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The Paradox of Sanctuary: How Punitive Exceptions Converge to Criminalize and Punish Latinos/as

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(Received 09 August 2022; revised 18 May 2023; accepted 23 October 2023; first published online 18 September 2024)

Abstract

Sanctuary cities define themselves as metropolises that refuse to share information, personnel, and facilities with federal immigration authorities to police immigrants. While research suggests that sanctuary cities contest the criminalization of migration, a growing literature depicts how these urban sanctuaries could, in practice, perpetuate hierarchies and exclusionary politics against noncitizens. Yet, most of these studies conceive of urban sanctuary as local policies designed to challenge federal power and, thus, fail to fully capture how sanctuary policies could actually rely on the criminalization of migration to govern cities' political problems. Drawing upon 1,900 pages of archival materials and 100 newspaper articles, this article takes the case of Chicago to study how and why the urban sanctuary expands immigrants' rights while reinforcing policing with punitive implications for Latino "undeserving" noncitizens. As a form of racialized governance, I argue that Chicago's sanctuary policies activate a set of punitive exceptions that—in response to distinct political urgencies—allow law and immigration enforcement to converge and control Latino undocumented workers, "criminals," and "gangs." This study not only challenges the premise that sanctuary cities necessarily resist federal power but also illustrates how they could strengthen the legitimacy of the state and racialized police power.

Keywords: Sanctuary cities; punitive exceptionalism; immigration policing; policing; law and society

Introduction

In 2017, I came across the story of Wilmer Catalan-Ramirez, an undocumented resident who, in the aftermath of Hurricane Katrina in 2005, joined thousands of other migrants to help rebuild the Gulf Coast in Louisiana. Wilmer had left Guatemala to seek employment and economic opportunities in Baton Rouge following the natural disaster. Only weeks after his arrival, however, federal immigration authorities

arrested Wilmer during a workplace raid and charged him with fraud and misuse of documents. He served seven months in jail and was then deported from the United States. After returning to the United States, Wilmer found work in Georgia and met his future wife, Celene. In 2009, Wilmer and Celene relocated to Chicago. As Wilmer told me, “People said that Chicago was a sanctuary city and that it would be better for us” (Interview 2017).

“Sanctuary” is a category claimed by US cities that usually endorse laws and urban policies that restrict the engagement of local authorities, including the police, in the enforcement of federal immigration laws. Although the term “sanctuary” encompasses a variety of practices and policies, including providing religious shelter to refugees and undocumented immigrants (Coutin 1993), statements of public solidarity with immigrants (McMillam 1987) and policies that make state and city services available for noncitizens (Kagan 2018; Motomura 2018), there is still an ongoing conversation about the meaning of “sanctuary” in the US (Villazor 2008, 137; Villazor and Gulasekaram 2018; Ayers 2021).

Indeed, most scholarship continues to frame sanctuary cities as urban spaces historically engaged in contesting immigration control by refusing to share information, personnel, and facilities with federal immigration authorities to police immigrants (Wells 2004; Ridgley 2008; 2012; Varsanyi 2010; Villazor 2010; Armenta 2017; Bauder 2017; Colbern 2017; Garcia 2018; Collingwood and Gonzalez O’Brien 2019; Kramer 2020; Su 2020; de Graauw 2021). Existing research suggests that the notion of “urban sanctuary” (Bauder 2017) reconceptualizes cities as “generative sites of resistance” (Ridgley 2008) that aim to contest the criminalization of migration (Ridgley 2008; 2012). A growing literature, however, criticizes excessively optimistic versions of sanctuary cities by unpacking how the urban sanctuary, in practice, perpetuates relations of privilege, social hierarchies, and exclusionary politics against certain immigrant and refugee categories in countries such as the United States, Canada, and the United Kingdom (Bauder 2017; Bagelman 2013; Darling and Squire 2012; Scherr and Hofmann 2016; Houston and Lawrence-Weilmann 2016; Walia 2014). And yet, most of these studies conceive of urban sanctuary as local policies originally designed to contest federal power, and thus fail to fully capture how and under what conditions sanctuary policies could actually rely on immigration enforcement and the criminalization of migration to govern cities’ larger political urgencies.

This article uses Chicago as a case study to investigate how and why the urban sanctuary expands immigrants’ rights while reinforcing immigration policing with punitive implications for Latino/a undocumented workers. To shed light on this insidious dimension of sanctuary city laws (Bagelman 2013), I draw on archival materials housed by the Office of the City Clerk of Chicago from the first sanctuary city policy in 1985 until the end of Chicago Mayor Rahm Emanuel’s first term (2011–2015). This material includes sanctuary city laws, the City Council’s decisions, as well as newspaper articles that trace the history of sanctuary movements and policies in the city. From analyzing these data, I found that sanctuary city laws effectively expanded *some* immigrants’ protections by restricting the city’s cooperation with federal immigration authorities. At the same time though, the city has embraced an exclusionary logic that intensifies immigration policing when: (1) new state/federal laws or court decisions consider it necessary (*jurisdictional power*), (2) the offenses are

viewed as “threatening to public safety” (*serious crimes*), or (3) immigrants are conceived of as criminals or gang-associated¹ (*undeserving noncitizens*). I coin the term punitive exceptionalism to describe the logic by which sanctuary policies suspend their refusal to cooperate with immigration enforcement laws and introduce expansive policing regimes by targeting Latino/a immigrants in the three cases outlined above. These cases illustrate how and under what conditions punitive exceptionalism evolves and becomes cumulative over time to address different political problems that are continuously racialized as Latino-related issues in Chicago’s labor market and the so-called problems of crime and violence.

Building on these findings, I argue that—as a form of racialized governance—punitive exceptionalism was the central logic driving Chicago’s sanctuary laws in response to distinct political urgencies in the city. I suggest that exceptionalism turns distinct immigrant categories (i.e., undocumented workers, “criminal aliens,” and “gangs”) into criminal targets and becomes a cumulative form of state punishment that deepens racialized immigration policing, legal deprotections, and potential expulsions.

This article broadens our understanding of sanctuary cities by demonstrating how Chicago’s liberal sanctuary was not primarily concerned with contesting the state’s federal power, as most scholars take for granted (Office of the City Clerk 2012). Similar to recent historical research (Fox 2023), this paper challenges the premise that urban sanctuary fundamentally represents local resistance to federal sovereign power by undermining immigration control. Instead, I unpack how Chicago’s liberal sanctuary (Paik 2017; 2020; Roy 2019) engages with a set of systematic exceptions to activate a racialized governance wherein law and immigration enforcement identify, punish, and eventually expel Latino/a “undesirable” immigrants. Consequently, this paper offers relevant insights into how urban sanctuary reinforces the “color line” (DuBois 1994) or the “division of society by racial categories” and illustrates how it has historically reinforced the legitimacy of the state and police power (Roy 2019).

Sanctuary cities, enforcement cooperative cities, and the paradox of liberal sanctuary

In recent years, the role played by state actors and localities in immigration policymaking and enforcement has become crucial to understanding current shifts in immigration policing in the United States (Varsanyi 2010; Varsanyi et al. 2012; Armenta 2017, Armenta and Alvarez 2017; Coleman 2012; Wells 2004; Provine et al. 2016). Scholars argued that spatially uneven and site-specific political, legal, and policing practices mediate federal immigration initiatives by establishing variegated immigration enforcement regimes throughout the country (Coleman 2012; Varsanyi 2012). Therefore, the multilayered structure of US migration governance opens up spaces for local actors to rearticulate what immigration control looks like in each city while creating a “multijurisdictional patchwork of enforcement policies and practices” (Provine et al. 2016).

¹ Building on Durán (2009), Rios (2017), and Rios et al.’s (2020) research on policing gangs, I use the expression “gang-associated” “to describe individuals who have been labelled or who self-describe as gang members. These people have been “associated” by individuals or institutions with “gang members and (...) [were] therefore treated and policed as criminals and potential threats” (Rios et al. 2020, 73). I use “gang members,” “gangs,” and “gang-associated” interchangeably throughout the manuscript.

