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SANCTUARY CAMPUS: RESISTANCE AND PROTECTION WITHIN AND BEYOND THE UNIVERSITY

In the days and weeks after the election of Donald Trump, hundreds of thousands of students, faculty, and staff at over 190 schools, colleges, and universities around the country mobilized to create and sign petitions calling for their respective administrations to declare their campuses sanctuaries. These campaigns aim to guarantee the university's protection of undocumented members of the community by committing to withhold information from immigration enforcement authorities and by disallowing the presence of those authorities on campus without a court order or warrant. Beyond today's mobilization at the university level—which had, in fact, begun years ago but gained momentum after the election—there are almost three hundred cities, counties, and states that have declared themselves sanctuaries in order to limit cooperation with federal immigration officials. It is at this level that the sanctuary movement has come under attack by Trump, who promises to cut federal funding to any local or state government that adopts this stance of defiance.¹ Like most of Trump's proposals related to immigration, his rhetoric surrounding the very idea of "sanctuary" is distortive—he condemns sanctuary cities for harboring dangerous illegal

immigrants that put the rest of Americans at risk and for allowing them to access public services at the taxpayers' expense.

Yet, the idea of “sanctuary” has no clear or consistently understood and applied meaning. As Elliot Young, professor of history and director of Ethnic Studies at Lewis and Clark College, puts it in a recent article, “Sanctuary is an aspiration, a statement of values rather than a statement of fact.”² Cities, universities, and religious congregations have interpreted its definition, both legally and symbolically, with wide variations, according to their respective characteristics, values, and resources. These many forms of sanctuary are in many ways part of the concept's strength, in that they offer adaptable forms of resistance to counter unjust exercises of power. By understanding sanctuary in its plurality, across history and across institutions, we are not only better prepared to imagine and develop responses to challenge the discourse and policies that criminalize migrants and their families but also to build a future where the rights of migrants are made real across borders.

Lessons from the History of the Sanctuary Movement

The sanctuary movement has a long history going back to medieval England—one mostly associated with discrete physical spaces such as churches to protect those escaping punishment or persecution for various reasons. As Eric Foner explained at a recent forum at Barnard College, taking the history of the Underground Railroad as an example, sanctuary is a subset of civil disobedience, which includes both legal and illegal methods of resistance.³ At the core of such actions is the question of what the obligation is of the moral person when confronted with an unjust law. The same question can be asked of the very institutions, like churches and universities, that stand for social justice and equality. How do we demand that their moral commitments are matched with action in the face of injustice?

In the Sanctuary Movement of the 1980s, four hundred religious congregations around the United States helped refugees from US-sponsored Central American wars enter the country, having been denied entry by the United States based on the argument that they were economic migrants. Beyond providing them with a safe haven through shelter and helping them cross the border, churches stepped in to offer medical care and legal representation. But the movement was not simply about protection. It asserted a political position—it drew attention to the consequences of US foreign policy in the region, exposed its human rights violations, and challenged the US immigration system (particularly its discriminatory asylum practices). This, eventually, led to the passage of legislation to grant Temporary Protected Status (TPS) to Central American refugees and to the creation of a strong

1. Tessa Stuart, “How Sanctuary Cities are Plotting to Resist Trump,” *Rolling Stone*, December 1, 2016, <http://www.rollingstone.com/politics/features/how-sanctuary-cities-are-plotting-to-resist-trump-w453239>.

2. Elliott Young, “On Sanctuary: What Is in a Name?” *Huffington Post*, December 2, 2016, http://www.huffingtonpost.com/entry/on-sanctuary-what-is-in-a-name_us_583f8feae4b0b93e10f8df24.

3. Eric Foner, comments at “Sanctuary: Social, Legal, and Historical Perspectives on an Activist Category,” Barnard College, December 8, 2016.

network of civil society actors, which remains active to date.

