

**TORONTO THE GOOD? THE ACCESS T.O. POLICY - MAKING TORONTO A SANCTUARY CITY**

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## **Abstract**

This paper examines Toronto's Access T.O. policy, a policy created to transform Toronto into a sanctuary city. I argue that the Access T.O. policy has made progress towards turning Toronto into a practicable sanctuary city. However, I also highlight areas where the policy needs improvement and further expansion. I also show how the City of Toronto's Access T.O. policy offers an alternative approach to migration and settlement policies found at the level of the Canadian federal state and illustrate how these policies diverge and contradict. The Access T.O. policy, like other sanctuary cities, is shown to provide an alternative understanding and implementation of citizenship, belonging, rights, ethics and morality, human agency, security and borders to that found in federal state policies. The paper provides background information on sanctuary cities prior to entering this aforementioned discussion and concludes with considerations for Access T.O.'s continued expansion and implementation.

Key words: sanctuary city; Access T.O.; migrant illegalization; Toronto; domicile citizenship

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## **Dedication**

To my parents, Milan and Irena, for all they have done for me.

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## Introduction

Gord<sup>1</sup> is a hardworking person making a living applying his skills and experience as a construction worker at various job sites throughout Toronto. He arrives on time, works hard and often provides entertainment to his coworkers as a result of his humour and ability to tell funny stories. Gord is great company during breaks, often talking about his travels as well as his interesting childhood and adolescence spent in a large city within the United Kingdom. He is the sort of person people like to work with and enjoy having around. Moreover, he is the type of worker that employers are always happy to have back. He is an above average worker, but generally a person much like anyone else.

However, when getting picked up for work, Gord insists on meeting at a public transit stop or at a coffee shop. Drop-offs on the way home are the same, even if someone volunteers to drive him off directly home after a long, tiring day of labour. Gord insists on being dropped off somewhere nondescript, and then making his way home on his own. This is because Gord is not like everyone else in one distinct way: he is in Canada illegally, according to Canadian immigration authorities. As such, he worries about people knowing his whereabouts and his residence as he fears this might lead to his eventual removal from the country he has lived, worked and made a life in for the last 17 years. This fear is such that he remains 'underground', shunning attention and attempting to leave little to no trace of his presence, as much as possible. Part of this also means that if an employer doesn't want to pay Gord for his work,

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<sup>1</sup> Gord is a fictitious figure constructed here to illustrate the real cases of individuals living in similar circumstances to those described here.

there is little that he can do: he works for cash and as a result, his employment is not bound by formal work regulations.

Gord is not alone in the type of life he lives and the stresses and struggles that come as a result of it. Toronto is said to be home to anywhere between as little as 150 000 and as many as 400 000 people just like him. Gord is an undocumented individual, or as his situation is described by immigration authorities, 'illegal'. This paper will focus in large part on these people and the policies that impact them. One of these policies, a sanctuary city, will also be a focus of this paper. Gord lives in Toronto, a city that has declared itself a sanctuary to people like him, a city which allows people without formal immigration and citizenship status access to municipal services without fear of their status being reported to federal immigration enforcement. This is an approach that marks a significant departure from the approach to people like Gord enacted by federal immigration authorities who deem him (and others like him) 'illegal' and attempt to track down, incarcerate and remove them. Thus, two vastly different approaches occur simultaneously within the same polity: one creates the institutional framework allowing it to deem people illegal; the other ostensibly disregards these conceptions of illegality. How can Toronto enact an official policy of services for people that Canada says are 'illegal'?

Toronto's sanctuary city policy was formally adopted by the City in February of 2013 and was later given the name Access T.O. I will analyze this policy and discuss it in relation to Canadian federal immigration laws and policies and more generally, the laws and policies of states as a means of exploring the interaction of the two aforementioned divergent

approaches. I sought to gain insight into the possibility of offering City services to undocumented individuals, and if so, how? Can Toronto provide services to undocumented individuals within Toronto? Can the Access T.O. protect the information of undocumented individuals in Toronto from getting to Canadian federal immigration authority? In general, can the program circumvent Canadian federal immigration authority? How does the City see itself interacting with federal jurisdiction? Taken as a whole, all of these questions essentially ask one pertinent question: is Toronto a feasible and functioning sanctuary city in the form of sanctuary cities found elsewhere? Simply put, is Toronto a sanctuary city?

I will argue that Toronto's Access T.O. program can be seen as a working sanctuary city. Moreover, I will also argue that as a working policy, it offers a real, practicable alternative to immigration law and policy which 'illegalizes' migrants found at the level of the federal state, here specifically the Canadian state. In the subsequent sections of the paper I will show how this alternative creates distinct ways of experiencing citizenship, rights and belonging at the city level for migrants, and to all individuals more broadly. I will also show how the divergent approaches occurring at the city and federal level display different approaches to ethics and morality, human agency, security and borders. In the conclusion, I will discuss questions related to the Access T.O. policy and future considerations for both researchers and policymakers.

The paper is divided up into various parts: an explanation on the use of terms throughout it; background information on migrant illegalization and sanctuary cities; a description and analysis of Toronto's Access T.O. policy; a discussion of how the Access T.O.

program and its implications contradicts federal state policies and procedures and the implications of this contradiction; and concluding remarks.

## **Use of Terms**

There is a wide variety of terms used to describe individuals who are present in any given state without formal legal and technical permission from state authorities. These terms range from 'irregular migrants', 'non-status', 'illegal', 'illegal migrant', 'illegal alien', 'alien', 'illegalized', 'undocumented', 'paper-less' ('sans-papier' in France) and 'unauthorized'. This list is not exhaustive, but reflects many of the terms used to describe individuals in the situation described above, terms found in media reports, academic discussion, use by public officials and everyday parlance. Some of these terms attempt to describe these individuals in neutral or less-charged ways ('unauthorized', 'non-status'), while some are used as a pejorative ('illegal alien'). All of the terms reflect certain shortcomings, none are perfectly precise, and all have their various detractors.

This paper will employ the term 'undocumented' to describe individuals present in a state without formal permission allowing for their presence in this state<sup>2</sup>. This term is used by the City of Toronto in its Access T.O. reports, which this study focuses on. Thus, to remain consistent with the Access T.O. reports, this study will also employ the term 'undocumented'. Furthermore, use of 'undocumented' can be found in certain academic writing as well as

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<sup>2</sup> The state here refers specifically to the federal state and its authority (such as Canada and Canadian authorities) and similar federal laws and authorities elsewhere. This is a specific use of the term state, and not the broader sense of the state and state power as the culmination of all authority present within a polity.

elsewhere, and as such, is not a significant departure from usage utilized elsewhere. It is important to note that this study will engage with the discussion of the process of 'illegalizing' migrants, but that this will be highlighted as a *process* enacted and enabled by federal authorities. I consciously eschew referring to people as "illegal".

This study will also make extensive mention of a sanctuary city. A sanctuary city refers to a municipality which provides municipal services to undocumented individuals, regardless of their formal and technical immigration status. Furthermore, sanctuary cities do not provide information about undocumented individuals to federal immigration authorities should they come to know this information. In some instances, sanctuary cities explicitly state a refusal of cooperation with federal immigration laws and its enforcement agencies and mechanisms. While the term refers to cities, sanctuary city-like provisions can be provided by all municipalities (including non-urban ones) as well as other sub-state political entities such as provinces, states, cantons, districts, etc. Generally, when this study refers to sanctuary cities or sanctuary, it is speaking to the aforementioned policy, unless otherwise noted.

Toronto's sanctuary city policy is officially known as the Access T.O. policy. Thus, when this study refers to the Access T.O. policy, it is referring to Toronto's sanctuary city policy. Conversely, mention of Toronto's sanctuary city policy makes reference to the Access T.O. policy.

## **Background**

### *Federal State Policies of Illegalization*

Discussions of 'illegal' migration have become more prevalent recently, with these discussions marked by noticeable moral panic.<sup>3</sup> However, when referring to migrants as illegal, it is important to analyze the usage of this term. Something illegal implies a transgression of laws and the moral and ethical considerations that ensue. However, in the case of migrant illegality, the cause of being deemed illegal can be seen as stemming not from individual action, but state laws and practices: migrants are illegalized as opposed to engaging in illegal actions. Legality and illegality rest in relation to the state and its laws a person finds themselves in: migrant "illegality is a creation of the law."<sup>4</sup> "Social and institutional processes of boundary making...state laws, policies and social institutions work to produce migrant illegality", with this becoming a socially sanctioned process.<sup>5</sup> "Legal status categories, boundaries and the conditions associated with them tend to be established by state actors."<sup>6</sup> Thus, "in the absence of law, there can be no illegal migration. In the absence of state enforcement attempts, illegal migration is no more than the proverbial tree falling silently in the forest."<sup>7</sup> Illegal migration would be significantly reduced by halting moves to enforce existing laws. It could be completely eliminated by repealing all laws regulating it: law is used to make people illegal.<sup>8</sup> "Production of illegality" can be seen "as a social, institutional and ideological process."<sup>9</sup>

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<sup>3</sup> Catherine Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (Cambridge: Cambridge University Press, 2008), 2.

<sup>4</sup> Ibid, 11-12.

<sup>5</sup> L. Goldring and P. Landolt, "The Conditionality of Legal Status and Rights: Conceptualizing Precarious Non-Citizenship in Canada", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. L. Goldring and P. Landolt (Toronto: University of Toronto Press, 2013), 1: 12.

<sup>6</sup> Ibid, 16.

<sup>7</sup> Dauvergne, 15.

<sup>8</sup> Ibid.

<sup>9</sup> Goldring and Landolt, 13.

The use of the term "illegal" to describe a type of migrant is a new phenomenon.<sup>10</sup> This term, while "precise in its relationship with the law...is empty in content and is a category whose basis rests solely in its relationship with the law."<sup>11</sup> Becoming illegal can result from a failed refugee claim or a failure to meet visa or administrative requirements<sup>12</sup> as well as the result of a backpacker staying longer than permitted.<sup>13</sup> In light of these examples and these broader considerations, migrant illegality as a construction is qualitatively different than the illegality associated with criminal behaviour.