In the United States, different city laws and practices have determined the extent to which municipal police engage with federal immigration enforcement. Starting in the 1980s, religious movements across the country invoked the medieval “sanctuary” tradition as a political move to provide protection and asylum to refugees who—fleeing political violence in Central America—entered the country without formal permission (Bau 1994; Wells 2004; Pham 2006; Coleman 2007; Ridgley 2008; Villazor 2008; Hing 2012; Mancina 2016; Bauder 2017; Paik 2017; Garcia 2018). While church-based sanctuary movements focused on achieving “sanctuary” protections for Central American immigrants who would be denied asylum, later sanctuary city ordinances enlarged their claims to protect all undocumented immigrants (Ridgley 2012; Bauder 2017; Collingwood and Gonzalez O’Brien 2019; Fox 2023).

Through official sanctuary declarations, so-called “sanctuary cities” arose in the country to designate metropolises where local/state laws and policies discourage municipal and police authorities from using local information and resources to enforce federal immigration laws (Merina 1985; Coutin 1993; Bau 1994; Wells 2004; Ridgley 2008; 2012; Mancina 2012; Paik 2017; Armenta, 2017; Fox 2023). Although sanctuary policies and practices have changed over time in response to specific political and social conditions (McMillam 1987; Paik 2017), most scholars still understand the urban sanctuary as a local form of contesting federal power (Colbern 2017; Villazor and Gulasekaram 2018; Colbern, Amoroso-Pohl, and Gutiérrez 2019). Jennifer Ridgley (2008), for example, argues that sanctuary city policies have challenged “exclusionary articulations of political belonging and the criminalization of migration by withdrawing consent and advancing alternative ideas of citizenship rooted in different geographic sensibilities and legal histories” (p. 73).

Nonetheless, not all US cities are “sanctuaries.” In fact, there are also “enforcement cooperative cities” that formally authorize local police and other service providers to aid federal immigration control (Ridgley 2008; Farris and Holman 2017; Armenta 2017). “Cooperative cities” usually turn everyday interactions between city service actors and immigrant communities into “sites for policing and surveillance” (Ridgley 2008, 56), transforming these localities into expansive factories of illegality (De Genova 2005). According to Amanda Armenta (2017a), for instance, enforcement cooperative cities reorganize law enforcement agencies as “force multipliers” that amplify federal immigration enforcement efforts and help “bring suspected unauthorized immigrants to the attention of the immigration bureaucracy” (Armenta 2017, 8).

Although the distinction between sanctuary and enforcement cooperative cities captures the different degrees to which cities formally engage with federal immigration control, research has recently criticized the assumption that sanctuary cities are always sites of contestation vis-à-vis the criminalization of migration. Emergent critical approaches show that sanctuary cities can contest but also recreate citizenship hierarchies and subtle forms of the displacement and criminalization of irregular migration (Darling and Squire 2012; Bagelman 2013; Walia 2014; Bauder 2017; Houston and Lawrence-Weilmann 2016; Scherr and Hofmann 2016; Paik 2017; 2020; Roy 2019). Scholars Jennifer Bagelman (2013) and Harald Bauder (2017), for example, demonstrate that sanctuary laws do not necessarily address the root problem—the criminalization of migration – but merely make the lives of immigrants existing under the constraints of illegality less difficult.

Excessively optimistic and critical approaches to urban sanctuary have offered relevant insights into the historical emergence of sanctuary movements, the spread of sanctuary laws across US cities, and the diversified consequences and limitations of these policies and practices. These lines of research, however, still assume a conflation of sanctuary and cities' noncooperative policies initially created to challenge the state's federal power (Fox 2023) by protecting unauthorized immigrants from the deportation machine. Even groundbreaking interdisciplinary scholars Naomi Paik (2017; 2020) and Ananya Roy (2019) fall into this widespread assumption. Drawing upon the framework of liberal sanctuary, these scholars unpack the paradox of sanctuary cities that provide protections for "good" immigrants while denying these rights to noncitizens conceived of as "criminal aliens." According to Paik (2017; 2020) and Roy (2019), this paradox matters because sanctuary policies can end up restricting rights to "deserving" law-abiding immigrants, thus reproducing "the very exclusions [they] seek to challenge" (Paik 2017, 5). But in doing so, these scholars take for granted that sanctuary cities' cooperation policies with the "state's legitimacy over law enforcement" (Paik 2017, 16) and "police power" (Roy 2019, 775) represent a failure and, to a certain degree, a betrayal of the urban sanctuary's political purposes.

This article challenges the extended premise that sanctuary policies should be understood as local contestation to federal sovereign power. Instead, I demonstrate how Chicago's sanctuary laws fabricated three types of punitive exceptions that enhanced federal immigration policing and state violence as a form of racialized governance. Disentangling how the urban sanctuary reinforces and expands police power is crucial if, as Coleman (2012) suggests, we are to develop "intensive case study-based research" (p. 162) that expands our understanding of spatially uneven and site-specific immigration enforcement regimes throughout the country (Coleman 2012; Varsanyi 2012).

This study responds to Coleman's call by looking at how and why Chicago's exclusionary politics of liberal sanctuary has been legally constructed and examines the consequences of immigration policing. Answering this question allows me to uncover the color line of the paradox of liberal sanctuary by demonstrating how Chicago's sanctuary policies expand "law-abiding" immigrants' rights, welfare benefits, and protections from immigration control while simultaneously denying these rights to—and therefore punishing—Latino/a noncitizens considered to be "criminals" or "gang-associated." The logic of punitive exceptionalism, therefore, provides a lens to view better the racial distinctions and differentiated policing regimes that immigrants must navigate depending on their criminal records and gang affiliations. The findings presented here illustrate how the criminalization of migration does not necessarily work in opposition to the urban sanctuary but rather constitutes a core dynamic of Chicago's sanctuary city laws.

Research methods and data

Research site

Chicago is an important site for studying the historical configuration of liberal sanctuary considering its vast tradition of sanctuary city movements and legislation dating from the 1980s to the present. Given that sanctuary policies have largely discouraged local police and municipal services from cooperating with immigration

enforcement, I focus on the legal exceptions within such policies to explore whether and how liberal sanctuary embraces a set of protections for “law-abiding” immigrants while suspending or denying these protections for so-called “underserving” noncitizens. Tracing the history of exceptions across sanctuary laws allows me to envision how the urban sanctuary embraces the logic of exceptions that not only undercuts their overall purpose—to limit the police’s cooperation with federal immigration control—but also creates a particularly expansive policing regime where law and immigration enforcement target noncitizens conceived of as “criminals” or perceived to be members of “active gangs in the city” (The Chicago Crime Commission 2018, 16). This case illuminates how sanctuary policies allow cities to refuse to cooperate with immigration control while simultaneously engaging in the interagency policing that the urban sanctuary is supposed to prevent.

This paper examines the exceptions of Chicago’s major sanctuary policies from the 1980s to the first term of Chicago Mayor Rahm Emanuel (2011–2015). It traces the relationship between interagency policing and sanctuary city laws while exploring the punitive consequences for the aforementioned “undeserving” immigrants. I narrowed the study of sanctuary city laws until Mayor Emanuel’s first term because, with Donald Trump’s election during the mayor’s second period, a considerable new political struggle between Chicago’s political representatives and federal immigration authorities transformed the meaning and making of the urban sanctuary in ways that go beyond the focus and data of this article. Furthermore, narrowing the period of the study until the end of Mayor Rahm Emanuel’s first term (May 2015) allows me to explore whether and how liberal sanctuary produces similar if not more punitive immigration policing in the city (Macías-Rojas 2021).

