Most importantly, the city continues to plead the support of the federal government as the city has proven it cannot provide adequate resources to its unhoused population let alone incoming migrants of which are estimated to reach well over 100,000 by

¹⁷² Karen Zraick and Brittany Kriegstein. “As Migrants Arrive in New York, Adams Says a New Wave Would Strain City.” *The New York Times*, December 19, 2022.

¹⁷³ Karen Zraick and Brittany Kriegstein. “As Migrants Arrive in New York, Adams Says a New Wave Would Strain City.” *The New York Times*, December 19, 2022.

¹⁷⁴ Jeffery C. Mays. “New York City Will Create New Agency to Cope With Migrant Surge.” *The New York Times*, March 7, 2023.

¹⁷⁵ “Executive Order No. 224.” Nyc.gov, The City of New York, Office of the Mayor, October 7, 2022: 2

¹⁷⁶ “Executive Order No. 224.” Nyc.gov, The City of New York, Office of the Mayor, October 7, 2022: 2-3.

2023, especially against the backdrop of the city’s worsening housing crisis that has led to decreasing affordable housing, increasing rent, and increasing evictions.¹⁷⁷¹⁷⁸ All of these conditions reveal a large-scale violation and ignorance of the city’s right-to-shelter law and stipulations established in 1981; further, they make it difficult to distinguish statistically whether the overwhelming of NYC’s shelter systems is a result of the influx of asylum seekers or simply an amalgamation of the city’s deteriorating housing conditions.¹⁷⁹ Nonetheless, without a coordinated strategy at the federal, state, and local levels of government, it is highly unlikely that the situation will improve. According to Mayor Adams, “This is a national problem. [...] El Paso shouldn’t be going through this. Chicago shouldn’t be going through this. Washington, Houston, cities should not be carrying the weight of a national problem.”¹⁸⁰ The federal government has yet to offer migrants legalization, such as through work permits or government assistance, rendering newly arrived migrants unable to earn wages and exposed to exploitation by illegitimate employers. Although, as of March of 2023, “New York State has pledged \$1 billion over the next two fiscal years and the city is expected to receive a large chunk of \$800 million allocated by the federal government to help localities deal with the migrant crisis.”¹⁸¹ This comes after NYC officials including the city comptroller Brad Lander, the public advocate Jumaane D. Williams, three borough presidents and more than two dozen members of the City Council wrote

¹⁷⁷ *Ibid.*

¹⁷⁸ The city’s homeless shelters are also responsible for receiving discharged inmates from state prisons or those who have overstayed their maximum time in domestic violence shelters. See Andy Newman and Emma G. Fitzsimmons. “New York Faces Record Homelessness as Mayor Declares Migrant Emergency.” *The New York Times*, October 7, 2022.

¹⁷⁹ *Ibid.*; See also “Executive Order No. 224.” Nyc.gov, The City of New York, Office of the Mayor, October 7, 2022: 2-3.

¹⁸⁰ Karen Zraick and Brittany Kriegstein. “As Migrants Arrive in New York, Adams Says a New Wave Would Strain City.” *The New York Times*, December 19, 2022.

¹⁸¹ Jeffery C. Mays. “New York City Will Create New Agency to Cope With Migrant Surge.” *The New York Times*, March 7, 2023.

to President Biden in January urging the federal government for support. Nevertheless, important operational questions remain: How will the city move the tens of thousands in shelters into permanent housing, and when? Will non-profit organizations currently on the ground welcoming and assisting migrant arrivals be included in the city's proposed efforts?