Furthermore, migrant illegality creates a notion of insider and outsider, with those illegal having broke 'our' law.<sup>14</sup> These outsiders are excluded internally, creating a group of non-citizens who find themselves in precarious legal conditions: "Precarious legal status refers to authorized and unauthorized forms of non-citizenship that are institutionally produced and share a precarity rooted in the conditionality of presence and access."<sup>15</sup> Moreover, "As long as national citizenship remains a relevant right-mediating institution, non-citizenship will remain a widespread and relevant lived experience and institutionalized social location for a significant and growing number of people worldwide."<sup>16</sup> For Rygiel, citizenship is a mechanism for control, with citizenship seen *as* government, and not merely part of the government.<sup>17</sup> Fortier is more pronounced in his interpretation: "Current immigration legislation in North America is set up to

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<sup>10</sup> Dauvergne, 16.

<sup>11</sup> Ibid.

<sup>12</sup> Goldring and Landolt, 13.

<sup>13</sup> Dauvergne, 16.

<sup>14</sup> Ibid.

<sup>15</sup> Goldring and Landolt, 3.

<sup>16</sup> Ibid, 10.

<sup>17</sup> Kim Rygiel, *Globalizing Citizenship* (Vancouver: UBC Press, 2010), 11.

create precarity and uncertainty in the domestic labour market, and to maintain an underclass of migrant labour with none of the corresponding rights of permanent residents or citizens."<sup>18</sup>

Thus, migrant illegalization can be seen as a process of laws and institutions creating a group of people deemed illegal as opposed to a group of people engaging in illegal acts which transgress the laws. The current regime of borders and immigration controls serves to create a status-quo which continues to illegalize individuals, both in migrant receiving countries in the Global North and Global South.<sup>19</sup> This results in those deemed illegal living within precarious situations and in non-citizen statuses with resulting limited access to rights and entitlements within the labour market, and society more broadly. This difficult status is compounded by the continuous fear of immigration enforcement and detention and the severe physical and psychological hardship it produces - all set against the backdrop of the threat and real possibility of deportation to a situation which is often even more precarious and dangerous than the status of living 'illegally'.

### *Sanctuary Cities*

Prior to entering into a discussion of sanctuary cities, it is helpful to highlight the history of the broad sanctuary principle:

"Sanctuary has an extensive history. The Old Testament refers to cities of refuge. There are detailed historical accounts of sanctuary in ancient Greece, Rome, Byzantium as well as throughout Medieval Europe. Among ancient Hebrews, sanctuary was a way to manage revenge for a slaying

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<sup>18</sup> Craig Fortier, "No One is Illegal Movements in Canada and Negotiation of Counter-National and Anti-Colonial Struggles from Within the Nation-State", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. L. Goldring and P. Landolt (Toronto: University of Toronto Press, 2013), 14: 277.

<sup>19</sup> Dauvergne, 1-2.

by providing time and space for negotiations between the murderer and the offended party. In the fourth and fifth centuries, secular authorities recognized ecclesiastical sanctuary as distinct territory under church control. The state first recognized church sanctuary in the Theodosian Code in AD 392."<sup>20</sup>

Later, sanctuary began to take on another form, church and community groups providing shelter to migrants threatened by arrest and deportation at the hands of immigration authorities.<sup>21</sup> This was a trend witnessed in many Global North countries (including Canada) from the 1970s into the 2000s, while in the United States 1982 saw a significant increase in sanctuary activities provided to Central American refugees fleeing U.S.-backed political violence in the region.<sup>22</sup>

Lippert's discussion above refers to what he deems 'acts' of sanctuary through his work, in this case mainly religious groups providing sanctuary to certain individuals. However, it is also important to note the discussion of sanctuary cities. Darling & Squire<sup>23</sup>, Mancina,<sup>24</sup> Ridgley<sup>25</sup> and Young<sup>26</sup> all discuss the city as a location of sanctuary as well as the practice of cities providing sanctuary to undocumented individuals as described above.

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<sup>20</sup> Randy Lippert, *Sanctuary, Sovereignty, Sacrifice: Canadian Sanctuary Incidents, Power and Law* (Vancouver: UBC Press, 2005), 3-4.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> J. Darling and V. Squire, "Everyday Enactments of Sanctuary: the UK *City of Sanctuary* Movement", in *Sanctuary Practices in International Perspectives*, ed. R.K. Lippert and S. Rehaag (New York: Routledge, 2013), 13: 191-204.

<sup>24</sup> Peter Mancina, "The Birth of a *Sanctuary City*: A History of Governmental Sanctuary in San Francisco", in *Sanctuary Practices in International Perspectives*, ed. R.K. Lippert and S. Rehaag (New York: Routledge, 2013), 14: 205-218.

<sup>25</sup> Jennifer Ridgley, "The City as a Sanctuary in the United States", in *Sanctuary Practices in International Perspectives*, ed. R.K. Lippert and S. Rehaag (New York: Routledge, 2013), 15: 219-231.

<sup>26</sup> Julie .E.E. Young, "Seeking Sanctuary in a Border City: Sanctuary Movement(s) Across the Canada-US Border", in *Sanctuary Practices in International Perspectives*, ed. R.K. Lippert and S. Rehaag (New York: Routledge, 2013), 16: 232-244.

Ridgley describes how local-policy makers have derived legitimacy, and inspiration from religious traditions of sanctuary and that religious organizations have played an important role in early campaigns for sanctuary policies. "Since the late 1960s, a number of church congregations in the US had been offering sanctuary to draft resisters and soldiers refusing to serve in Vietnam."<sup>27</sup> However, "city sanctuary also has been shaped by legal, political and institutional contexts somewhat unique to the city."<sup>28</sup> Throughout the 1980s and 1990s, cities had to negotiate their relationship to federal immigration law and their role as service providers with city sanctuary becoming less connected to faith-based conceptions of refuge.<sup>29</sup> Local campaigns advocating for a variety of socially marginalized groups and human rights were also influential to city sanctuary's evolution.<sup>30</sup> Ultimately, "city sanctuary has shifted from its origins to become more associated with policies limiting local involvement in the enforcement of federal immigration law."<sup>31</sup>

Officially sanctioned city sanctuary policies were invoked for the first time in the U.S. in 1971 when the city of Berkeley, California, declared itself a sanctuary for soldiers onboard the *USS Coral Sea* aircraft carrier who were resisting the war in Vietnam. The City of Berkeley publically declared support for organizations assisting war resisters, offered a city facility to provide sanctuary and, quite critically, instructing Berkeley city employees not to assist federal law enforcement in their pursuit of war resisters while providing resisters with city services.<sup>32</sup>

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<sup>27</sup> Ridgley, 222.

<sup>28</sup> Ibid, 219-220.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid, 221-223.

Faith-based groups once again played an important role in the 1980s when Central American refugees, fleeing war and political violence (perpetrated largely at the hands of American-backed groups and their militias) in El Salvador and Guatemala began arriving in the U.S. American authorities' reluctance to assist these refugees and rejection of the refugee claims led faith-based groups to provide immediate assistance and sanctuary to these refugees, citing the injustice of the situation as well as their religious beliefs.<sup>33</sup> While providing assistance to these refugees, these faith groups also became involved in arguing for municipalities to assist the refugees by offering sanctuary provisions and services at the municipal level.<sup>34</sup> This proved to be an important moment: the tradition of providing sanctuary by religious groups began to be applied to what would later be referred to as illegal or undocumented migrants; and providers of this sanctuary called on their municipal authorities to do the same. Here, the genesis of contemporary sanctuary city practice can be observed in the forging together of religious practices of sanctuary, the plight of migrants and municipal services.

To fully understand the evolution of sanctuary cities, it is worthwhile to note the varied perspectives and arguments that have been presented previously in advocating for sanctuary cities. The next section will highlight the cases of San Francisco and New York City, two notable examples of sanctuary cities in the United States and the ideas that were presented in advocated for sanctuary city policies there.

## San Francisco

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<sup>33</sup> Ibid, 223-226.

<sup>34</sup> Mancina, 206-212.

In the case of San Francisco, a network of over 65 faith-based organizations and congregations across various religions described the "intense moral reflection as a 'discernment process'"<sup>35</sup> that initially led to their advocating for, and providing sanctuary. Interestingly, certain activists described their participation in, and articulation of sanctuary as a means of informing the American public about the situation in Central America and critiquing American involvement and foreign intervention in the region.<sup>36</sup> Initially, the sanctuary movement was not about migration, but rather about injustices perpetrated by Central American governments and the involvement of U.S. authorities in this region.<sup>37</sup>

As the momentum began to gain for advocating for the city of San Francisco to officially adopt a municipal sanctuary policy, arguments began to change. The argument was that through adopting an official sanctuary policy, the overall health, safety and welfare of the city began to be articulated.<sup>38</sup> Here, advocates argued that by creating a climate of trust and lack of fear between undocumented individuals and municipal employees through allowing undocumented individuals' access to city services (as well as assurances that their immigration status would not be reported), these undocumented individuals would feel comfortable calling for police, fire and ambulance services thus furthering the general health, safety and wellbeing of all city residents. Similarly, by allowing undocumented individuals' access to not only first responder personnel, but to other critical municipal services, an official sanctuary policy would

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<sup>35</sup> Ibid, 208.

<sup>36</sup> H. Perla Jr. and S. Bibler Coutin, "Legacies and Origins of the 1980s US-Central American Sanctuary Movement" in *Sanctuary Practices in International Perspective*, ed. R. K. Lippert and S. Rehaag (New York: Routledge, 2013), 5: 76-81.

<sup>37</sup> Ibid, 89.