Data and methods of analysis

This article uses data from a larger project on policing and sanctuary city policies in Chicago that relies on archival materials, ethnography, and in-depth interviews with gang-associated immigrants, pro bono lawyers, supervising attorneys, and community organizers engaged in Chicago’s “Expanding Sanctuary for All” campaign. For this paper, however, I solely utilize the archival data and newspaper articles collected during this larger project. To shed light on the exclusionary politics of sanctuary city laws in Chicago, I collected more than 1,900 pages of documents from the Office of the City Clerk, including journals and reports concerning legislation and the City Council’s actions from 1985 to 2015. I specifically focused on the executive orders throughout which city mayors issued the first sanctuary city policies as well as the Journals of the Proceedings of the City Council where the City Council approved modifications and reforms to existing sanctuary city laws. When examining the mayoral executive orders, I selected documents that explicitly express or outline sanctuary protections by either prohibiting officials from asking about US citizenship for job applications or restricting the sharing of local resources and data to enforce federal immigration laws in Chicago. In the Journals of the Proceedings of the City Council, I carefully looked at the City Council’s decisions about historical sanctuary city policies while noting their eventual reforms and modifications. Once I identified all the relevant archival materials for this study, I saved these documents in MAXQDA, a qualitative data analysis program.

The analysis of the executive orders and the City Council's discussions focused on the evolution of sanctuary policies and specifically on the carved-out exceptions. I did so by looking at sanctuary protections, their conditions of eligibility, and any changes to previous protections, as well as at those exceptional cases where these rights and protections were legally suspended. When reviewing these archives, I looked for statements about the intent of ordinances and executive orders, which I then coded as "order's purposes." Additionally, I paid attention to sections that regulated the suspension of sanctuary protections, which I coded as "exceptions"; I enumerated cases in which there was more than one exception.

Although archival materials were useful in capturing the legal construction of punitive exceptionalism, this data source failed to provide the historical context in which Chicago's sanctuary city laws and policies arose. To fill this gap, I supplemented archival documents with around 100 newspaper articles from the same period (1985–2015). I conducted this historical research to better understand how sanctuary city laws and policies emerged in response to local political problems concerning Latino/a immigrants' labor rights, access to social welfare benefits, and sanctuary protections from federal immigration enforcement. I focused on collecting historical newspaper articles covering tensions between sanctuary cities and federalism, and political actors discussing the degree to which Chicago—as a sanctuary city—can(not) contest federal laws and policies related to immigration and immigrants (Varsanyi et al. 2012; Spiro 1996; Farris and Holman 2017). When examining these newspaper accounts, I selected articles about immigrants' political struggles and the debates around them, which allowed me to detect how sanctuary laws and policies changed over time and trace the shifting trajectory of punitive exceptionalism over the last decades. Similar to my handling of the archival materials, I saved all selected newspaper articles in MAXQDA.

I analyzed these newspaper articles by paying attention to political urgencies related to immigrants' labor rights, welfare benefits, crime control, and protections from federal immigration control surrounding major sanctuary city laws and policies between 1985 and 2015. When coding, I linked each immigrant's political struggle to each major sanctuary policy and the year it was issued. For example, *Immigrants' Rights—Chapter 173* (2006). This coding allowed me to identify the relationship between a major sanctuary law and distinct political problems that informed the emergence of the given sanctuary regulation.

Building on these codes, I then analyzed my archival data and historical newspaper articles by constructing inductive themes (e.g., "sanctuary and punishments via exceptions," "expansive policing," "immigrant categories," "sanctuary protections," and "immigrants' protections—Executive Order 85-1 (1985)" to explore whether and how the paradox of liberal sanctuary operates in Chicago (Lofland et al. 2006). Next, I wrote analytical memos in which I put the codified data in conversation with the theories discussed previously (Emerson et al. 2011; Seim 2016). During the analysis of these data, I constantly triangulated archival materials and newspaper articles to assess the process by which the exclusionary logic and punitive implications of sanctuary laws reorganize what it means to be a liberal "sanctuary city." Different data sources helped me visualize how sanctuary policies embrace racialized rights and immigration policing under specific historical circumstances.

Over the last decades, “gap studies” have experienced an increasing relevance in analyzing the complicated discrepancies between “law on the books” and “law in action” (Bourdieu 1987; Gould and Barclay 2012; Calavita 2016; Garcia 2019; Brayne and Christin 2021). Sociologist Angela Garcia (2019), for instance, calls our attention to the consequences of state and local immigration policies on undocumented immigrants by looking at both *what the law says* and, fundamentally, “*what the law does* to the immigrants who sit squarely in its crosshairs” (p.10). Since this study draws on archival materials, more research needs to be done to unpack how punitive exceptionalism works “off the books” by analyzing how it is negotiated through practices of social control that transform Latino/a “criminals” and “gang members” into deportable subjects. Future work should also explore the ways in which punitive exceptionalism in Chicago shifted during Mayor Rahm Emanuel’s second term (2015–2019) and Lori E. Lightfoot’s first period (2019–2023). In the following sections, I will present findings to support the argument of punitive exceptionalism. I then discuss my contributions and implications in the conclusion.

Chicago’s liberal sanctuary and the fabrication of punitive exceptionalism

Drawing on the archival and historical data, I advance punitive exceptionalism as an analytic framework to describe the racial logic that—grounding Chicago’s sanctuary policies—suspends the general restriction against law and immigration enforcement cooperation while fabricating a two-tier regime of immigration policing for “deserving” and “undeserving” immigrants. In this section, I detail the legal construction of punitive exceptionalism stemming from three forms of exceptionalism that have been historically used to suspend the sanctuary city’s policy of refusing to collaborate with immigration control: (1) jurisdictional power, (2) serious crimes, and (3) undeserving noncitizens.

First, jurisdictional power refers to a pattern in sanctuary city policies where data-sharing restrictions between local police and federal immigration authorities are valid *unless* a federal/state legal norm, process, or court decision mandates that cooperation is required. In this case, sanctuary city laws embrace a set of exceptions—framed as legal limitations—that allow legislators and judges to suspend immigrants’ sanctuary protections at their discretion. Second, serious crimes refer to the practice of denying sanctuary protections to, and authorizing law and immigration enforcement cooperation to prosecute, Latino/a immigrants accused of offenses deemed threatening to public safety. Finally, the notion of undeserving noncitizens illustrates how after the exceptions outlined above, sanctuary city laws create racialized immigrant categories such as “criminals” and “gang associated.” Under this form of exceptionalism, when law or immigration enforcement classifies immigrants as criminals or gang members their sanctuary protections are immediately lifted and local police and immigration authorities collude in amplifying immigration policing, forced confinement practices, and expulsions. While I differentiate these three forms of punitive exceptionalism as a matter of clarity, they sometimes overlap and thus should not be understood as mutually exclusive.

Paying attention to these three forms of punitive exceptionalism offers a more nuanced understanding of how the interruption of sanctuary city rights and protections changes over time and in response to different political problems

racialized as Latino/a issues. In tracing the legal making of these three types of exceptionalism, these findings allow us to capture the shifting nature of the paradox of liberal sanctuary, which expands “deserving” immigrants’ rights and protections at the expense of those “underserving” immigrants or “criminal aliens.”

Punitive exceptionalism through jurisdictional power

In the 1980s, emergent sanctuary policies in the city established what I consider to be the first form of punitive exceptionalism. Drawing upon executive orders from the Office of the City Clerk, I describe *jurisdictional power* as the legal mechanism by which mayors Harold Washington (Executive Order 85-1 (1985)) and Richard M. Daley (Executive Order 89-1 (1989)) initially fabricated a set of exceptions acknowledging federal/state norms, legal processes, and even court decisions to suspend sanctuary protections and authorize local police collaboration with federal immigration enforcement. Two decades later, the Chicago City Council turned Washington’s Executive Order 85-1 and Daley’s Executive Order 89-6 into law after a massive nationwide public demonstration to protect and expand immigrants’ civil rights and social welfare benefits. Nonetheless, as had occurred with both executive orders, this new sanctuary city law reinforced jurisdictional hierarchies because the city still determined the scope of immigrant access to benefits and social welfare based on state or federal norms or court decisions.