The movement, which quieted down in the 1990s, resurfaced in 2007 as the New Sanctuary Movement, in response to mass deportations of undocumented immigrants and in large part inspired by the case of Elvira Arellano—a Mexican activist who refused deportation with her US-born child and found sanctuary in a church in Chicago for months. Instead of just transporting, housing, and hiding refugees, as the 1980s Sanctuary Movement did, the New Sanctuary Movement emphasizes the importance of communication and visibility—from publicizing stories, raising public awareness about the individual lives at stake, and pressuring for legislative reform.

What is happening today must be seen as an outgrowth of the continued resistance over the past ten years, when immigration authorities under the George W. Bush and Barack Obama administrations conducted raids, deported almost three million individuals, and developed a massive immigrant detention system. The post-election revival of the concept of sanctuary, and the sanctuary campus movement specifically, is a powerful call to action, a symbol of resistance and civil disobedience that offers alternative pathways and hope in response to the current political context.

The University as Sanctuary

One of the arguments against the proclamation of sanctuary by universities is the confusion it creates among members of the undocumented community—it is unclear what it actually promises and may be interpreted as a certain kind of protection that is, in fact, not possible. Others have taken the argument further to claim that such a position may limit access to federal funding for public universities, especially following Trump’s promise regarding sanctuary cities.⁴

Although it is clear that there are legal limitations to what a sanctuary space can do in the face of a court order—which would make it illegal to harbor an undocumented immigrant or prevent their removal—the power of declaring a space sanctuary goes beyond physical protection. There is considerable complexity to be found in different degrees of sanctuary: from symbolic support, to safe space, to refusal to cooperate with immigration authorities, to short-term or long-term physical sanctuary. These various expressions of support for vulnerable communities recognize the need to create spaces where marginalized groups will not be mistreated and can express themselves freely. Most often, the creation of sanctuary in cities, universities, hospitals, restaurants, and organizations involves the declaration of systems, or practices, of noncompliance and refusal: that they will not request information about the immigration status from their staff, users, or

4. See Rebecca Nathanson, “Sanctuary Campuses Vow to Protect Immigrant Students under Trump,” *Rolling Stone*, December 20, 2016, <http://www.rollingstone.com/politics/features/sanctuary-campuses-vow-to-protect-immigrant-students-under-trump-w455882>.



NEW YORK UNIVERSITY

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November 29, 2016

Dear Fellow Members of the NYU Community:

In recent days I have heard from many expressing deep concern about the well-being of immigrant and especially undocumented members of our community. Specifically, many of you want to know that we are affording our full protection and support to everyone who lives, studies, and works at NYU.

I want to assure all of you that that is our goal. We are bound together as a community, each member valued, each member belonging here, each member deserving of the support that NYU can give. Documented or undocumented, these are our peers, colleagues, and friends.

For that reason, I want you to know that:

- NYU does not allow any federal agency to enter NYU buildings without permission or legal process (e.g. a search warrant from a court or a subpoena). Such permission is not given for targeting undocumented members of our community or for gathering information on them. The same standard applies to requests for information that is in NYU's possession.
- NYU's public safety officers do not inquire as to an individual's immigration status. To the extent that public safety officers discover any information on immigration status, they do not and will not voluntarily convey such information status to any governmental entity. They are not sworn peace officers and would not be participating in any enforcement activities with federal immigration authorities. In New York City, NYU relies heavily on the NYPD, which, under the "sanctuary city" policy, does not alert federal immigration authorities about the immigration status of undocumented individuals except in very specific circumstances, such as in response to a judicial warrant for an individual wanted for a violent or serious felony.
- As stated in our Non-Discrimination and Anti-Harassment Policy for Students, NYU prohibits discrimination based on race, gender and/or gender identity or expression, color, religion, age, national origin, ethnicity, disability, veteran or military status, sexual orientation, marital status, or citizenship status. These protections extend to all members of the community – including those who are undocumented – as well as to the academic, residential, and working environments.
- Student records – including the records of those who are undocumented – are subject to the strict privacy protections set forth in the University's policy under the Family Educational Rights and Privacy Act (FERPA).