<sup>38</sup> Mancina, 214; Ridgley, 225.

provide life sustaining services<sup>39</sup> and thus help provide the means of survival<sup>40</sup> for undocumented individuals. Overall, these arguments provided "morally imbued techniques for city management, maintenance of public order and the promotion of the general welfare."<sup>41</sup>

The argument for a city-sanctioned sanctuary policy in San Francisco was also presented from a civil rights perspective, which argued that all city residents, regardless of immigration status and documentation, had fundamental, civil and constitutional rights and that these rights were curtailed by not allowing undocumented individuals' access to city services.<sup>42</sup> Related to this was the argument based in law, which presented the case that American federal authorities were neither upholding their own, nor international law (to which the U.S. was a signatory) through their treatment of Central American refugees.<sup>43</sup> Thus, sanctuary advocates and providers argued that they were upholding the law more so than the federal authorities themselves both in a specific legalistic sense, as well as a broader natural law/justice sense.

#### New York City

The progression towards city sanctuary and the ideas and arguments presented in New York City are similar to those found in San Francisco (faith-based origins; considerations of the situation in Central America and refugees from the region; health and safety of the entire city).<sup>44</sup> However, distinct to New York City was the argument that attempts to create a municipal sanctuary policy and the ensuing federal anti-sanctuary provisions were

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<sup>39</sup> Mancina, 209, 216.

<sup>40</sup> Perla Jr. and Coutin, 78.

<sup>41</sup> Mancina, 216.

<sup>42</sup> Ridgley, 225.

<sup>43</sup> Ibid, 224.

<sup>44</sup> Ibid, 226-227.

unconstitutional and undemocratic in that they violated local political processes.<sup>45</sup> Thus, the pursuit of a sanctuary policy was articulated as corresponding to the American constitution and democracy. Once more, federal authorities were argued to be in violation of the institutional basis of the federal state they themselves represented. Also found in New York City was the argument for the creation of societal values that are more compassionate, just and kind as opposed to cruel: paraphrasing David Harvey - 'What kind of city do we want to live in? What kind of people do we want to be? What kind of humanity do we want to create amongst ourselves?'<sup>46</sup>

### *Sanctuary City in Toronto*

#### Toronto City Council Vote

In February of 2013, the City of Toronto's governing council adopted a motion reaffirming its commitment to allowing non-status immigrants within the city access to municipal services. The first line of this motion explicitly stated that "City Council re-affirm its commitment to ensuring access to services without fear to immigrants without full status or without full status documents."<sup>47</sup> This motion (passed easily through a 38:2 Yes:No vote) reaffirmed Toronto's earlier commitment to provide such services through its 'Don't Ask, Don't Tell' program<sup>48</sup>. Surprisingly, and even ironically, former Toronto Mayor Rob Ford and his City Councillor brother Doug ([in]famous for their derogatory remarks regarding minorities and

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<sup>45</sup> Ibid, 227.

<sup>46</sup> David Harvey, "Neoliberalism in the City," *Studies in Social Justice*, 1:1 (2007): 1-12.

<sup>47</sup> City of Toronto, "Undocumented Workers in Toronto - City Council Decision", accessed at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.CD18.5>

<sup>48</sup> Ibid.

'straight-shooter' populism) voted in favour.<sup>49</sup> This motion was further expanded in June of 2014 by another City Council motion establishing a more clear sanctuary city policy for undocumented individuals (estimated by the City to number anywhere between 100 000 - 250 000 within the Toronto area<sup>50</sup>). Once more, there was overwhelming support for this initiative amongst City Councillors, with 29 voting in favour, and 8 against.<sup>51</sup> With these votes, Toronto became the first city in Canada to adopt an official sanctuary policy. For advocates of these policies, such as the Solidarity City network, this was a giant victory and massive step forward.

#### Arguments for a Toronto Sanctuary City

Those advocating for Toronto's adoption of a sanctuary policy offered a variety of arguments and perspectives supporting this initiative. As in the other cities described earlier, Toronto also contained faith-based providers of sanctuary prior to the adoption of official city-based sanctuary policies. Similarly, the ideas and arguments presented for the adoption of Toronto's Sanctuary City Policy have parallels to the aforementioned American cases. As in San Francisco and New York, advocates of the Sanctuary City in Toronto argued that it would contribute to public safety (based on the comfort of undocumented individuals to contact first responders) and that this, in tandem with access to community health, would contribute to the

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<sup>49</sup> Ibid.

<sup>50</sup> City of Toronto, "Undocumented Workers in Toronto", accessed at <http://www.toronto.ca/legdocs/mmis/2013/cd/bgrd/backgroundfile-55291.pdf>, 1.

<sup>51</sup> City of Toronto, "Access to City Services for Undocumented Torontonians - City Council Decision", accessed at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.CD29.11>

overall safety, health and wellbeing of the city.<sup>52</sup> Closely associated to this is the argument for providing life-sustaining services (here specifically healthcare).<sup>53</sup>

Similar to the U.S. case studies is also the argument that the establishment of a Sanctuary City in Toronto provides a critique and counter to federal immigration laws and policies.<sup>54</sup> Sanctuary proponents in Toronto, much like in the U.S., also presented the Sanctuary City Policy as a basis for more compassionate and generous societal values. Joe Mihevc, a leading proponent of the Sanctuary City Policy on Toronto City Council described the policy as one that "will bring folks out of the shadows."<sup>55</sup> Mihevc also stated that in creating a Sanctuary City, Torontonians were creating the "kind of city we want. We want to open our arms to anyone who comes here while they are here."<sup>56</sup> Others argued that Toronto's Sanctuary City Policy made progress towards "achieving a society that takes seriously the values of equality and social justice"<sup>57</sup> while others argued that it provided the basis for the kind of community residents would want to live in.<sup>58</sup>

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<sup>52</sup> Nicholas Keung, "Toronto Forges Ahead With 'Sanctuary City' Plan," *Toronto Star*, 10 June 2014, accessed March 11 2014 at

[http://www.thestar.com/news/city\\_hall/2014/06/10/toronto\\_forges\\_ahead\\_with\\_sanctuary\\_city\\_plan.html](http://www.thestar.com/news/city_hall/2014/06/10/toronto_forges_ahead_with_sanctuary_city_plan.html)

<sup>53</sup> Solidarity City, "Making Toronto a Sanctuary City", accessed at <http://solidaritycity.net/making-toronto-a-sanctuary-city/>

<sup>54</sup> Harald Bauder, "Sanctuary City: Toronto's Signal to Ottawa and Queens Park", *Toronto Star*, 27 February 2013, accessed March 12th at

[http://www.thestar.com/opinion/editorialopinion/2013/02/27/sanctuary\\_city\\_torontos\\_signal\\_to\\_ottawa\\_and\\_queens\\_park.html](http://www.thestar.com/opinion/editorialopinion/2013/02/27/sanctuary_city_torontos_signal_to_ottawa_and_queens_park.html)

<sup>55</sup> Richard Warnica, "City Council Votes Overwhelmingly to Cement Toronto's Status as a 'Sanctuary City' for Illegals", *National Post*, 10 June 2014, accessed March 19th at <http://news.nationalpost.com/toronto/toronto-city-council-votes-overwhelmingly-to-cement-status-as-sanctuary-city-for-illegals>

<sup>56</sup> Keung.

<sup>57</sup> Bauder.

<sup>58</sup> Solidarity City.

Despite these similarities, the case of Toronto provided distinct arguments for the establishment of an official Sanctuary City. One of these arguments was that the Sanctuary City Policy acknowledges and embraces the reality of the presence of undocumented residents in the city.<sup>59</sup> Advocates of the Policy also argued that undocumented residents contributed to the city/society,<sup>60</sup> to the building of culture<sup>61</sup> within the city, as well as care for the land.<sup>62</sup> Furthermore, supporters in Toronto also argued that the Sanctuary City Policy would aid in food access given that undocumented residents needing food assistance would be able to access food banks and community gardens.<sup>63</sup>

Proponents also presented the Sanctuary City as a means of alleviating inequality. This would be achieved by providing equal access to municipal services to all regardless of immigration status and possession of documents<sup>64</sup> and ending divisive distinctions based on immigration status (which in turn creates second-class citizens).<sup>65</sup> Similarly, as mentioned, Bauder explicitly argues that the Sanctuary City promotes equality and social justice.<sup>66</sup> Related to alleviating inequality is the argument that undocumented workers are taxpayers, a line of thought which was presented by a variety of advocates for the Sanctuary City in Toronto.<sup>67</sup> Here, the rationale presented argued that undocumented workers pay taxes through HST when

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<sup>59</sup> Keung.

<sup>60</sup> Harald Bauder quoted in Keung.

<sup>61</sup> Solidarity City.

<sup>62</sup> Ibid.

<sup>63</sup> Toronto Food Policy Council, "Implementing Toronto's Sanctuary City Policy: Providing Food to Our Most Marginalized Communities", accessed March 23 2015 at <http://tfpc.to/news/implementing-torontos-sanctuary-city-policy-providing-food-to-our-most-marginalized-communities>

<sup>64</sup> Solidarity City; Mihevc, quoted in Keung.

<sup>65</sup> Harald Bauder, quoted in Keung.

<sup>66</sup> Bauder.

<sup>67</sup> Keung; Toronto Food Policy Council; Solidarity City.

they make purchases, paid into property tax by paying rent and even through income tax contributions (many undocumented use Social Insurance Number of citizens to gain employment). Thus, undocumented individuals underwrite the broader social system but are denied access to its benefits and services.

Bauder also bases his argument for Toronto's Sanctuary City in conceptions and considerations of citizenship.<sup>68</sup> While not arguing that the Sanctuary City would fundamentally alter the current citizenship regime, he highlights the fact that establishing rights and privileges on citizenship (based largely on birth privilege) amounts to a type of modern feudalism where these birth privileges determine who rules and who is ruled.<sup>69</sup> While this argument is based in conceptions of justice and equality (among other things), it also has immediate practical considerations. By having an exploitable non-citizen labour force, the market rate of labour and labour standards are lowered for all.<sup>70</sup> (How the consideration of citizenship relates to the Sanctuary City will be further described later in the paper.)