The genesis of exceptionalism through jurisdictional power

Between the 1960s and 1980s, people from all Latin American countries continued to immigrate to Chicago, achieving an “unprecedented growth of Mexican migration as well as a sharp increase of Central American refugees” (Torres, 2004, 85). At that time, the Latino population experienced a vast demographic increase, becoming around 14 percent of the city’s total population (Torres, 2004). Between the 1980s and 2000s, changes in the city’s political economy led to the creation of a vast number of low-end service jobs that were rapidly taken by Latino immigrants seeking work in Chicago (Torres, 2004). Washington’s election was critical in creating a new inter-racial governing coalition that incorporated new Latino/a political movements (such as the Independent Political Organization of Little Village (IPO) and African American communities). Indeed, Harold Washington adopted a neighborhood-based political agenda with a critical orientation of the city government structures by founding, for instance, the Mayor’s Advisory Commission on Latino Affairs. This Commission portrayed a broad representation of Latinos/as throughout the city with the twofold purpose of creating an agenda that addresses Latino immigrant communities’ political demands in Chicago as well as some critical problems directly related to these communities’ home-country issues (Torres 2004; Pallares and Flores-Gonzalez 2010). To implement affirmative action for Latino immigrant communities, the Latino Commission proposed a set of recommendations for City Hall to increment “the pool of eligible Latinos and increase hiring and retention of Latinos” (Torres 1991, 179).

In March 1985, Mayor Harold Washington signed Executive Order 85-1, a regulation that might be considered the first sanctuary city policy enacted by the city’s government in response to the Commission’s political pressure to improve

Latino immigrant labor rights. This policy further prohibited the city departments from cooperating with federal immigration authorities, especially when providing information concerning immigration status on any employment forms and/or city applications (Torres 1991). Mayor Washington's executive order halted the practice of asking about US citizenship on city job applications and ended the cooperation between local government institutions and federal immigration agencies. Executive Order 85-1 also ensured "equal access by all persons residing in the City of Chicago, regardless of nation of birth or current citizenship, to the full benefits, opportunities, and services, including employment and the issuance of licenses, which are provided or administered by the City of Chicago" (Washington 1985, 164). For the first time, a sanctuary city law ordered a general restriction of data sharing about citizenship, residency status, and city benefits *unless* "it is required to do so by statute, ordinance, federal regulation or court decision" (Washington 1985, 165). The order thus contested the ability of federal authorities (represented by the US Immigration and Naturalization Service (INS)) to carry out daily immigration control and searches of city records and services to detect, enforce, and expel irregular immigrants from Chicago (Spielman 2016). But, perhaps equally important, Washington's executive order quickly augmented the number of Latino applicants for City Hall job positions, and, simultaneously, the mayor "became a hero in immigrant communities throughout the city" (Torres 1991, 179).

Therefore, what was considered Chicago's first sanctuary city policy was disposed to ensure noncooperation policies between the city officials and federal immigration authorities with the broader political purpose of making Latino undocumented workers eligible for jobs at City Hall (especially in high-level positions), making sure that Latinos/as could actively participate in Washington's city government. By providing these sanctuary protections, Washington's executive order turned Latino undocumented workers into a legalized workforce ready to be exploited in the city's labor market.² But, since a state/federal decision, process, or court decision could at any moment suspend these protections, undocumented workers became disposable labor (De Genova 2005) ready to be evicted from Chicago's political economy whenever federal jurisdictional power deemed it so.

Over five years, Mayor Harold Washington endorsed approximately twenty-four executive orders and officially broadened the political machine to address Latinos/as, Asian Americans, and Women's political aspirations (Kaplan, 1989). When Mayor Washington died suddenly in 1987, Eugene Sawyer was elected Acting Mayor in December 1987. He declared that he would "adopt and ratify all executive orders promulgated by Harold Washington and effective at the time of his death" (Kaplan 1989, 2). This political move taken by Eugene Sawyer demonstrated a commitment to continue and uphold the policies initiated by Mayor Washington in response to the demands of marginalized communities of color in the city. The subsequent election of

² According to Torres (2004), "the notion itself of "Latinismo" emerged as an ethno-political category in order to leverage numbers of people from communities that have a common linguistic and historical past. The trend seems to be continuing as the percentage of Latinos identifying themselves as such grew from 9 percent in 1990s to 12.5 percent in 2000" (p. 86). In the early 2000s, Mexicans represented around 75 percent, Puerto Ricans 11 per cent, Central Americans 2.6 percent, South Americans 2.6 percent, Cubans 1.2 percent, and others portray 7.9 percent of the Chicago-area Latinos (Paral et al. 2004, 9).

Mayor Richard Daley raised the critical question about whether and how Daley would deal with Washington's legacy by not only confirming their executive orders—such as the 85-1, which was considered the first sanctuary city policy in Chicago—but whom Daley would hire and how he would reorganize the City Council (Kaplan, 1989).

Once Daley took office, the new Mayor signed around thirteen executive orders, including Executive Order 89-1 in 1989, which renewed Mayor Washington's efforts to expand Chicago's welfare benefits for residents, regardless of citizenship, while restricting local and federal cooperation around policing immigrants. This new executive order assured that "all residents of the City of Chicago, regardless of nationality or citizenship, shall have fair and equal access to municipal benefits, opportunities, and services" (Executive Order 89-6, 1989, 1). However, sections 3, 4, and 5 of the new order restated the *exceptions* present in the previous executive order. In so doing, Daley confirmed one of his major promises during his mayoral race and thus portrayed his office as a symbolic continuation of Washington's "racial inclusion" in the city government while reassuring Latinos/as support during his mayoral race.

As essentially "don't ask unless it's legal" policies, these executive orders initially restricted the city and especially the police force's access to information regarding immigration status, legal residency, and citizenship. The assumption was that if local police did not request information about a detainee's immigration status, residency, or citizenship, they would not be in a position to share any critical information with federal immigration authorities (Torres 2019). Nevertheless, Washington and Daley's executive orders were still constrained by the legal distribution of jurisdictional power, which subordinates sanctuary policies to state and federal power. This legal hierarchy becomes very clear when we look at the exceptions in both executive orders: the data-sharing restriction is only valid until a legal norm, process, or even a court decision mandates the very cooperation that the city orders were supposed to prevent.

It is important to note that both Washington and Daley's executive orders enacted sanctuary protections to turn Latino undocumented workers into a legalized labor force that would render them eligible for jobs at City Hall and Chicago's political economy more broadly. But, at the same time, the executive orders introduced punitive exceptionalism through jurisdictional power; therefore, Latino undocumented workers were still subject to expansive policing, detention, and eventually deportation whenever federal or state legal norms, processes, or court decisions decided to suspend sanctuary protections and introduce an exception forcing local police and municipal service providers to cooperate with federal immigration enforcement. By that means, punitive exceptionalism via jurisdictional power transforms Latino undocumented workers into disposable labor (De Genova 2005) who were always ready for the extraction of their labor force while keeping them as a surplus population ready to be expelled whenever the jurisdictional power decides so (Ferguson 2003).

The reconstruction of exceptionalism via jurisdictional power

The legal construction of punitive exceptionalism in Chicago was not a linear process that evolved depending on local and national political struggles. Almost two decades

after the ordinances and the jurisdictional exceptions they introduced, the Chicago City Council was pressured by the nationwide public demonstrations of immigrant rights movements and advocates to recognize and protect noncitizens' civil rights and welfare benefits. By using the legal tools that were already available, the City Council decided to reinvigorate sanctuary policies by incorporating Washington's Executive Order 85-1 and Daley's Executive Order 89-6 into law in 2006. In doing so, the city reinforced and remade punitive exceptionalism via jurisdictional power.