Declaration of sanctuary from Andrew Hamilton, President of New York University, November 29, 2016.



RESOLUTION OF THE BOARD OF TRUSTEES OF THE NEW SCHOOL

Whereas, the ideas and creativity of our academic community at The New School have traditionally been and are currently enhanced by the contributions of students from a broad range of cultures; and

Whereas, in anticipation of the transition to a new presidential administration, New School students, faculty, and staff have expressed concerns about the potential implications of changes that immigration policies might have for international students and undocumented students at The New School; and

Whereas, while there have been no changes announced for the student visa program, and the university is not aware of any planned changes; and

Whereas, the university's administration will continue to monitor the impact that changes in immigration policy may have on our community and will take appropriate actions as soon as possible should any changes that might affect our students come to our attention.

Now therefore be it resolved that:

1. The New School will continue to welcome, admit and support students without regard to their citizenship status;
2. The New School will protect the privacy rights of all of our students, staff and faculty and not release records in our possession that may disclose citizenship status to any law enforcement authority, absent a court order or a legally enforceable subpoena;
3. The New School has not, and will not in the future permit law enforcement authorities, absent a court order, legally issued warrant or other legal mandate to enter onto any premises the University owns or controls for the purpose of detaining any student, staff or faculty solely based on immigration status for the purpose of possible deportation.

This Resolution shall take effect immediately upon its adoption.

Dated: November 22, 2016

Declaration of sanctuary from the Board of Trustees of The New School, November 22, 2016.

members; that any such information will not be handed over to immigration authorities; and that they will not be allowed to search their premises without a warrant issued by a judge.⁵ Physical sanctuary is the highest level of commitment—whether offering a space to wait while raids are conducted in neighborhoods or workplaces or providing a space to stay for the long term until a deportation hearing is resolved and, in some cases, refused altogether. In these cases, the person seeking sanctuary cannot leave the premises.

Most universities, including my own institution, The New School, have issued a standard statement of noncompliance, proclaiming that they will not share information or cooperate with immigration authorities without a court order. Although they have shied away from using the term *sanctuary*, these statements are significant as a form of resistance to unjust policies and a message of solidarity to the larger university community. If immigration authorities were to enter a university to conduct a raid or take a student under custody for an immigration violation, the declaration of sanctuary announces that the university will not stand idle—recognizing the 2011 US Immigration and Customs Enforcement (ICE) Memo that established universities as “sensitive locations” in which enforcement activities should be avoided or handled with extreme caution.⁶ Just like sanctuary cities, universities have the discretion to protect sensitive information as well as to provide training for members of the community to ensure that the stance that they adopt regarding enforcement, the protection of records, or preventing biased-based policing is upheld. The university’s position as a sanctuary means that police action following immigration regulations will be met with forceful resistance by the community, even if the ICE Memo were to be revoked by the new administration.

If anything, this position buys time that may be essential to those threatened by these policies. In a context in which mass deportation is expected to increase or continue at the same level as during the Obama administration, buying time is an invaluable tactic. The ability to delay legal decisions and avoid immediate detention allows individuals the chance to negotiate better alternatives under better circumstances; more time means the ability to prepare in the event of deportation and the ability to secure resources necessary for defense. Knowing that a university is a sanctuary campus sends a message to authorities: they must do things in a certain way, with a court order in hand, in opposition to an organized community. A key question here is, for example, whether universities are able to communicate to an individual or to the university community that ICE authorities have requested specific information in order to give them the time they need. These are the sorts of questions that are raised in the context of the sanctuary debate, which force universities to rethink their practices about data

5. See, for example, the recent statement by the Sanctuary Restaurants Movement, online at <http://rocunited.org/2017/01/sanctuary-restaurants-movement-launches-combat-hate-harassment-work>.