#### Evolution of Sanctuary in Toronto

Toronto's official adoption of the Access T.O. policy has been the culmination of a variety of efforts. Prior to this, sanctuary in both Toronto and Canada was provided by an assortment of groups and organizations. Lippert describes the first sanctuary incident in Canada, a migrant taking refuge in a Montreal church in December of 1983. This refugee's claim, and sanctuary more broadly, was thought of as "making an exception to a rule" and a

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<sup>68</sup> Bauder.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

consideration for "God's laws coming before the government's."<sup>71</sup> Sanctuary has evolved away from religious considerations, but also notions of being an exception to the rule. Sanctuary in Toronto has become part of the rules of the City. Prior to this, sanctuary provision was based within faith groups much like other cities as previously mentioned. The Ontario Sanctuary Coalition, a network of faith groups, began offering sanctuary protection to refugees in the early 1990s.<sup>72</sup>

As time progressed, various other groups emerged in the Toronto area that offered specific assistance to non-status individuals. This included health-care provision<sup>73</sup>, protection for women suffering abuse<sup>74</sup>, access to schooling for children<sup>75</sup>, and treatment and assistance to people with HIV-AIDS<sup>76</sup>. These groups were part of the larger network of groups and individuals who began to advocate for a wider-scale, official City sanctuary policy and practice. Sanctuary initiatives have evolved from varied services and assistance provided by different groups to official City policy applicable to all City functioning. Thus, sanctuary has become part of the state structure inasmuch as the City of Toronto is part of the larger machinations of

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<sup>71</sup> Lippert, 1.

<sup>72</sup> Hillary Cunningham, "The Emergence of the Ontario Sanctuary Coalition: From Humanitarian and Compassionate Review to Civil Initiative", in *Sanctuary Practices in International Perspective*, ed. R. K. Lippert and S. Rehaag (New York: Routledge, 2013), 11: 162-174.

<sup>73</sup> Paloma E. Vilegas, "Negotiating the Boundaries of Membership: Health Care Providers, Access to Social Goods, and Immigration Status", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. Luin Goldring and Patricia Landolt (Toronto: University of Toronto Press, 2013), 11: 221-232.

<sup>74</sup> Rupaleem Bhuyan, "'People's Priorities Change When Their Status Changes': Negotiating the Conditionality of Social Rights in Service Delivery to Migrant Women", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. Luin Goldring and Patricia Landolt (Toronto: University of Toronto Press, 2013), 12: 238-257.

<sup>75</sup> Francisco Villegas, "Getting to 'Don't Ask Don't Tell' at the Toronto District School Board: Mapping the Competing Discourses of Rights and Membership", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. Luin Goldring and Patricia Landolt (Toronto: University of Toronto Press, 2013), 13: 258-273.

<sup>76</sup> Alan Li, "From Access to Empowerment: The Committee for Accessible AIDS Treatment and Its Work with People Living With HIV-AIDS and Precarious Status", in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*, ed. Luin Goldring and Patricia Landolt (Toronto: University of Toronto Press, 2013), 15: 291-304.

governmental power and authority found within Canada. Sanctuary has gone from something informal and non-governmental, to something official, even if only at the level of the City of Toronto administration.

#### Toronto's Sanctuary City in Global Context

Toronto's adoption of the Access T.O. program reflects a growing trend in local jurisdictions adopting measures in relation to immigration issues. However, these measure are not always intended to be more inclusionary as in the case of Toronto's policy. Between 2005-2007, 301 pieces of U.S. state (here meaning a union state, such as California or Texas, and not the state of the United States) legislation dealing with immigration were enacted, reflecting an interest among states in immigration issues, with more of these laws restrictive than inclusionary.<sup>77</sup> Stodder and Rippeon make the argument that state and local governments can assist in the enforcement of federal immigration law within the U.S.<sup>78</sup> Booth also argues that pressure from the federal government in the U.S. on local administrations to enforce Federal immigration laws are likely to pass constitutional challenges.<sup>79</sup> Boatright is more pronounced in his statement claiming that state and local police in the U.S. are within their authority to uphold federal immigration law, and advocates that they should.<sup>80</sup> Gomberg-Munoz and Nussbaum-Barberena outline trends towards local enforcement of immigration law within Chicago while

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<sup>77</sup> Jenn Kinney and Elizabeth F. Cohen, "Multilevel Citizenship in a Federal State: The Case of Noncitizen's Rights in the United States", in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), 4: 81.

<sup>78</sup> S.M.M.Stodder and N.S. Rippeon, "State and Local Governments and Immigration Laws", *The Urban Lawyer*, 41:3 (Summer 2009): 387-426.

<sup>79</sup> Daniel Booth, "Federalism on ICE: State and Local Enforcement of Federal Immigration Law", *Harvard Journal of Law and Public Policy*, 29:3 (Summer 2006): 1063-1083.

<sup>80</sup> Laurel R. Boatright, "'Clear Eye for the State Guy': Clarifying Authority and Trusting Federalism to Increase Nonfederal Assistance with Immigration Enforcement", *Texas Law Review*, 84:6 (May 2006): 1633-1674.

expressing their opposition to these trends.<sup>81</sup> However, the work of Pallares, Torres and Sastre discusses state/provincial and local municipal enforcement of federal immigration law and show that this can be voluntary, but also coerced by state authorities.<sup>82</sup> Scech's analysis yields a different observation: sub-state responses to irregular migration and the efforts of local governments in Australia, Scotland and Catalonia were found to be inclusive, challenging the territorial exclusivity of the state from within.<sup>83</sup> Wells echoes these sentiments with an analysis of local governments in the U.S. showing how they have been able to challenge federal immigration policy from the ground.<sup>84</sup> These various discussions show a diversity amongst sub-state authorities in their approach to immigration and undocumented individuals within their jurisdictions. While some make efforts to being more inclusive, others do not, and in the case of the U.S., the latter is more prevalent. Toronto, as a jurisdiction that has attempted to be more open and inclusive of undocumented individuals, should be recognised for its policy striving to be more inclusive and representative.

## Methods

This study uses a policy analysis method. Toronto has adopted an official policy in its attempt to transition into a sanctuary city, and as such, this policy is worthy of further scrutiny under a policy analysis. The Access T.O. program consists of three City of Toronto reports

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<sup>81</sup> Ruth Gomberg-Munoz and Laura Nussbaum-Barberena, "Is Immigration Policy Labor Policy?: Immigration Enforcement, Undocumented Workers, and the State", *Human Organization* 70:4 (Winter 2011): 366-375.

<sup>82</sup> A. Pallares, M.A. Torres, S.D. Sastre, "Comparative Notes on the Role of Local Government in the Enforcement of Migratory Law", in *Global Cities and Immigrants: A Comparative Study of Chicago and Madrid* (New York: Peter Lang, 2015), 6: 163-168.

<sup>83</sup> Susanne Schech, "Rescaling Sovereignty? Sub-State Responses to Irregular Migrants", *Griffith Law Review* 22:3 (2013): 785-803.

<sup>84</sup> Miriam J. Wells, "The Grassroots Reconfiguration of U. S. Immigration Policy", *The International Migration Review* 38:4 (Winter, 2004): 1308-1347.

which make up the 'core' of this policy. These reports were brought to my attention by policy personnel at the City of Toronto. The documents were analyzed in the chronological order of their adoption.

The Access T.O. documents analyzed here refer to a variety of other City reports and policies. In certain instances they also cite academic and non-academic material as background information. While this study will engage with some of this other material and discuss other City policies related to the Access T.O. program, it is important to note that this study will analyze the Access T.O. policy as comprising the three policy documents already mentioned. All of these documents are available to the public online.<sup>85</sup> Similarly, all of the other City reports and policies are available to the public and can be accessed online through direct internet links found within Access T.O. documents.

### **Results of the Case Study - The Toronto Sanctuary City: Access T.O.**

#### Access T.O. Report #1

The first report pertaining to the Access TO policy is entitled "Undocumented Workers in Toronto" from October 22, 2012. This report mainly discusses federal policies and programs for undocumented individuals and shows that undocumented individuals face many challenges (mainly in terms of employment relations and health and wellbeing) and that there are no amnesty programs available to these individuals in Canada. Furthermore, it discusses various paths leading to becoming undocumented and the federal immigration policies that have

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<sup>85</sup> City of Toronto, "Access T.O. for Undocumented Torontonians", accessed at <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=9dfc33501bac7410VgnVCM10000071d60f89RCRD>.

increased this trend. The report outlines certain avenues for becoming 'documented' but also notes that success rates of these avenues are miniscule.

Interestingly, the report refers to undocumented individuals as "workers" and the report uses this as its main analytic starting point. It goes on to discuss the industries these non-status individuals mainly work in and states that "They contribute to the Canadian economy"<sup>86</sup>. Although the report refers to undocumented individuals as "workers", it also expands its scope to also consider "situations they face as an individual, worker and family member"<sup>87</sup>. Here, the policy begins to evolve from one discussing undocumented merely as workers, but also as individuals outside of their role and identity as workers and employees. Ultimately, the report ends with a cautionary note: "This leaves many undocumented workers extremely vulnerable and with no supports."<sup>88</sup> This creates a segue into the subsequent report which expands its scope to refer to undocumented individuals more broadly and expand to include a discussion of the provision of actual services to individuals.

Also of note is that this report mentions earlier City of Toronto literature. The material referred to are two clauses adopted by City Council. One dated May 4th of 2005 outlines the work of the Undocumented Workers Committee which calls for the Federal Minister of Citizenship and Immigration "to recognize undocumented workers to be essential to the Toronto and Canadian economy" and to also regularize these workers (the report refers

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<sup>86</sup> City of Toronto, "Undocumented Workers in Toronto", 6.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid, 7.

explicitly to undocumented construction workers)<sup>89</sup>. Furthermore, the resolution supports efforts for a pilot-project that explores an attempt to regularize these workers. It also endorses efforts to bar businesses convicted of exploiting workers from doing business and being licensed in Toronto. Similarly, it supports efforts to create a system where complainants to the City of Toronto Fair Wage Office would not have to disclose their immigration status.