In early March 2006, a national protest called "A Day Without Immigrants" was organized to protest against H.R. 4437, the Border Protection, Anti-terrorism and Illegal Immigration Control Act (2005). This was a federal bill approved by the US House of Representatives that disproportionately intensified immigration enforcement, including new penalties for people offering aid and support to undocumented immigrants (Avila and Olivo 2006). Considered "one of the biggest pro-immigrant rallies in US history" (Avila and Olivo 2006), the protests took place in cities such as New York, Chicago, Washington, Los Angeles, San Francisco, Atlanta, Georgia, Denver, Phoenix, New Orleans, and Milwaukee, with organizers asking immigrants themselves to "flex their economic muscle by boycotting all aspects of commerce, including going to work and school" (Ferre et al. 2006). Chicago's protest was one of the largest, with around 300,000 immigrants and advocates marching and occupying downtown calling for an expansive immigration reform at the heart of the city's political and economic power. Thousands of students skipped school, workers walked off their jobs or did not show up, and businesses closed as a result of the massive absence of employees in the city (Pallares and Flores-Gonzales 2010; Ferre et al. 2006).

The national protest resulted from a series of marches during the previous months (Pallares and Flores-Gonzalez 2010). By the early 2000s and especially during the aftermath of 9/11, Chicago's immigrants' rights movements developed critical networks across social movements in the city and the nation, which facilitated the later protests. As Pallares and Flores-Gonzalez (2010) describe, "multiple immigrant-led organizations, many of them local to Chicago, formed the National Alliance of Latin American and Caribbean Communities (NAL-ACC), which sought to develop an agenda by and for immigrants" (p. 46). At that time, immigrants created cultural groups in several neighborhoods in Chicago. Churches engaged with activism in support of immigrants' rights and put together parishes, congregations, interfaith coalitions, and Mexican hometown associations; other immigrants' rights movements started to raise critical campaigns (for example, against the issue of family separation as a consequence of the deportation machine) in a collective effort to expand and endure immigrants' rights and protections from federal immigration control (Pallares and Flores-Gonzalez, 2010).

On March 29, 2006, just weeks after this nationwide social uprising, the Chicago City Council recognized immigrants' labor rights and access to welfare benefits by turning Washington's Executive Order 85-1 and Daley's Executive Order 89-6 into law. It passed an amendment to Title 2 of the Municipal Code of Chicago, Chapter 173, which sought "to disallow disclosure of and conditioning benefits and services on individual citizenship and residency status" (Daley 2006, 74325). The amendment restated Washington and Daley's sanctuary policies by confirming equal access to services, opportunities, and protection for all residents regardless of their citizenship or immigration status. Although the ordinance acknowledged the federal pressure on

local police to become involved in “the enforcement of federal civil immigration laws” (Daley 2006, 74326), the City Council reiterated Chicago’s official prohibition on municipal services inquiring “about immigration status and unilaterally enforcing immigration law provisions” (Daley 2006, 74327). This new sanctuary regulation contended that promoting “local enforcement of immigration laws gives rise to an increasing threat of immigrant and minority profiling and harassment” (Daley 2006, 74327). Additionally, the law argued that the devolution of immigration control to the local level would undermine the city’s historical efforts to create trust and cooperation between law enforcement agencies and immigrant communities in Chicago.

With this trust-building purpose, Chapter 173 ordered that “No agent or agency shall request information about or otherwise investigate or assist in the investigation of the citizenship or residency status” (Daley 2006, 74328). However, state agencies could still assist federal investigations by providing information on citizenship or immigration status in cases where this cooperation was required by Illinois state statutes, federal regulations, or court decisions (Daley 2006, 74328). Consequently, Chapter 173 reverberated and solidified exceptionalism via jurisdictional power. By that means, the City Council revigorated immigrants’ labor rights and access to welfare benefits by solidifying Washington and Daley’s transformation of Latino undocumented workers into legalized disposable labor, who were ready to be evicted whenever a federal/state decision, process, or decision considered it necessary.

Expanding exceptionalism via “serious crimes”

However, this punitive exceptionalism via jurisdictional power did not go unnoticed and was the subject of intense debates in Chicago’s public sphere—beginning only a few years after Mayor Daley’s Executive Order 89-1 was issued. At that time, immigrants, advocates, and state representatives engaged in vibrant discussions concerning the strengths and limitations of the sanctuary city’s anti-cooperation policies. In this context, Mayor Richard M. Daley deployed the concept of “serious crimes” as another form of exceptionalism to defend sanctuary policies while responding to political pressure urging him to ensure seemingly more effective control of gang violence. I use the term *serious crimes* to define a process whereby classifying offenses (by the police or immigration authorities) as Latino threats to public safety constitutes suitable grounds for denying sanctuary protections and allowing law and immigration enforcement to converge and contain gang-associated immigrants.

“It’s out of control,” said Frances Sandoval, president of the Chicago Chapter of Mothers Against Gangs, a support and advocacy group. “People are in agony. People are being held hostage in their neighborhoods.” “What do we have to do? Do we have to get on our knees to stop this?” (Wilkerson 1991, 2). During the 1990s, Chicago experienced an unprecedented increment in homicide rates that even broke the record of 970 murderers during the Al Capone era (Wilkerson 1991). In August 1991, 623 murders were recorded in the city of Chicago (in contrast to the 593 homicides counted in the same month in 1974).

The so-called crime problem questioned the Daley administration’s anti-crime policies and “war on gangs.” At that time, Mayor Daley recognized that the city had

achieved worrying levels of crime and, in turn, racialized the origins of urban violence by declaring that Chicago had even “become like Colombia. That’s what it is” (Wilkerson 1991). At that time, state representatives such as Commander Ron Watson suggested that at least 40 percent of all homicides were associated with drugs or gangs. According to several members of the Chicago Police Department, the expanding market of crack (which was at that time a new highly addictive drug) would have generated turf wars that—in their visions—were at the core of much of the violence recorded that year (Wilkerson 1991). Police superintendent LeRoy Martin similarly declared to the City Council that “the proliferation of guns and a gang culture” were the root causes of the city’s high levels of crime. To address these turf wars, Daley rapidly adapted crime control and promised to hire 600 more police officers for the city while also clarifying that current patterns of urban violence reveal the courts’ systematic failure to “put criminals away” and the defeat of the federal government’s “war on drugs” (Wilkerson 1991).

In 1992, the Chicago Crime Commission³ asked Mayor Daley to amend Executive Order 89-1 by authorizing the local police to share citizenship information with the INS to control street gangs in the city. This petition noted that law and immigration enforcement cooperation had, in fact, been a longstanding practice in the city. Police Superintendent Matt Rodriguez, for instance, justified the Chicago Crime Commission’s request by saying that “the [police] department’s practice of turning over information on criminal activities *has been standard policy*, even under the executive order, and will continue” (Davis 1992) (emphasis added).

Immigrants and refugees’ rights coalitions immediately contested the Commission’s petition by urging Mayor Daley to abide by Executive Order 89-1 and “not to provide city information on residents’ citizenship to federal agencies without court orders to do so” (Davis 1992). According to the chairman of the United Network for Immigrant and Refugee Rights, Carlos Arango, the Crime Commission, attempted to modify Executive Order 89-1 by authorizing the Chicago Police Department (CPD) to share citizenship information with the federal INS for gang control purposes. Arango suggested that “the proposal of the Crime Commission directly affects the Latino community, making it more vulnerable to attacks by the Immigration Service and the Police Department” (Davis 1992). Questioned about this charged public debate, Mayor Daley declared that the police department would only share information with the federal immigration authorities in cases where the defendant was accused of committing “serious crimes” (Rumore 2017).