6. John Morton, “Enforcement Actions at or Focused on Sensitive Locations,” Memorandum for Field Office Directors, Special Agents in Charge and Chief Counsel, Department of Homeland Security, October 24, 2011. <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

Policy Number: 10029.2
FEA Number: 306-112-002b

Office of the Director


U.S. Department of Homeland Security
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U.S. Immigration
and Customs
Enforcement

OCT 24 2011

MEMORANDUM FOR: Field Office Directors
Special Agents in Charge
Chief Counsel

FROM: John Morton 
Director

SUBJECT: Enforcement Actions at or Focused on Sensitive Locations

Purpose

This memorandum sets forth Immigration and Customs Enforcement (ICE) policy regarding certain enforcement actions by ICE officers and agents at or focused on sensitive locations. This policy is designed to ensure that these enforcement actions do not occur at nor are focused on sensitive locations such as schools and churches unless (a) exigent circumstances exist, (b) other law enforcement actions have led officers to a sensitive location as described in the "Exceptions to the General Rule" section of this policy memorandum, or (c) prior approval is obtained. This policy supersedes all prior agency policy on this subject.¹

Definitions

The enforcement actions covered by this policy are (1) arrests; (2) interviews; (3) searches; and (4) for purposes of immigration enforcement only, surveillance. Actions not covered by this policy include actions such as obtaining records, documents and similar materials from officials or employees, providing notice to officials or employees, serving subpoenas, engaging in Student and Exchange Visitor Program (SEVP) compliance and certification visits, or participating in official functions or community meetings.

The sensitive locations covered by this policy include, but are not limited to, the following:

- schools (including pre-schools, primary schools, secondary schools, post-secondary schools up to and including colleges and universities, and other institutions of learning such as vocational or trade schools);
- hospitals;
- churches, synagogues, mosques or other institutions of worship, such as buildings rented for the purpose of religious services;
- the site of a funeral, wedding, or other public religious ceremony; and
- a site during the occurrence of a public demonstration, such as a march, rally or parade.

www.ice.gov

John Morton, "Enforcement Actions at or Focused on Sensitive Locations," U.S. Immigration and Customs Enforcement Memorandum, October 24, 2011.

collection, communication, and support systems available to vulnerable communities.

Beyond the interaction with federal authorities, a declaration of sanctuary campus sends a clear message of support to vulnerable individuals within the community (not just students but also staff and faculty), to know that this is a safe space where the whole community is aware, informed, and ready to act to protect rights, not just when facing immigration enforcement authorities but in any case in which there is an attack against them, within the classroom or in any space within campus. Much work remains to be done across private and public universities in terms of training staff and faculty and adjusting administrative systems and bureaucracies in order to reflect these principles in tangible ways.

The Symbolic and Performative Power of Sanctuary

Beyond the issue of compliance with immigration enforcement, students are increasingly demanding campuses where they do not have to confront racism, discrimination, or microaggressions. There are concrete actions that universities can take to demonstrate their commitment to the inclusion and respect of vulnerable communities—in this case undocumented migrants—in everyday practice. By broadening the notion of sanctuary beyond this legal boundary of noncooperation with immigration authorities, we can find pathways for extending protections and calling for our institutions to act coherently with their discourse around values of social justice, dignity, and equality.⁷

While universities have already begun to discuss new protections demanded of them by undocumented students and faculty groups, the urgency of adopting and extending them is now more clear than ever. For example, the California Faculty Association, a union of twenty-seven thousand professors, lecturers, librarians, counselors, and coaches who teach in the California State University system, has called on universities to extend the meaning of sanctuary to housing for students unable or fearful of traveling back home during the winter break due to potential raids or encounters with immigration authorities.⁸ Such support is crucial for those who will fear attending school, seeking medical attention, or participating in activities that may appear to put them at risk of deportation. Columbia University and other universities have also committed to working with DACA recipients to support them with scholarships in the event they lose their status and can no longer work.⁹

The California Faculty Association has also suggested providing health care stipends for students who do not have access to Medicaid due to lack of documentation and who cannot afford to pay for

7. See “Resolution of the Board of Trustees of The New School,” November 22, 2016 (<https://drive.google.com/file/d/0B3hCmNDz-prmmSWIKSy1Nc3Z6SVU/view>).