Interestingly, the report details that the Fair Wage Policy "does not differentiate immigration status of workers"<sup>90</sup>. This is furthered in July of 2005 when Toronto City Council adopted a broader resolution entitled "Council Resolution on Support for Undocumented Workers" and reaffirmed its commitment to the calls made by the Committee earlier that year.<sup>91</sup> The Third report, "The Global City: Newcomer Health in Toronto" outlines the health challenges that newcomers face upon arrival and their decline in health after arrival.<sup>92</sup>

The first Access T.O. report (along with the two earlier related reports it cites) shows that there was City Council and policy considerations in line with sanctuary thinking in 2005, 8 years prior to the actual adoption of the policy. Although it speaks specifically to workers (notably construction workers), it does provide an impetus to the provision of sanctuary-like provisions to undocumented individuals. Moreover, it also shows that the City of Toronto had contact (or at least envisioned this contact) with Federal officials about the issue of undocumented individuals in Toronto. Similarly, it also displays a policy trajectory distinct to

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<sup>89</sup> City of Toronto, "Support for the Efforts of the Undocumented Workers Committee", accessed at <http://www.toronto.ca/legdocs/2005/agendas/council/cc050504/pofcl019a.pdf>, 1.

<sup>90</sup> Ibid, 2.

<sup>91</sup> City of Toronto, "Council Resolution on Support for Undocumented Workers", accessed at <http://www.toronto.ca/legdocs/2005/agendas/council/cc050719/adm6rpt/cl003.pdf>

<sup>92</sup> City of Toronto, "The Global City: Newcomer Health in Toronto", accessed at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.HL9.1>

that of the Federal Canadian government. The report highlighting health concerns refers to undocumented persons not merely as workers, but as people more broadly. Here, a fledgling concern for undocumented individuals beyond their status as workers is observable.

#### Access T.O. Report #2

The second report dates from May 7, 2014 and is entitled "Access to City Services for Undocumented Torontonians".<sup>93</sup> The report states that an Access to City Services for Undocumented Torontonians Working Group was formed in response to the first Access TO report. The Working Group was comprised of 21 City divisions, agencies and corporations: the 21 City units displayed a wide variety of City services and displays that the Toronto municipal administrative structure was working to actualize the Access TO program.<sup>94</sup> The report also spells out vital (and interesting) jurisdictional background and interpretations which underpin the City of Toronto's municipal existence:

"The City of Toronto Act (COTA) s. 1 states 'municipality means a geographic area whose inhabitants are incorporated.' Simply put, the City is a 'municipal corporation' which consists of all people living in the city. While Council may legally 'differentiate in any way and on any basis' the City considers appropriate (s. 10), it cannot do so in a manner contrary to the Charter of Human Rights Code. Any policy decision by Council to differentiate between Torontonians in the provision of services must be done in a deliberate and transparent manner."

"As a municipality, it is not within the jurisdiction of the City of Toronto to monitor undocumented persons. In fact, the City should not request information regarding immigration status unless required to do so by another order of government."

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<sup>93</sup> City of Toronto, "Access to City Services for Undocumented Torontonians", accessed at <http://www.toronto.ca/legdocs/mmis/2014/cd/bgrd/backgroundfile-69193.pdf>

<sup>94</sup> Ibid, 1.

"In recognition of its responsibility to serve all Torontonians, Council has taken a proactive policy position committing to ensuring that immigrants without full status or full status documents have access to City services without fear."<sup>95</sup>

With these statements, the report makes it clear that serving undocumented individuals is something that is well within their municipal mandate: City of Toronto services are available to all who inhabit the city. Critically, there is no mention of citizens or citizenship - Torontonians are simply all inhabitants of the city and as such, deserving of municipal services. Moreover, the report explicitly states that the City is not tasked with monitoring undocumented persons, buffering itself from considerations of citizenship, entitlement and legality found at the Federal level. This creates a two-dimensional dynamic critical to establishing a 'sanctuary city': *de jure* provision of services to undocumented individuals (as precursor to *de facto* service provision) while distancing (or even disconnecting) city functioning from Federal immigration law machinations and enforcement.

The report goes on to analyze the issue of proof of identity for accessing city services, a particularly difficult issue for undocumented individuals. Moreover, it also stated that in some instances specific City divisions need to ask questions pertaining to immigration status. These services include: Employment and Social Services; Municipal Licensing and Standards; Shelter, Support and Housing Administration; and Toronto Community Housing.<sup>96</sup> However, the report also states that "the City cannot collect personal information unless it is legally authorized to do so by statute or by-law. In addition, the City can only collect information which is required for

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<sup>95</sup> Ibid, 4.

<sup>96</sup> Ibid, 5.

the provision of services."<sup>97</sup> In recognition of how these practices would jeopardize service provision to undocumented individuals, it suggests "The City can improve access to City services by simply ensuring it is only asking for personal information when it is absolutely necessary for service delivery."<sup>98</sup>

In regards to sharing information with other forms of government, the City's Municipal Freedom of Information and Protection of Privacy Act can only disclose personal information to another government for law enforcement investigations and through statutory requirement where another government agency requests this information in writing "where the law requires disclosure".<sup>99</sup> Despite these protocols safeguarding information, the report suggests "the best way to ensure the City is not inappropriately providing personal information regarding immigration/citizenship status is to never hold the information in the first place."<sup>100</sup> It also suggests "that Council direct immigration/citizenship information for the purpose of determining service/program eligibility only be collected where specifically required be either provincial or federal legislation."<sup>101</sup> As seen previously, the City displays a distancing from the Federal realm and also moves towards forging City-specific policy which solidifies access to City services for undocumented individuals, policy which simultaneously attempts to shield undocumented persons from Federal scrutiny.

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<sup>97</sup> Ibid, 6.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid, 7.

<sup>101</sup> Ibid.

The idea of a municipal identification card is assessed. The municipal ID has been adopted in cities such as San Francisco, Los Angeles, Trenton, Washington D.C. and New Haven.<sup>102</sup> This is an idea that various Sanctuary advocates have argued for (hence leading to the adoption of municipal ID in the aforementioned cases). However, the report finds that this proposal to be redundant and potentially counterproductive for a variety of reasons. Firstly, most municipal services require only proof of residency which can be fulfilled through a utility bill. Secondly, should undocumented individuals be denied services, they could raise a human rights grievance based on discrimination pertaining to citizenship:

"Under the City's Human Rights and Anti-Harassment/Discrimination policy, service recipients can raise a discrimination complaint to the City's Human Rights Office. Under the Ontario Human Rights Code, a complaint of harassment and/or discrimination can be launched with the Human Rights Tribunal of Ontario on the ground of 'citizenship' irrespective of actual status except where Canadian citizenship is a legal requirement to get a job or get certain services (for example, certain competitive sports require that participants be either Canadian citizens or permanent residents. A municipal identification card would have no effect in these circumstances."<sup>103</sup>

Lastly, the municipal ID card allows for the collection of personal information which could be potentially shared with other orders of government and their agencies. Again, the City fulfills obligations to make services available to undocumented individuals and safeguards against Federal encroachment.

The report next recommends expanding staff training to ensure that staff understand the diverse population they serve, when they need to ask for personal information and to

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<sup>102</sup> Ibid.

<sup>103</sup> Ibid, 8.

inform staff of the City's direction to provide services to all residents regardless of status. Moreover, it also states that it plans to "address information-sharing with undocumented residents to increase understanding of the availability of City services and when identification is required to access those services."<sup>104</sup> Similarly, the report states that the City's established complaint channels are sufficient to field complaints by residents denied service given that complainants need not disclose their identity or status. As such, a separate complaint process is not required. The report also mentions the need for a public relations campaign to educate residents about the policy as well as creating standard city signage that would make City facilities and services available to undocumented individuals easily identifiable.

In closing, the report discusses contact and work with other levels of government, namely the provincial and federal governments. The City's attempts at contacting other levels of government have been met with silence. The Working Group drafting the report indicates that work needs to be done with other levels of government to further expand the provision of services to undocumented individuals, as well as for these governments to reassess many of their policies related to immigration and refugee issues as a means of helping to expand services. However, as mentioned, attempted contact from the City have gone unanswered.

It is important to note that in drafting the Access T.O. report from 2014, the City took into consideration a document compiled by an organization composed of Toronto-based community groups. The report entitled "Towards a Sanctuary City" from December of 2013, was drafted by Solidarity City (an umbrella organization composed of various Toronto area

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<sup>104</sup> Ibid, 9.

groups supporting the establishment of a sanctuary city in Toronto).<sup>105</sup> Solidarity City's report provides recommendations for the City's Access T.O. policy through its own research of City services up until the drafting of the report as well as looking at best practices from other municipalities which provide services to undocumented individuals. Toronto's 2014 Access T.O. report speaks to the recommendations and concerns addressed in Solidarity City's study showing a consideration for community and outsider input into the creation of policy. One notable example is the discussion of a municipal ID card, something the Solidarity City report calls on the City to consider<sup>106</sup> and an initiative that advocates for sanctuary policies often call for given the use of municipal IDs in other sanctuary cities as previously mentioned. Although Toronto's Access T.O. policy architects decide against the usefulness of pursuing a municipal ID card, its consideration is indicative of policy creation which takes into account community input and recommendations.

### Access T.O. Report #3

The third Access T.O. report, "Access to City Services for Undocumented Torontonians: Progress of the Access T.O. Initiative" dates from November 10, 2015.<sup>107</sup> The report speaks largely to the policy initiatives and delivery of services as outlined under the previous Access T.O. report. This report reiterates previous declarations that the City services are for all its inhabitants and that it is not within the jurisdiction of the City of Toronto to monitor

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<sup>105</sup> Solidarity City, "Towards a Sanctuary City: Assessment and Recommendations on Municipal Service Provision to Undocumented Residents in Toronto", accessed at <http://www.toronto.ca/legdocs/mmis/2014/cd/comm/communicationfile-47722.pdf>

<sup>106</sup> Ibid, 21.

<sup>107</sup> City of Toronto, "Access To City Services for Undocumented Torontonians: Progress of the Access T.O. Initiative", accessed at <http://www.toronto.ca/legdocs/mmis/2015/cd/bgrd/backgroundfile-85779.pdf>

undocumented individuals. It also states that the City developed "program-specific customer service information" to help inform City staff of the Access TO policy and its application in service delivery. Furthermore, the City provided a grant to the FCJ Refugee Centre to deliver a training and information session to front-line workers and various City agencies.