Daley’s decision enshrined a second way of suspending urban sanctuary in Chicago: “serious crimes,” a seemingly “race-neutral” category that he did not explicitly define. But, as Daley previously acknowledged, to explain the rise of homicide numbers, not every legal offense could become a “serious crime.” There was a color line in the city government’s understanding of urban violence when it was

³ Founded in 1919, the Chicago Crime Commission is an organization representing the interests of Chicago business institutions. It was initially created to propose programs and policies to reduce crime, support law enforcement, and advocate for strong partnerships with law enforcement agencies. This Commission is well known in Chicago due to their “Gang Book,” an annual report that claims to facilitate data sharing on street gangs to support law and immigration enforcement’s gang enforcement operations in the city.

continuously associated with gang turf wars and drug trafficking as a Latino threat narrative (Chavez 2008), which was portrayed as a “Colombian problem” disseminated in Chicago. Gang-associated individuals, frequently racialized as Latinos, became permanent threats to public safety and thus constituted reason enough to interrupt their sanctuary protections and activate law and immigration enforcement cooperation. Since suspending immigrants’ sanctuary protections based on accusations of committing “serious crimes” was already a “standard policy”—as police authority Matt Rodriguez suggested—Mayor Daley’s resolution could not be said to have created a new form of punitive exceptionalism. Rather, the controversy between the Chicago Crime Commission and immigrants’ rights movements reveals an existing practice of punitive exceptionalism whereby classifying racialized crimes determines the type of immigration policing used by law and immigration enforcement to control, contain, and eventually expel gang-associated immigrants racialized as Latinos/as from Chicago.

Manufacturing undeserving noncitizens

As we have seen, Chicago’s sanctuary city policies reinvigorated exceptionalism through jurisdictional power (see “The reconstruction of exceptionalism via jurisdictional power” above) and the classification of gang-related activity as “serious crime.” These policies evolved, giving rise to a new form of exceptionalism involving immigrant categories that—conceived of as “criminal aliens”—could be leveraged to suspend sanctuary protections. Immigrants considered “criminals” or “gang members” were now formally denied protection from immigration enforcement, as local police and immigration authorities were permitted to work together and increase immigration control, forced confinements, and expulsions.

Echoing the intensification of the so-called problem of crime and violence during the 1990s, Chicago also experienced an exponential escalation of homicide numbers in 2012. At that time, homicides were up by 38 percent in relation to the previous year. “As of June 17, 240 people had been killed here [in Chicago] this year, mostly in shootings, 66 more deaths occurred in the same period in 2011” (Davey 2012, 1). The police statistics showed that most of the violence was concentrated in Chicago’s impoverished neighborhoods on the South and West sides where the vast majority of Latino/a and African-American residents lived. While police officers explained that most homicides should be tied to “Chicago’s increasingly complicated gang warfare” (Davey, 2012), Mayor Rahm Emanuel similarly declared: “We’ve got a gang issue, specific to parts of the city, and we have a responsibility to bring a quality of life to those residents, and we are going to do it. (...) My bigger issue is not only the homicides and shootings. (...) It’s what it does to all the legitimate citizens in that community and the kids” (Davey 2012, 2).

In 2012, Mayor Emanuel and the City Council passed a new amendment that renamed Chapter 173 (2006) as the “Welcoming City Ordinance,” a new sanctuary policy that aimed “to clarify the communications and enforcement relationship between the city and the federal government” (Emanuel and Mendoza 2012, 30043). The ordinance called on immigrant communities to help law enforcement prevent and solve crimes by maintaining public order, safety, and security in Chicago (Emanuel 2012). As the approval discussion of the amendment at City Hall reveals

(Office of the City Clerk 2012), the Welcoming City Ordinance was initially proposed as a measure of community policing that constitutes a safety policy primarily oriented to foster trustful relationships between immigrants and the police. In this sense, the city government understood that these new “trustful” liaisons would allow anyone in the city—and fundamentally racialized noncitizens (mostly Latinos/as)—to cooperate and provide useful information for crime control purposes without being subject to any immigration enforcement procedures (Office of the City Clerk 2012).

As Mayor Emanuel explained in a press release, the amendment sought to offer basic protections for law-abiding Chicagoans who “play by the rules,” contribute to the city’s economy, and “have not been convicted of a serious crime and are not wanted on a criminal warrant” (Emanuel 2012, 1). More specifically, the ordinance states that police officers could not “arrest, detain or continue to detain a person solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation” (Emanuel and Mendoza 2012, 33044). It further forbade cooperation between the CPD and Immigration and Customs Enforcement (ICE) by denying ICE officers the ability to access or conduct immigration-status investigations on people in the custody of local law enforcement agencies. Also, police officers could not assist ICE investigations “regarding a person’s custody status or release date” (Emanuel and Mendoza 2012, 33044).

Contrary to dominant explanations of urban sanctuary, sanctuary protections were not created as a local form of contesting the state’s sovereign power by protecting undocumented workers from immigration control. Rather, sanctuary protections were conceived of as a public security measure driven by the political purpose of enhancing “law-abiding” immigrants’ everyday interactions with the police and, therefore, expanding and improving law enforcement’s data collection for crime control purposes in the city.

The Welcoming City Ordinance did not aim to contest the state’s sovereign power but to refine and endure “anti-crime policies” via “legitimate” immigrant cooperation in response to the growing numbers of homicides, shootings, and violence continually associated with those Latino/a noncitizens classified as “the gang problem” and “criminal aliens.” Indeed, sanctuary restrictions on CPD-ICE collaboration were not always guaranteed. For example, the ordinance widened exceptionalism via “serious crimes” by suspending restrictions in cases where “an agency or agent is acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law” (Emanuel and Mendoza 2012, 33044). Additionally, the Welcoming City Ordinance suspended sanctuary protections in cases where the *person* is an *immigrant* who: 1) “has an outstanding criminal warrant,” 2) “has been convicted of a felony in any court of competent jurisdiction,” 3) “is a defendant in a criminal case in any court of competent jurisdiction where a judgment has not been entered, and a felony charge is pending,” or 4) “has been identified as a known *gang member* either in a law enforcement agency’s database or by his own admission” (Emanuel and Mendoza 2012, 33045) (emphasis added). Through these four “undesirable” subjects, the ordinance conditioned sanctuary protections on the defendant’s profile, selectively granting these rights to deserving immigrant categories.

The Welcoming City Ordinance signalled a critical shift in Chicago’s historical constitution of punitive exceptionalism. Indeed, the law supplemented the previous practice of exceptionalism via “serious crimes” by creating these four racialized

undeserving noncitizen categories, which were not formally differentiated by former sanctuary policies. Chicago thereby became an “unwelcoming city” for Latino/a “undesirable” foreigners by legalizing amplified surveillance and differentiated policing over noncitizens with criminal records and/or gang designations. In so doing, the ordinance punished immigrants labelled as criminals or gang members by using their racialized subjectivities to (legally) deny them urban sanctuary and turn the sanctuary refusal into a consent of cooperation with federal immigration control.

Despite significant differences between punitive exceptionalism via jurisdictional power, serious crimes, and undeserving noncitizens, all these forms of exceptionalism reveal how the state’s capacity to punish Latino/a immigrants under the framework of liberal sanctuary continues to expand. These findings uncover how punitive exceptions widen over time in response to distinct problems racialized as Latino/a immigrant issues in the city. First, Washington and Daley’s sanctuary city policies protected Latino undocumented workers from city departments’ cooperation with immigration control. However, these labor protections were always subordinate to any state/federal regulations that determined whether law and immigration enforcement cooperation was necessary to police, confine, and eventually expel Latino/a immigrants from the city. Thereby, punitive exceptionalism via jurisdictional power renders Latino undocumented workers into a distinct disposable labor force (De Genova 2005) or “redundant workers” who are always ready for exploitation while keeping them subject to changes in their valorization and, thus, always ready to be deported (Ferguson 2003). Then, punitive exceptionalism via “serious crimes” introduced a second way of suspending urban sanctuary based on seemingly “race-neutral” police officers’ or immigration authorities’ judgements on the “severity” of immigrant offenses. But, given the police and Mayor Daley’s racialization of urban violence as a Latino/a “gang problem,” I contend that “serious crimes” embrace a racialized state governance based on expansive policing of distinct Latino subjectivities labeled as “gangs” and “criminals.” Finally, exceptionalism through undeserving noncitizens legally endured the urban sanctuary’s criminalization of Latino/a immigrants with gang affiliations and criminal records by denying their eligibility for sanctuary protections.