8. See “Statement on Protections for Undocumented and Vulnerable Students, Colleagues” CFA Board of Directors, November 17, 2016, <http://www.calfac.org/item/statement-protections-undocumented-and-vulnerable-students-colleagues>.

9. See Aaron Holmes, “University Provides Sanctuary and Financial Support to Undocumented Students,” *Columbia Spectator*, November 11, 2016, <http://columbiaspectator.com/news/2016/11/21/university-provide-sanctuary-financial-support-undocumented-students>.

school insurance.¹⁰ Universities can also offer to have legal counseling available for members of the university and their families on an ongoing basis.¹¹ And, as has been discussed in some places in Europe and in the United States, universities can also offer free courses (online or in person) for undocumented students and refugee populations.¹²

While larger initiatives—like those proposed by the CFA and the statements from more than six hundred college and university presidents on the need to protect DACA—are especially urgent, we should not underestimate the importance of “retooling” the functions, tone, and preparedness of the university to better address the issues faced by undocumented students.¹³ The necessary support systems that underpin sanctuary environments can be bolstered by mandated sensitivity training for administrators, faculty, and security personnel as well as by avoiding bureaucratic practices or attitudes that limit access and voice for undocumented students in campus spaces and lead to intentional or unintentional discrimination.¹⁴

In order to demonstrate the university’s commitment to support undocumented migrants and other vulnerable populations, information about existing resources should be widely available on campuses and on the web. In the past, the New York Dream Faculty Alliance, founded in 2011 by faculty from fourteen campuses in the New York metropolitan area, discussed the idea of creating a logo or visual system to help students identify the network of schools friendly to undocumented individuals. With a similar aim, The New School, alongside the New Sanctuary Coalition NYC, recently issued a call to design the graphic identity of sanctuary. What does sanctuary look like across various spaces in the city? And how might a graphic banner convey the principles and politics of the project, “as a radical welcome,” to be used by organizations, institutions, and individuals that want to demonstrate their support for or status as sanctuary?¹⁵ Visualization amplifies the message of resistance of the sanctuary movement and is also a powerful symbol for the community—a marker for those who need this supportive apparatus and for their allies who are necessary to help expand the movement.

These are very tangible examples of what we can do at the university level to respond to the reality of undocumented migrant populations that are at risk, not just in the face of deportations but, also, as a result of discrimination, harassment, and limited access to funding to go to college. Declaring sanctuary is just the first step that allows us to make wider claims to ensure that this commitment is matched with actions and not just for undocumented migrants but for many other members of the community that face intimidation, violence, and discrimination: people of color, members of the LGBTQ community, women, and members of non-majoritarian religious communities.

10. See “Statement on Protections for Undocumented and Vulnerable Students, Colleagues,” CFA Board of Directors, November 17, 2016, <http://www.calfac.org/item/statement-protections-undocumented-and-vulnerable-students-colleagues>.

11. See “UC to Expand Legal Services to Undocumented Students at Several Campuses,” UC Office of the President, November 14, 2014, <https://www.universityofcalifornia.edu/press-room/legal-services-program-undocumented-students>.

12. See Dennis Romero, “College Just for Illegals, National Dream University Launches with the Help of UCLA,” *LA Weekly*, August 1, 2012, <http://www.laweekly.com/news/college-just-for-illegals-national-dream-university-launches-with-help-of-ucla-2387871>.

13. “College & University Presidents Call for US to Uphold and Continue DACA,” November 21, 2016. <https://www.pomona.edu/news/2016/11/21-college-university-presidents-call-us-uphold-and-continue-daca>.