"The training pilot, Breaking Barriers, Gaining Access, used community voices to help staff better understand the issues of undocumented Torontonians and identify ways to improve access and service delivery for non-status individuals and precarious migrants. FCJ trained 133 front-line and management staff from Shelter, Support and Housing Administration, Toronto Public Health and Toronto Public Library, and the members of the Access to City Services Working Group. The training helped staff to better understand the concerns of undocumented Torontonians and the implications of certain customer service approaches. The training also helped community participants learn about City services that are accessible to all residents of Toronto, but not common knowledge to the public."<sup>108</sup> (p.4-5).

However, the report also notes that "FCJ Refugee Centre identified that a majority of the participants were not aware of the Access T.O. initiative."<sup>109</sup>

The 2015 report also outlines the public awareness campaign that was initiated to inform City residents of the policy, beginning in February of that year. This initiative included adding Access T.O. information to the City's website as well as informational poster distribution and display to City facilities, community organizations, residents directly as well as inclusion in the seasonal recreation guide. Moreover, "In August of 2015, two hundred large-scale posters were on display for four weeks on the City's Astral transit shelters"<sup>110</sup>, posters which were seen in Toronto by the author of this study.

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<sup>108</sup> Ibid, 4-5.

<sup>109</sup> Ibid, 5.

<sup>110</sup> Ibid, 6.

The report also states that FCJ was also commissioned to audit the City's service delivery by inquiring about the provision of services to undocumented individuals in service areas that represent the most common City services that undocumented individuals need to access. The results of the audit are discussed and show that City employees needed to improve customer service when responding to undocumented individuals as well as improve the accuracy of the information provided to them. Similarly, front-line staff were shown to lack knowledge of the Access policy and that certain divisions showed better understanding of the policy while others did not. Also, when auditors identified themselves as individuals undertaking a study, they received better service than when presenting themselves as an undocumented individual.

One of the most critical findings of the report was an examination of the Toronto Police Service's participation with the Access TO policy. As stated in the report, the Toronto Police Service (TPS) committed to "ensuring that undocumented residents have equal access to policing services without fear that contact with police will lead to inquiries about their immigration status" in 2006 (amended in 2010)<sup>111</sup>. However, the report acknowledges that community feedback has suggested that their needs to be further clarification on what undocumented individuals can expect of interactions with the TPS. Currently, the TPS operates under a "don't ask" protocol in regards to immigration status unless there are "bona fide law enforcement reasons" to ask about immigration status. The report calls for a conversation with "the Toronto Police Service to better understand the circumstances that would constitute *bona fide law* enforcement reasons for police to ask about immigration status and the procedures

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<sup>111</sup> Ibid, 7.

and mechanisms in place to protect undocumented victims and witnesses."<sup>112</sup> Furthermore, it states "the City and Service need clear procedures to ensure undocumented Torontonians can call police when they need help. The federal government may also wish to review policies related to undocumented Canadians, and the impact these policies have 'on the ground'. An individual experiencing violence in Toronto make a rational decision not to seek help because of a fear of being deported back to a situation that is, at the very least, perceived to be even more dangerous."<sup>113</sup>

The November 2015 Access T.O. report includes background information from the Chair of the Toronto Police Service Board, Alok Mukherjee. His report, "Toronto Police Service: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians" dates from March 12, 2015<sup>114</sup>. This report states that TPS officers are instructed to not inquire about immigration status when interacting with witnesses or victims of crime but that they are obliged to report immigration status if this information is to come up during an investigation as mandated by subsection 5(2), Ontario Regulation 265/98.<sup>115</sup> However, legal opinion disputing the aforementioned TPS assertion about reporting immigration status is also provided as background information in the November 2015 Access Report.<sup>116</sup> Moreover, similar dissenting views are also expressed in two further background letters connected to the

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> City of Toronto, "Toronto Police Service: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians", accessed at <http://www.toronto.ca/legdocs/mmis/2015/cd/bgrd/backgroundfile-79357.pdf>

<sup>115</sup> Ibid, 5.

<sup>116</sup> MacDonald Scott, "RE: November25th, 2015 Committee Meeting, Item CD 8.4 Access To City Services for Undocumented Torontonians: Progress of the Access T.O. Initiative", accessed at <http://www.toronto.ca/legdocs/mmis/2015/cd/comm/communicationfile-57405.pdf>

March 2015 report from the Toronto Police Service Board Chair.<sup>117</sup> These letters argue that the TPS is in fact not obligated to report immigration status should they come to know of it.

#### Analysis of Access T.O. Reports

The Access TO policy, as outlined in the three policy documents discussed above, displays the willingness and capability to provide municipal services to undocumented individuals. Moreover, it has shown that it has started to actualize the policy into concrete service provision 'on the ground'. The provision of these services is also underpinned by a commitment to disengage from the enforcement of federal immigration law. The entire Access TO policy is presented as a City of Toronto initiative, one which does not take federal immigration policies into account. As explicitly stated in the policy documents, the City does not enforce immigration law and that all inhabitants of the city are entitled to City services. As such, the policy certainly fulfills the mandate of being a sanctuary city. What began as a policy geared towards undocumented workers, has now become a policy that aims to serve all undocumented individuals within Toronto.

As has been discussed, this is not to suggest that the policy is perfect or has been implemented with the upmost precision. The FCJ audit has shown that City employees need further training and in many cases, need to be made aware of the policy's existence. Given the early stages of the policy, the possibility of further training and awareness make for the

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<sup>117</sup> Karin Baqi, "RE: Deputation to the CDRC re CD 4.2: Toronto Police Service: Service Governance Pertaining to the Access to Police Services for Undocumented Torontonians", accessed at <http://www.toronto.ca/legdocs/mmis/2015/cc/comm/communicationfile-52987.pdf>  
Brendan Jowett, "Access Without Fear Deputation", accessed at <http://www.toronto.ca/legdocs/mmis/2015/cc/comm/communicationfile-52988.pdf>

potential for the Access TO program to gain further strength across the entire City of Toronto bureaucracy and governance structure and for greater knowledge and ability to provide service to all City residents amongst its employees.

The documents analysed above also display a considerable degree of community engagement and input. Community groups have been used as resources for the drafting of the policy and their expertise and skills have been used to train City staff as well as audit the work of City staff. Moreover, community groups' critical approach to policing has been officially noted, and will hopefully be taken seriously. In light of the hitherto consideration given to the Solidarity City network and the FCJ Refugee Centre, the potential for the City to take into substantive account the views and of the legal experts noted previously is certainly a distinct possibility.

The role of the Toronto Police Service (TPS) in relation to the Access TO policy is a consideration that remains an important issue that needs to be resolved. The policy as it is currently envisioned, sees the TPS as a City service that undocumented Torontonians can access without fear. The reality is that the TPS, as shown, has indicated that it is obliged to report undocumented individuals to the Canada Border Service Agency (CBSA) to fulfill obligations stemming from provincial mandates. The legal opinions questioning this TPS assertion also noted that the Toronto Police have a very concrete working relationship with the CBSA and as such, this poses a particularly troubling challenge to the Access TO initiative and seemingly counters the TPS' and City's assertion that policing is a service that undocumented individuals can access without fear. Simply put, the Toronto Police's actions challenge Toronto as a

sanctuary city. As a result, various critics of the TPS' behaviour with undocumented individuals and sanctuary advocates have called for police services to be removed as a service that undocumented Torontonians can access without fear.<sup>118</sup>

In sum, Toronto's Access TO policy bears many of the hallmarks of being a sanctuary city. Toronto has certainly made progress towards transitioning from a sanctuary city in theory to one in practice. However, as has been shown, there are notable shortcomings to the policy that need consideration and remedy before the policy can be thought of as completely functional and implemented. The Access TO policy has made Toronto a sanctuary city, but a sanctuary that has not yet fully come to fruition and as such, a sanctuary which needs to further protection and safety to the very people it is providing sanctuary to.

## **Discussion**

### *Discussing the Contradiction - Federal Immigration Policies and Toronto's Access T.O. Policy*

At a most basic level, a discrepancy between the Canadian Federal approach to undocumented migrants and the City of Toronto's is plainly observable. Canadian Federal authorities have a mandate to create and maintain a state border and enforce this border internally, away from the actual physical border. In contrast, the City of Toronto makes it clear that this is neither its mandate nor concern. As shown previously, the state illegalizes undocumented individuals and attempts to track them down and remove them (often with a period of incarceration between these steps) on account of their perceived illegality. The City,

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<sup>118</sup> Macdonald, 4.

in contrast, makes attempts to assist them. Moreover, the City's use of consultation with community groups shows it to be closer to the ground than the Federal government and inclined to creating policy which takes into account community perspectives.

The contradiction between these two levels of authority manifest themselves interestingly in relation to citizenship. As previously stated, citizenship regimes can act as a mechanism for exclusion: "With respect to immigration, citizenship functions above all as a device of external exclusion"<sup>119</sup> with citizenship both an "instrument" and "object" of social closure.<sup>120</sup> The Federal government's use of a strict citizenship regime results in this exclusionary tendency. This in turn creates very specific definitions of insider and outsider, with outsiders (as non-citizens) not entitled to the rights of citizens (aside from rights stemming from due process and basic human rights when undocumented individuals are detained). The City, however, makes it clear that its mandate is to serve all Torontonians, regardless of their immigration status. By making this explicit and through making use of "Torontonians" as the people of Toronto (as opposed to "Canadians"), the city employs a more inclusive idea of belonging and who can be an 'insider', which in the case of the City means any inhabitant of the City. Thus, for undocumented individuals, this more inclusionary approach, in tandem with the provision of City services to them make for a political community which does not exclude based on citizenship status.

This can be seen as a use of the concept of domicile concept, defined as "citizenship based on 'effective residence'...a person is a citizen of the polity in which he or she resides,

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<sup>119</sup> Christian Joppke, *Citizenship and Immigration* (Cambridge: Polity Press, 2010), 14.