Punitive exceptionalism and the paradox of liberal sanctuary

As the history of Chicago’s liberal sanctuary demonstrates, sanctuary protections and punitive exceptionalism have changed over time in response to specific political problems that were racialized as Latino-related issues in Chicago’s political economy and the social roots of crime and violence. Similar to what Fox (2023) suggests, the historical transformation of punitive exceptionalism demonstrates that the conflation of urban sanctuary and the city’s noncooperative policies with federal immigration control may obscure how Chicago’s sanctuary was not primarily about contesting the state’s federal power. Rather, initial sanctuary ordinances provided a very limited degree of legal protections to make sure Latino undocumented workers could be eligible for jobs at City Hall and formally join Harold Washington’s city government. Then, in the 2000s, sanctuary city policies were not mainly focused on protecting immigrants’ rights but on identifying the “social roots” of the so-called problems of crime and urban violence. Therefore, Mayor Emanuel’s sanctuary policies

were fundamentally driven by community policing with the assumption the city's noncooperative policies with federal immigration control would improve historically oppressive relations and develop "trust" between Latino communities and the CPD.

Punitive exceptionalism operates through an accumulation of exceptions activated by either jurisdictional power, serious crimes, or "undeserving" noncitizens. Through different pathways, punitive exceptionalism teaches us how sanctuary policies create selective racial forms of juridical protections for deserving immigrants while expanding policing for others when law and court decisions consider it necessary, potential Latino immigrant offenses are perceived as "serious crimes," or when Latinos/as conceived of as criminals and gangs are involved. As can be seen in Table 1, punitive exceptionalism arose as an accumulation of exceptions that increasingly suspended sanctuary protections, which added new punitive effects and immigrant categories that—in response to distinct political urgencies—were specific racialized populations. Altogether, these historically accumulative types of exceptionalism reveal how racialized the state's logic of exceptions can be for immigrants in a sanctuary city such as Chicago.

Indeed, the accumulative nature of exceptionalism does not mean that "all immigrants are uniformly denied rights and classified as dangerous or punishable by the state. Indeed, some are deemed 'worthy' of state protection, while others are branded permanently 'rightless' by virtue of a criminal conviction" (Macías-Rojas 2016, 23). As a theoretical framework, punitive exceptionalism provides a better understanding of Chicago's urban sanctuary as a legal space in which differentiated policing regimes among noncitizens exist based on the color line between deserving law-abiding immigrants considered "worthy" of sanctuary protections and "rightless" Latino undeserving workers and foreigners associated with crime and gangs.

In the press release accompanying the Welcoming City Ordinance, for instance, Mayor Emanuel (2012) clarified that sanctuary protections would be "expanded to ensure that undocumented Chicagoans will *only* be detained if they are wanted on a criminal warrant by local or federal authorities, if they have been convicted of a serious crime and remain in the United States illegally, or if they are otherwise a clear threat to public safety or national security" (p.1). In the 1990s and early 2000s, that threat was historically identified with Latino/a gang-associated individuals. Therefore, despite seeking to augment "basic protections" for Chicagoan immigrants formally, the Welcoming City Ordinance concurrently removed protections for people considered "criminal aliens" regardless of how, under what conditions, and through what mechanisms the state continues to construct and racialize their criminality and gang affiliations.

Juan Rangel (2012), CEO of The United Neighborhood Organization (UNO), which helped draft the Welcoming City Ordinance, explicitly defended the criminalizing distinction between "good" and "bad" immigrants that informed this sanctuary policy: "There is a difference between people who come here to contribute to the well-being of their families and in the process contribute to the well-being of their city, [and] those who engage in criminal activity, and in the process, destroy our quality of life. This new ordinance makes that distinction even clearer" (p. 2). Rangel's distinction between law-abiding immigrants who economically "contribute to the city" and "criminal aliens" who engage in the "destruction of the quality of social life" demonstrates how sanctuary policies can enshrine distinct immigration control

Table 1. Three Forms of Punitive Exceptionalism in Chicago’s Policies of Sanctuary City

| | Jurisdictional Power | Serious Crimes | Undeserving Noncitizens |
|--------------------------------|--|---|--|
| Legal Source | <p>Mayor Harold Washington’s Executive Order 85-1 (1985)</p> <hr/> <p>Mayor Richard Daley’s Executive Order 89-1 (1989)</p> <hr/> <p>New Chapter 2-173 of the Municipal Code (2006)</p> <hr/> <p>The Welcoming City Ordinance (2012)</p> | <p>Mayor Richard Daley’s public statement about the Chicago Crime Commission’s (1992) proposal on sharing citizenship information with federal immigration authorities to control street gangs.</p> | <p>The Welcoming City Ordinance (2012)</p> |
| Function | <p>Suspension of limiting federal-local data sharing on citizenship, immigration status, and access to social benefits.</p> | <p>Suspension of limiting federal-local data sharing on citizenship, immigration status, and access to social benefits.</p> | <p>Suspension of restricting CPD-ICE cooperation to police immigrants.</p> |
| Source of the Exception | <p>Laws and legal decisions (A statute, ordinance, federal regulation, legal process, or court decision.)</p> | <p>An immigrant’s connection to crime.</p> | <p>The involvement of specific categories of the foreign national population: individuals classified as street gang members, ex-convicts, people with a criminal warrant, and individuals subject to a criminal process.</p> |
| Punitive Effect | <p>CPD and local service providers share data on citizenship, immigration status, and the city’s benefits with federal immigration agencies.</p> | <p>CPD and local service providers share data on citizenship, immigration status, and the city’s benefits with federal immigration agencies.</p> | <p>Expansive policing based on the convergence between domestic policing and federal immigration control.</p> |

(Continued)

Table I. (Continued)

| | Jurisdictional Power | Serious Crimes | Undeserving Noncitizens |
|--------------------------------------|---|---|---|
| Immigrant Categories | Undocumented immigrant defendants | Undocumented immigrant defendants with criminal records | Undocumented immigrants with a criminal warrant Undocumented noncitizen defendants in a criminal case Undocumented foreigners with felony convictions, Undocumented immigrants classified as gang members. |
| Racialized Political Problems | Latino/a (fundamentally Mexican) undocumented workers' inclusion in the job market and the city's welfare benefits. | The rise of homicide numbers and the expansion of the drug market as a Latino-related problem in Chicago. | The persistent problem of crime and urban violence as a Latino-related issue in Chicago. |
| Racialized Target Population | Latino/a (fundamentally Mexican) undocumented workers. | Latino/a undocumented immigrants perceived as "gang-associated" and "drug traffickers." | Latino/a undocumented immigrants with criminal records and gang affiliations. |

regimes for each of these groups. On the one hand, sanctuary city laws embrace restricted immigration policing where the spheres of action for the local police and immigration enforcement are clearly separated, and data sharing and institutional cooperation to control deserving, “law-abiding” immigrants are forcefully discouraged. On the other hand, sanctuary policies concurrently support extraordinary expansive policing for undocumented workers whenever a state/federal regulation decides so, or in cases where noncitizens with criminal records and gang designations racialized as Latinos/as allow an intensification of CPD-ICE collaboration and data sharing. Sanctuary policies can thus limit but also enable coordination between local and federal agencies to control and eventually expel distinct immigrants conceived of as “undeserving.”

Chicago’s liberal sanctuary creates a bifurcated policing strategy that refuses to cooperate with federal immigration authorities to police law-abiding immigrants while embracing expansive CPD-ICE control for undeserving noncitizens. But, as Paik (2017) notices, the core paradox of Chicago’s liberal sanctuary is even more problematic since undeserving “criminal aliens” can never become deserving law-abiding immigrants regardless of how family-oriented, hard-working, and “good” they try to be. Indeed, immigrants considered criminals and gang-associated “do not have the option to be law-abiding” (Cacho 2012, 8) as long as the state has the power to determine their classification and, ultimately, what it means to be a deserving law-abiding immigrant (Paik 2017).