14. See Carolina Valdivia, “Post Election Recommendations for School Administrators, Educators, and Undocumented Students,” *My Documented Life*, November 13, 2016, <https://mydocumentedlife.org/2016/11/13/post-election-recommendations-for-school-administrators-educators-counselors-and-undocumented-students>.

A Sanctuary Campus Movement beyond Borders

Susan B. Coutin, one of the most prominent scholars of the 1980s sanctuary movement, has emphasized its power as a transnational campaign that spanned Central America, Mexico, and the United States.¹⁶ Building transnational networks of solidarity, not just through churches, shelters, and civil society groups but also including universities in the United States and beyond is crucial in the context of mass deportations and forced return to origin countries. Among the challenges faced by those being deported are significant barriers to continue their education in their origin countries. Their need and right to protection and education does not end when they cross the border. Some US universities offer Dreamer scholarships that include funding from origin countries, sponsor DACA students' visits to Mexico and other countries, and encourage Dreamers to build transnational youth networks with returned Dreamers and other civil society groups. These exchanges reveal the importance of extending sanctuary across transnational spaces and the need for symbolic and tangible support across borders. The BUAP University in Puebla, Mexico, a self-proclaimed "university without borders," should be used as a model. In its commitment to support Dreamers' return to Mexico and to welcome them into the university, BUAP has established special Spanish-language courses, training programs to help students navigate the university system, and made a commitment to push for policies that facilitate the enrollment and validation of university credits from another country.¹⁷ These are not unprecedented actions. Countries, like Mexico, have historically made similar commitments to protect intellectuals and students in exile, especially in the context of the Spanish Civil War or the dirty war in Argentina. This commitment must be extended to their own citizens who are forced to return to the countries they left due to lack of opportunities and where they now face discrimination, bureaucratic obstacles, and limited opportunities to re-enter labor markets and continue their education.

To be effective and "real," the promise of sanctuary cannot end when students leave campus or when they cross the border (whether voluntarily or not) back into the country. The emerging movement today cannot simply be a reaction to the rhetoric and anticipated action by the Trump administration; it has to be proactive to challenge the larger structures that have led to this moment and to speak about wider claims such as the right not to migrate—a right that immigrant organizations that once campaigned for the rights of refugees in the 1980s now focus on. More than an immediate defense against the Trump administration and its expected policies, we must target the inequality and the different forms of violence exposed and codified within our

15. See "Urgent Call to All New School Students: Sanctuary Banner to Protect Immigrants and Other Targeted Populations," January 5, 2017, <http://blogs.newschool.edu/zolberg-center/files/2017/01/call.pdf> and <http://blogs.newschool.edu/zolberg-center/2017/01/05/urgent-call-to-all-new-school-students-sanctuary-banner-to-protect-immigrants-other-targeted-populations>.

16. See for example, Susan B. Coutin, *The Culture of Protest: Religious Activism and the U.S. Sanctuary Movement* (Boulder, Co: Westview Press, 1993) and Susan B. Coutin, "From Refugees to Immigrants: The Legalization Strategies of Salvadoran Immigrants and Activists," *International Migration Review*, vol. 32, no. 4 (Winter 1998): 901–925.

17. "La BUAP es una universidad sin fronteras," January 11, 2017, http://www.buap.mx/portal_pprd/wb/comunic/la_buap_es_una_universidad_sin_fronteras.

immigration system. We should also be hopeful that just as in the 1980s, the sanctuary movement today can lead to more than just the proclamation of a safe haven; declaring solidarities across boundaries, within our cities and between states and countries, is the first step to changing legislation and establishing new allegiances and networks of support. Universities and educators play a key role in expanding the sanctuary movement—they have the capacity to offer counter-discourse to dominant rhetoric, reaching further, within and beyond the academic community, at a moment when it is essential to be imaginative and rethink the terms, concepts, and frameworks through which we address this issue.

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