These proposals come at another ill-timed political moment - the expiration of the Trump-era policy that allowed for the swift expulsion¹⁸² of migrants from the U.S. under the pretense of a public health emergency (COVID-19) under Title 42. Set to expire May 11, the end of the pandemic-era policy is anticipated to result in a surge of migrants at the border escaping heightened political and economic devastation in Latin American countries, including over 17,000 fleeing Venezuela's recent economic collapse.¹⁸³ Consequently, President Biden, with the Department of Homeland Security, is considering reinstating family detention policies at the border, the same ones he deemed inhumane throughout his presidential campaign and more or less shut down after a year in office, with some families continuing to be separated and detained by CBP along the border.¹⁸⁴ Instead, Biden has turned to ATD tracking technologies to document migrants' movements while allowing them to enter and remain in the U.S, in addition to the CBP app dubbed "CBP One" intended to allow migrants seeking asylum to virtually book

¹⁸² Expulsion is not the same as deportation. "Expulsion is an act by a public authority to remove a person or persons against his or her will from the territory of that state. A successful expulsion of a person by a country is called a deportation." Andrew Scholten, *International Law Aspects of Forced Deportations and Expulsions*. Congress on Urban Issues, Malaga, 2016.

¹⁸³ Andy Newman and Emma G. Fitzsimmons. "New York Faces Record Homelessness as Mayor Declares Migrant Emergency." *The New York Times*, October 7, 2022.

¹⁸⁴ See Eileen Sullivan and Zolan Kanno-youngs. "U.S. Is Said to Consider Reinstating Detention of Migrant Families." *The New York Times*, March 6, 2023.

appointments before entering the U.S. which has experienced severe glitches since its implementation.¹⁸⁵

Why does this surge of migrants to NYC matter for evaluating the role of sanctuary in immigration policy? These ongoing political developments and their implications continue to shape the sanctuary city in regard to its form, its function, and its dynamic mobilization by those interested in protecting migrants and those interested in erasing them. This chapter's analysis of NYC's current status of being a sanctuary city to its irregular migrant population served to ground this essay in real-life policies and practices that directly impact the rights and privileges of migrants within the United States. Moreover, it affirmed that there is a cyclical relationship between sanctuary cities and local actors and the legitimizing (and illegitimizing) actions of federal and state actors (and the narratives they put forth).

Conclusion and Future Implications

To recap, this thesis examined the role of sanctuary cities in the United States, specifically New York City, within contemporary U.S. immigration policy and interrogated how sanctuary practices have challenged a growing anti-immigrant, restrictionist politics toward irregular migrants crossing the U.S.-Mexico border in the past 6 years. This investigation used an array of sources from the government, political, legal, non-profit, and public sectors to understand various aspects of the sanctuary city, and to overall explore how and why the

¹⁸⁵ See Eileen Sullivan and Zolan Kanno-youngs. "U.S. Is Said to Consider Reinstating Detention of Migrant Families." *The New York Times*, March 6, 2023.; "Innovation Law Lab Statement on Biden Administration Consideration of Reinstating Immigrant Family Detention." Innovation Law Lab, March 8, 2023.; Daniela Dib and Ann Louise Deslandes. "Migrants Must Overcome a New Barrier at the Border: The U.S. Government's Terrible App." Rest of world, Mexico City, Mexico, March 9, 2023.

sanctuary city has risen to the forefront of the political agenda once more. Since the 1980s Sanctuary Movement, there was little incentive for localities to form an institutionalized response until the attacks of September 11th which stopped U.S. immigration in its tracks, resulting in widespread securitization of the U.S.-Mexico border and a mass deportation regime that is still unfurling today. Specifically, the establishment of ICE under the DHS following the attacks of 9/11 vindicated existing sanctuary resolutions and led to their wider adoption in an effort to foster trust within migrant communities with local authorities as well as publicly resist cooperation with the federal government's intensifying immigration enforcement system.¹⁸⁶ Then, sanctuary cities remained somewhat quiet, whilst expanding in response to the growing military-industrial complex separating families and targeting migrants along the border, until its reemergence in the 2008 presidential race in which Romney tied sanctuary cities and illegal immigration to the failures of NYC under Giuliani, politicizing sanctuary practices to endorse a restrictionist immigration agenda; the debate continued in the Republican primaries in 2012.¹⁸⁷ The climax of this brief history was Steinle's shooting in San Francisco in 2015, outraging both conservatives and liberals and bringing the topic of sanctuary jurisdictions back under the microscope.¹⁸⁸ Her death was central to Trump's presidential campaign narrative, which cited rampant migrant illegality and criminality to justify inflammatory, anti-immigrant, and white nationalist rhetoric and closed-border policies. Executive Order 13768, although ruled unconstitutional on the basis of federalism along with other attempts to defund the sanctuary

¹⁸⁶ See Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019, p. 157; See also Chapter 2, 3, and 6.