The logic of punitive exceptions embedded within the urban sanctuary therefore strengthens state legitimacy and police power (Paik 2017; Roy 2019) based on existing racial hierarchies between so-called “good” and “bad” immigrants. It solidifies the status of permanently “rightless” noncitizens (Macias-Rojas 2016) and disavows these undeserving immigrants by turning selective Latinos/as into “deportable subjects” (De Genova 2010). As such, punitive exceptionalism uncovers how the paradox of liberal sanctuary works by expanding “basic protections” for law-abiding immigrants at the expense of others, ultimately obscuring the material conditions that shaped these people’s lives as well as the long history of racial violence and social inequality behind immigration control in Chicago (Sharpless 2016; Macias-Rojas 2016). In sum, punitive exceptionalism illustrates the historical and seemingly paradoxical complicities between urban sanctuary, state punishment, and racialized police power.

Conclusion

Over the last decades, scholars have examined how the urban sanctuary historically limited the ability of cities and police authorities to use local resources and data sharing to enforce federal immigration laws. Much existing research has suggested that sanctuary cities enact a legal space of resistance to federal power and detailed how these localities generatively contest the criminalization of migration by offering alternative understandings of citizenship and rightful presence in the United States, Canada, and the United Kingdom. Emerging critical approaches, however, call attention to the ways in which sanctuary cities, in practice, reproduce citizenship hierarchies and several types of forced confinement and displacement. While both lines of research have offered crucial insights into the significance of sanctuary city policies and practices, most of these studies still identify sanctuary cities with

noncollaborative policies toward federal immigration control and thus neglect to disentangle to what extent the urban sanctuary expands the criminalization of migration in such a way as to govern cities' broader political problems. Scholars occasionally acknowledge the core paradox of sanctuary cities that expand the rights of law-abiding immigrants at the expense of denying these protections to foreigners conceived of as "criminal aliens" (see, for example, Paik 2017; 2020; Roy 2019) but they still presume that sanctuary policies were originally created to resist to federal power.

By challenging the idea that sanctuary necessarily portrays local contestation to federal sovereignty, this article takes the case of Chicago's sanctuary policies to explore whether and how sanctuary laws simultaneously contest and reinforce immigration control and their punitive consequences. By analyzing extensive archival research of materials housed by the Office of the City Clerk of Chicago and newspaper articles, this study found that sanctuary policies have essentially increased "law-abiding" immigrants' access to welfare benefits and legal protections from immigration enforcement by restricting the city's cooperation with federal immigration authorities. Nonetheless, the sanctuary refusal of collaboration with the enforcement of immigration laws embraces a racialized exclusionary logic that removes protections for and amplifies immigration policing of Latino/a noncitizens considered criminals or gang members. I proposed the term *punitive exceptionalism* to illustrate this logic by which sanctuary laws employ a set of exceptions to suspend sanctuary protections and eventually authorize law and immigration enforcement to converge and control Latino/a immigrant subjects.

Punitive exceptionalism, however, is not a static phenomenon that evolved in response to racialized political urgencies around immigrants' labor rights, access to the city's welfare benefits, and debates about crime and violence in the city. When analyzing the legal making of punitive exceptionalism, I found that sanctuary policies have historically used three major forms of exceptionalism in Chicago: (1) jurisdictional power, (2) serious crimes, and (3) undeserving noncitizens. Although distinct, these three forms of punitive exceptionalism are not mutually exclusive; in fact, they build upon one another, resulting in an accumulation of exceptions.

Based on these findings, I argue that—as a form of racialized governance—punitive exceptionalism was the central force driving Chicago's urban sanctuary in response to different local political problems. In addressing urgencies that were not primarily related to the defense of immigrants, sanctuary policies created rights and protections for Latino/a undocumented workers to become disposable workers as well as cooperative agents with the police in local crime control. By these means, punitive exceptionalism uncovers the paradox of liberal sanctuary in Chicago by expanding immigrants' protections while embracing an aggressive policing regime over Latino/a "undeserving" immigrants with criminal records and gang affiliations. Despite their best intentions, sanctuary policies introduce a system of punishment via exceptions that ultimately strengthen state legitimacy, police power, and the criminalization of Latinos/as. While more research needs to be done to fully examine the punitive nature of the urban sanctuary over the last few years, the findings presented here provide empirical evidence for how exclusionary sanctuary policies were legally constructed, rearranged immigration policing, and ultimately configured a particular form of racialized state punishment in Chicago.

Conceptualizing punitive exceptionalism as the exclusionary logic of sanctuary laws complicates excessively optimistic visions of the urban sanctuary (Bagelman 2013; Coleman 2012). It does so by exploring the degree to which the urban sanctuary is not only a “generative site of resistance” (Ridgley 2008; 2012; Bauder 2017) but, fundamentally, a space where the criminalization of migration gets reproduced. This study shows how sanctuary protections were not primarily concerned with refusing the state’s federal power—as most scholarship on sanctuary cities suggests. Instead, sanctuary policies seek to govern distinct political urgencies where law and immigration enforcement converge to detect, confine, and eventually expel Latino/a “undesirable” immigrants. As a theoretical framework, punitive exceptionalism helps to envision why and how Chicago’s urban sanctuary enacts expansive forms of social control, policing, and punishment of Latino/a noncitizen categories. In so doing, punitive exceptionalism recenters the logic of exceptions in the state’s production of immigration policing throughout liberal sanctuaries by excavating the historical process by which certain immigrant categories become “legally” criminalized while paying attention to the symbolic and material consequences of this process.

More broadly, punitive exceptionalism constitutes a “conceptual roadmap” (Vargas 2016) for considering multiple forms of exception-based punishment that might be at work in other urban sanctuaries and non-sanctuary cities (one can see, for instance, punitive and selective exceptions in Seattle’s sanctuary ordinances in Cházaro 2012). Additional work should consider, for example, what punitive exceptionalism looks like in other US sanctuary cities, how it eventually shapes other public policies across the country, and the ways in which punishments via exceptions have been reshaped in different historical periods. Moreover, researchers could also consider whether and how other liberal policies, particularly those that formally expand civil rights and social welfare, enact punitive exceptions by targeting selective racialized subjects.

Such studies might confirm that the paradox of liberal sanctuary is not specific to sanctuary policies per se but rather a core element of the larger “framework of liberal democracy and law” (Paik 2017, 16). While scholars need to pay attention to this possibility, the framework of punitive exceptionalism reveals that so-called policies that expand immigrants’ rights and social welfare can effectively embrace local-scale, site-specific, and differentiated forms of state penal power. But, as this study demonstrates, the criminalization of immigration is not equally distributed among foreign nationals, even in well-known sanctuary cities such as Chicago. Rather, according to the logic of exceptionalism, the state’s exclusionary power operates through racial distinctions and differential policing regimes within the larger category of “immigrants” (see, for example, Valdez 2016).

Acknowledgments. The author is grateful to Latino immigrants, Organized Communities Against Deportation (OCAD), social movements, and transformative justice organizations engaged in the Expanded Sanctuary campaign in Chicago, the Policing in Chicago Research Group (PCRG) in the Sociology Department at the University of Illinois, Chicago, and all participants who contributed to this research. He would also like to thank Andy Clarno, Patrisia Macias-Rojas, Reuben J. Miller, Laurie Schaffner, John Hagedorn, Ronak Kapadia, Michelle Phelps, Erin Eife, and Yesenia Vargas for their critical and insightful feedback on earlier drafts of this article. This article has also benefited from thoughtful feedback from Monica Bell, Rahim Kurwa, and Asad L. Asad during the Law and Society Association 2019 Annual Meeting and the anonymous reviewers at *Law & Social Inquiry*. Any mistakes and shortcomings are my own.

Funding statement. The author does not acknowledge any external funding for this study.

Competing Interests. The author is unaware of any conflicts of interest.

Information on IRB approvals. 2016-0952

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