<sup>120</sup> *Ibid*, 16.

independent of ancestry or location of birth."<sup>121</sup> This is not to suggest that undocumented residents of Toronto have become citizens of anything (the City included) as a result of the Access T.O. program. However, the domicile citizenship concept is reflected in Toronto's declaration of its mandate to serve all City inhabitants as well as the way that it defines who is a member of the city. Thus, this is a use of the concept of the domicile citizenship concept albeit with a variation of scale, and located within the city.

This citizenship dynamic has also been described as "grounded citizenship":

"membership not based on explicit consent to enter or remain in a bounded community...but instead upon the mere reality of presence and residence in a place."<sup>122</sup> McDonald's mention of "active citizenship" is also helpful to recall here: "active citizenship is a process, one that is engaged and enabled through assemblages of various components including (but not limited to) formal legal status, access to social services, right to use of public spaces, social and political obligations and the ability to make claims on society and state."<sup>123</sup> Here, citizenship is explored as a process, part of which includes access to services and use of public space, something that the Access T.O. program allows for. Neveu describes a "citizenship from below" that can also be considered in this context.<sup>124</sup>

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<sup>121</sup> Harald Bauder, "Domicile Citizenship, Human Mobility and Territoriality", *Progress in Human Geography* 38:1 (2014): 92.

<sup>122</sup> Anne McNevin, "Undocumented Citizens? Shifting Grounds of Citizenship in Los Angeles", in *Citizenship, Migrant Activism and the Politics of Movement*, ed. Peter Nyers and Kim Rygiel (New York: Routledge:2012), 166.

<sup>123</sup> Jean McDonald, "Building a Sanctuary City: Municipal Migrant Rights in the City of Toronto", in *Citizenship, Migrant Activism and the Politics of Movement*, ed. Peter Nyers and Kim Rygiel (New York: Routledge:2012), 130.

<sup>124</sup> Catherine Neveu, "Sites of Citizenship, Politics of Scale", in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), 11: 205.

The Access T.O. program (and sanctuary cities in general) through their altering of forms of citizenship "challenges the dominant concept of citizenship: a unitary and homogenous legal status granted to an individual by a sovereign state."<sup>125</sup> McDonald echoes this by discussing active citizenship as going beyond the formal and statist definition of citizenship.<sup>126</sup> Citizenship can now be seen as not only a status, but also a constant construction fed by a diversity of sites, agents and practices.<sup>127</sup> "Horizontal dimensions of citizenship" which disrupt the "vertical topography of power" within the state emerge.<sup>128</sup> International migration has had a "destabilizing, and thus denaturalizing" effect on the bundling of state and citizenship<sup>129</sup> and sanctuary cities can be seen as part of this a responses to international migration and sites of an alternative conception of citizenship. The federal state's use of technical, formal state conceptions of citizenship differs substantively from the concept of citizenship offered by the Access T.O. program.

While speaking of enfranchisement, Pedroza's observation that "local governments have promoted their own concepts of citizenship"<sup>130</sup> with "a model of citizenship mostly exercised in the city"<sup>131</sup> is also applicable to this current discussion. This in turn has created polities that are better suited to serving their populations, more representative and better equipped to serve them.<sup>132</sup> This more representative form of governance, found at the level of the City, is not

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<sup>125</sup> Willem Maas, "Preface", in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), 1: vii.

<sup>126</sup> McDonald, 130.

<sup>127</sup> Neveau, 212.

<sup>128</sup> *Ibid*, 205.

<sup>129</sup> *Ibid*, 210.

<sup>130</sup> Lucy Pedroza, "Denizen Enfranchisement and Flexible Citizenship: National Passports or Local Ballots?", in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), 2: 27.

<sup>131</sup> *Ibid*, 40-41

<sup>132</sup> *Ibid*.

found at the Federal level. This is evidenced by collaboration with community organizations in the creation of programs, something found in the City and not Federally. Helbling, speaking about naturalization in Switzerland asks if the foreigner is first becoming a member of a local community or national one.<sup>133</sup> The Access T.O. program, like other sanctuary cities, offer the opportunity for belonging to a local community when the national community excludes individuals, such as undocumented persons.

Bearing this in mind, sanctuary policies can be seen as feeding into the idea of "urban belonging", where cities become the focal point for a sense of belonging and the locations where individuals engage with rights claiming and political processes.<sup>134</sup> This is reminiscent of Sassen's 'denationalisation of urban space'<sup>135</sup> where cities become social and political realms distinct and disentangled from the federal state. Toronto's Access T.O. program has made the City distinct from Canadian federal authorities in terms of policies focusing on undocumented individuals. As a result, Toronto, like other sanctuary cities have become the site of an alternative form of citizenship and belonging as well as a site where individuals can exercise and experience this alternative form of citizenship and belonging. Once more, this makes Toronto distinct vis-a-vis the Canadian state, while also removing the exclusivity of the state as being the ultimate location of citizenship and belonging.

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<sup>133</sup> Marc Helbling, "Local Citizenship Politics in Switzerland: Between National Justice and Municipal Particularities", in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), 8: 165.

<sup>134</sup> Harald Bauder, "Possibilities of Urban Belonging", *Antipode* 48:2 (March 2016), 252-262.

<sup>135</sup> Saskia Sassen, *Globalization and its Discontents: Essays of the New Mobility of People and Money*, (New York: New Press, 1998), xx.

Cities with sanctuary policies, Toronto included, have also become sites where undocumented individuals can exercise rights. This is reminiscent of the 'right to the city'<sup>136</sup> presented by Lefebvre and later revisited by David Harvey.<sup>137</sup> Here, the city becomes a location for the expression of rights, but more importantly, a specific set of rights found within the city. This is applicable to the case of undocumented individuals given that sanctuary policies grant them access to certain rights, such as the right to city services. As previously mentioned, the City explicitly mentions that a denial of service based on citizenship status is a violation of the human rights protocols that govern the city's functioning, making the right to service for undocumented individuals cemented in City policy overseeing rights, and not merely broader considerations of human rights at the conceptual level. More than just being a policy that grants services to undocumented individuals, the Access T.O. program also grants undocumented residents rights. This is distinct from the Federal realm of authority where rights to undocumented individuals are quite limited. Again, in making undocumented people 'insiders' within the city, the Access T.O. initiative creates the opportunity for an expression and experiencing of certain rights for undocumented individuals. Much like alternative forms of citizenship and belonging, these rights are unique to the city: they are granted and protected at the level of the city, here, Toronto. As such, this makes Toronto and its Access T.O. program unique from the Canadian Federal Government in another distinct and important way.

The federal and City governments' approach to ethics and morality can be seen as divergent. The federal government deems transgression of immigration law as illegal and as

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<sup>136</sup> Henri Lefebvre, *Writings on Cities*, trans. E. Kofman and E. Lebas (Oxford: Blackwell, 1996).

<sup>137</sup> David Harvey, "The Right to the City", *New Left Review* 53 (September-October 2008): 23:40.

such a departure from ethical and moral action: transgression of immigration law is seen as wrong. On the other hand, the city does not concern itself with these questions and for the City, there is an ethical and moral obligation to serve all its inhabitants as equal members of the community of Torontonians stemming from the City's mandate. Here, considerations for what is correct action diverge stemming from fundamentally different mandates: one to uphold federal immigration law and remove its transgressors; the other fulfill service obligations to all City residents.

This gives way to equally divergent considerations of human agency. The federal immigration law views the choice to remain in Canada as an illegal act: an individual has chosen to stay in Canada or entered its borders without authorization, and as such, has chosen to break the law. Individuals have exercised their agency in transgressing the law and as such their mere presence becomes illegal, making them liable for punishment for these actions (detection, detention and removal). The City, on the other hand, once more does not concern itself with such considerations. In the case of the City, human agency can be seen as understood by undocumented individuals' attempt to engage with the laws of the community: here, people are seen as wanting to follow the law. Thus, efforts are made to allow undocumented individuals access to the laws of the city as illustrated in service provision and the general trend toward regularization of migrants. Moreover, in allowing undocumented individuals access to City services, the City allows undocumented individuals to further their human agency and potential by assisting them through service provision and access to resources.

Similarly, the federal government and the City diverge in their interpretation of security and its guarantee. The federal government, in viewing undocumented individuals as people engaged in illegal activity, compounded by the fact that they are viewed as outsiders, sees them as a threat and a compromise of state security. The notion of a porous border, illustrated by the presence of illegal outsiders, is most certainly a security threat in the eyes of many citizens, let alone security personnel. As such, the monitoring and removal of these illegal individuals is warranted. However, in the case of the City, security concerns manifest themselves in wanting undocumented individuals to interact with municipal law enforcement and security personnel as a means of increasing security and wellbeing for all, as previously mentioned. Here, security concerns dictate not the removal of undocumented individuals, but their engagement. Their presence is not deemed a threat to security: their marginalization is. The federal government and the City adhere to two vastly different considerations of security and threats.

All of these aforementioned dynamics stem from a fundamentally different approach to borders, here specifically the borders of the Canadian state. The federal government engages with borders that are fixed and rigid and intended to keep foreign people out, unless permitted through the border. However, the City does not enforce the border through their work, as stated. It is not their mandate. Moreover, borders arise when people try to access services but are denied.<sup>138</sup> Border controls impact people within states.<sup>139</sup> These are the 'internal borders' that Foucault has described, with physical borders reproduced in the activities of daily life.<sup>140</sup>

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<sup>138</sup> McDonald, 133.

<sup>139</sup> Peter Nyers and Kim Rygiel, "Introduction: Citizenship, Migrant Activism and the Politics of Movement", in *Citizenship, Migrant Activism and the Politics of Movement*, ed. Peter Nyers and Kim Rygiel (New York: Routledge, 2012), 3.

<sup>140</sup> McDonald, 131.