¹⁸⁷ See Jake Tapper and Ron Claiborne. "Romney: Giuliani's NYC 'Sanctuary' for Illegal Immigrants." ABC News. ABC News Network, August 8, 2007.

¹⁸⁸ See "Time Served for Man in 2015 San Francisco Pier Killing of Kate Steinle." KCRA, June 6, 2022.

city,¹⁸⁹ actually revealed the power and significance of the sanctuary city in U.S. immigration policy. Deemed a threat by some and the savior of others, the sanctuary city has become a crucial site at which the politics of today's contemporary U.S. immigration policy play out.

This has several implications for both scholarship and policy. Firstly, while sanctuary cities remain steadfast in their existence and advocacy for migrants' rights and protections, the battle between the local and federal levels will only continue, and likely become more polarizing. I argue that especially as media coverage intensifies following the growth of sanctuary cities and the rising number of migrant arrivals at the border in lieu of Biden's border policies, the sanctuary city will be looked toward as a key player in U.S. immigration in terms of migration management but also immigration enforcement. According to Gonzalez O'Brien, "We're going to see the battle over sanctuary policies play out [in different localities] until we get some kind of national legislation. [...] There are still millions of people living in a legal gray zone who are afraid of leaving the house and interacting with other members of their community because that threat of deportation hangs over their head."¹⁹⁰ In his book with Loren Collingwood, they also theorize that sanctuary city policies, as a result of these scalar tensions, will likely devolve to the state in terms of either standardizing them or criminalizing them. This is also because, according to their research, ideology and partisan politics are currently the primary predictors for the success of sanctuary policies, which are embedding themselves into the divisive political campaigns of both the Democratic and Republican parties.¹⁹¹ This fomenting polarization will

¹⁸⁹ Jonathan Petts, "What Is 'Sanctuary' and How Does It Help Immigrants?" Immigration Help, May 30, 2022.

¹⁹⁰ Angelika Albaladejo, "Biden Promised to Protect Sanctuary Cities So Why Is Ice Still Partnering with Local Cops?" Capital & Main - Investigating Power & Politics. Capital & Main, June 9, 2022.

¹⁹¹ Loren Collingwood and Benjamin Gonzalez O'Brien. *Sanctuary Cities: The Politics of Refuge*. New York: Oxford University Press, 2019, p. 157; See also Chapter 3.

also have important ramifications for illegalized migrants. Hence, more research will need to be done to observe the effects of sanctuary policies on changing immigration developments. As of now, sanctuary cities remain important for migrants' struggle for inclusion, resettlement, and regularization, and are also targeted by the exclusionary practices mobilized by anti-immigrant actors. They are responding to a worsening border crisis, as they come under heavy scrutiny themselves in regard to their jurisdiction, legitimacy, and effectiveness in shielding migrants from deportation. As my thesis tried to show, they provide numerous more benefits than harms, including the reduction of deportations and sometimes a reduction in crime rates. Most important to this essay, sanctuary cities, and involved actors engage in important meaning-making processes between different levels of government for the legalization of irregular migrants. Sanctuary cities represent a potential blueprint for a future national immigration policy that seeks to reduce the instability, precarity, and violence experienced by irregular migrants who remain at the mercy of the U.S. federal government yet selectively invisible at the same time. If this thesis achieved anything it is to contribute to the visibility of some of the struggles irregular migrants face and to explain the role of the sanctuary city in mitigating them.

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