The state formally declares migrant legality and illegality - municipal service provision can reproduce this or circumvent it.<sup>141</sup> In the case of the Access TO policy, it attempts to circumvent it. "Municipal policies affirming the right to public services for all members of the metropolis pose an important challenge to state definitions of migrant illegality"<sup>142</sup> and the border that underpins this definition. The City of Toronto adheres to policy that does not concern itself with the border as has been shown. Nevertheless, the Access T.O. program does have an important impact on the 'internal borders' previously mentioned through allowing undocumented persons access to City services. In doing so, the City removes (or at least softens) these internal borders. The City engages with a concept of a malleable and permeable border, devoid of the totality of the Federal approach to the border. Canadian Federal authorities, like other state authorities, administer a border that is closed, strict and secured and opened only at their discretion. Moreover, this federal state approach embodies a sense of the sanctity of state borders and their absolute and unquestionable existence and maintenance. Once more, this is an approach that is markedly different to the City's. Through the Access T.O. policy's functioning, the City speaks to the idea of an open border<sup>143</sup>, albeit from within the borders of the state, a perspective which Federal authorities certainly do not share.

## **Conclusion**

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<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> Harald Bauder, "The Possibilities of Open and No Borders", *Social Justice* 39:4 (2014): 76-96.

The distinct nature of Toronto's Access T.O. program (Toronto, along with Hamilton, are the only official Canadian sanctuary cities) raises a question regarding the role and place of cities in Canada. Federalism implies that sub-national variations are significant enough to warrant state-level autonomy.<sup>144</sup> Within Canada, federalism is expressed through the arrangement of provinces and the autonomous powers they wield. Cities, on the other hand, do not have a constitutional existence within Canada and city powers are granted by the province in which the city exists. The fact that Canada is an overwhelmingly urban country and that fact that many Canadian cities have populations larger than certain Canadian provinces makes the case for Canadian policymakers to create a constitutional existence for cities within the Canadian Constitution to better reflect the reality of the distinct nature of Canadian cities to the rest of the country. The presence of undocumented individuals in Canadian cities, especially in Toronto, and the move to provide services to them is one further example of this distinct nature of Toronto and cities more generally. This reflects the reality of Toronto being unique in terms of its social composition and demographics but also in terms of its approach to public policy and service and as such potentially political culture as well (other Canadian cities do also display some of these unique features).

The presence of a large number of undocumented individuals and needing to provide services to them is a situation distinct to cities, especially larger cities such as Toronto. Relatively limited city power stemming from the status of cities within the Canadian federal system results in limitations in the extent that Canadian cities can create policies that reflect

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<sup>144</sup> Kinney and Cohen, 86.

their unique composition. While Toronto's large undocumented population is in need of more extensive support, the reality of Toronto's municipal limitations restricts the extent to which it can provide services and programs suited to this population. As such, further powers to Canadian cities and a revisiting of the Canadian constitutional arrangement of federalism in relation to cities would result in Toronto and other large cities better able to provide further services to all of their inhabitants.

Access T.O.'s continuance and expansion faces certain obstacles and hurdles previously highlighted. Looking forward to the policy's future, it is helpful to revisit the idea of citizenship in relation to sanctuary cities once more. 'Classic' ideas describing citizenship include: status (designating formal state membership); rights (entitlements that accrue equally to all people); identity (shared beliefs and identity that tie the individual to a political community).<sup>145</sup> The domicile principle and urban belonging tied to sanctuary cities previously mentioned is applicable to this definition. While the domicile principle and sanctuary cities do not provide formal status, their allowing undocumented individuals access to services does provide a semblance of regularized status. In terms of identity, undocumented peoples' access and welcome within a sanctuary city could tie them to this community as well as provide the impetus for other residents of the city to view undocumented people as also part of their community. Ideally, the Access T.O. program and sanctuary cities will apply rights to the city equally to all city inhabitants and thus fitting with this part of the citizenship definition.

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<sup>145</sup> Joppke, 28-30.

However, as has been shown, this is not yet the case in Toronto as well as elsewhere. Nevertheless, thinking about the Access T.O. program in relation to conceptions of citizenship and the domicile principle along with urban belonging is helpful in providing a background to sanctuary practices that go beyond simply municipal service provision. Ultimately, "the lodestar of citizenship is equality."<sup>146</sup> Currently, the Access T.O. program does not provide equality, although it must be stated that it makes strides towards a city based on a more equal footing for all residents. Striving to create a more working and true equality in the city is a principle that should colour continued work with sanctuary in places like Toronto. A more equitable city could also be fostered through municipal voting rights for non-citizens and is an idea certainly worthy of exploring as a means of making the city more open and equal for undocumented individuals. The possibility of such voting rights within Toronto has already been explored.<sup>147</sup>

However, these considerations need to be balanced against the possibility of creating separate manifestation of inequality: non-citizens can hold a varied political statuses in a state with a homogenized naturalization policy.<sup>148</sup> At issue in these instances is the propensity to create a "hierarchy of semi-citizenships".<sup>149</sup> Jurisdictions which grant non-citizens more rights and resources become more desirable places to live, which can create two new classes of non-citizens: entitled and disentitled, in which people with similar statuses get different

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<sup>146</sup> Ibid, 10.

<sup>147</sup> Myer Siemiatycki, "Non-Citizen Voting Rights and Urban Citizenship in Toronto." *Journal of International Migration and Integration* 16:1 (2015): 81-97.

<sup>148</sup> Kinney and Cohen, 71.

<sup>149</sup> Ibid, 84.

treatment.<sup>150</sup> The creation of sanctuary cities enables such a dynamic. This is certainly not to suggest that sanctuary policies should be disbanded and avoided. However, it does once more provide an added dimension that researchers and advocates of sanctuary cities need to consider, along with policymakers. Given that federal policies that create a large illegal population (hence creating the need for sanctuary cities) are unlikely to change soon, the proliferation of sanctuary cities and even provinces will remain a needed approach. This approach does, nevertheless, need to balance the creation of more equitable cities against the possibility of creating cities where undocumented individuals experience more rights and entitlements than elsewhere and once more creating inequality. Given the reality of the current status quo, perhaps the most immediate way of remedying this is to make all cities within Canada sanctuary cities.

With the discussion of citizenship and belonging in relation to cities, specifically sanctuary cities, comes one important question: will undocumented individuals *feel* more a part of their city and community as a result of sanctuary city policies? Will undocumented people in Toronto feel more at home in the city, and will their citizen neighbours think of them as part of their community because of the Access T.O. program? This question cannot concretely be answered at this time. Toronto's policy is new, and has been shown, knowledge of it is still growing and as such it is hard to predict its impact on feelings of belonging, community and social relations. However, as a basis for a shared belief amongst city residents (which would be a great triumph for the Access T.O. policy and its normalization amongst all city residents), it

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<sup>150</sup> Ibid.

does provide the possibility for a more welcoming city spirit as well as a bond tying undocumented people to the city along with tying Toronto to undocumented individuals as well as other City residents. As such, it provides a possibility for a more open, equitable and just Toronto and a stronger feeling of attachment to it amongst its residents.

The example of Los Angeles shows that sanctuary policies can go even further than what has been described in the case of Toronto. LA City Council has passed various motions and initiated many programs aimed at assisting undocumented individuals. This includes: requiring hardware stores to provide services to day labourers before issuing the store's permits; negotiated wages for car-wash workers; advocated for undocumented high-school students to be able to complete their post-secondary education in California<sup>151</sup>. Magic Cleaners in Los Angeles is also another interesting case of evidence where sanctuary policies have become embedded and normalized. Magic Cleaners is made of undocumented migrants. While these individuals cannot legally be employed, they can legally incorporate a business.<sup>152</sup> Clients engagement and business transactions occur within the formal economy, creating social recognition<sup>153</sup>. The case of Magic Cleaners in Los Angeles is indicative of the effects that sanctuary initiatives can have once they become embedded within a local community, its authorities and its administration, as well as the resourcefulness of undocumented individuals and their willingness to contribute to their community as members of it. This can serve as an example and inspiration to Toronto's administrators and undocumented people. Much like Toronto's sanctuary has evolved from its origins within religious groups to an official City policy,

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<sup>151</sup> McNevin, 166.

<sup>152</sup> Ibid, 173.

<sup>153</sup> Ibid, 174.

it can further evolve into a program like Los Angeles' which takes even further steps to assist and regularize undocumented people and further include them as part of the community.

The Access T.O. policy is like other official sanctuary city policies in that they are functioning legislation operating at various sub-state levels within a variety of states. As has been shown, these policies offer an alternative way of engaging with undocumented individuals, most notably as a departure from the criminalization, detention and removal of undocumented people. While they are not policies of the federal state wherever they are found, they are nevertheless part of the wider functioning of official authority within that state. This relatively banal point is worth mentioning and reiterating: as official policies, they show that alternative ways of approaching undocumented individuals and their presence are practicable, workable, helpful and functional. Sanctuary cities, like Access T.O., offer real alternatives to the illegalization of migrants by state authorities by showing that other state authorities do in fact approach this situation differently. The federal state is not the final frontier of policymaking, even in the realm of immigration law and policy which has traditionally been held as the federal state's to draft and enforce. Sanctuary cities present a more humane and just approach to migration: they are real policy, happening in the contemporary setting, happening because they can and do work.

This paper explored the Access T.O. policy and how it relates to Canadian federal immigration laws and policies. I argued that Toronto's Access T.O. program might be viewed as a working sanctuary city. I also argued that as a working policy, it offers a real, practicable alternative to immigration law and policy which 'illegalizes' migrants found at the level of the

federal state, here specifically the Canadian state. I also showed how this alternative creates distinct ways of experiencing citizenship, rights and belonging at the city level for migrants, and to all individuals more broadly. Also highlighted were how the divergent approaches occurring at the city and federal level display different approaches to ethics and morality, human agency, security and borders. As has been shown, the Access T.O. policy has made valuable progress towards making Toronto a more equitable and just place - especially for undocumented individuals. However, also shown was the further work needed to better implement this policy and make it more entrenched amongst employees of the City and its residents. As the city moves forward with this policy, it is hoped that it will become a regular part of city life, so much so that Gord feels like any resident should: content, valued, safe, welcome and ultimately, like he belongs.

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