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# Local and Municipal Responses to Cross-border Migration: Providing Services to Migrants Independent of Status



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# Local and Municipal Responses to Cross-border Migration: Providing Services to Migrants Independent of Status

Harald Bauder

## Executive summary

Migration policies are typically designed at the national scale. Local communities and municipalities, however, often possess the responsibility to provide essential services to migrants and address matters of settlement, integration, and transit. This situation creates the conundrum that national migration policies contradict municipal mandates of inclusion and local practices of service delivery. This conundrum is particularly evident in the context of migrants who are not granted full status by national authorities but who depend on local communities and municipalities for the delivery of education, healthcare, shelter, policing, and other essential services.

Cities in different parts of the world are addressing the conundrum by implementing sanctuary policies and practices that enable local municipalities to mitigate the contradictions between exclusionary national migration policies and the needs of their migrant and non-migrant residents. The nature of these policies and practices vary, however, depending on regional, historical, and geopolitical circumstances. In addition, national policies vary in the way they constrain the scope of local municipalities and civic institutions to enact policies directed towards non-status inhabitants.

An investigation of sanctuary-city policies and practices in Canada, the United Kingdom, and the United States, and related local approaches in Chile, Germany, and Spain reveals important similarities along four dimensions: official commitment and support by municipal legislative bodies; mobilizing local resources; challenging anti-migrant discourses; and collective urban-identity formation. Based on this international comparison, this paper makes the following recommendations:

1. Recognize the multi-scalar perceptions of migration at international, national, and local scales.
2. Facilitate exchange of policies, experiences, and best practices related to sanctuary among migrant-receiving cities in different national and regional contexts.
3. Support local municipal governments and local civic society to meet migrants' needs, independent of migrants' status.
4. Consult municipal governments in national migration, regularization, and citizenship policy making.

## Introduction

Migrants, whether they are transient or settling permanently, are disproportionately attracted to cities. The circumstances in which urban migrants live, however, are framed by migration and residency policies designed at the national scale, beyond the control of local municipalities. In fact, many cities are inhabited by large numbers of non-status migrants (see definition below). Many municipalities are confronted with the conundrum of needing to provide education, healthcare, policing, and other services to these migrants. In this case, exclusionary national migration policies conflict with municipal mandates to include and provide services to all inhabitants. This conundrum relates to the following themes identified by the 2017 [UN Modalities Resolution](#): human rights of all migrants, social inclusion, cohesion, and all forms of discrimination; irregular migration and regular pathways; and international cooperation and governance of migration.

Cities have searched for practical solutions to address this conundrum. One particularly innovative and effective idea, in this respect, are sanctuary policies and practices. In the USA, sanctuary-city policies have accommodated non-status migrants for more than two decades. In this paper, I explore in which way cities in other national contexts (Chile, Germany, and Spain), where the term “sanctuary” may not be commonly used, have also been able to implement similar policies and practices towards non-status migrants.

Throughout the paper, I am using the term non-status migrant. Other common terms to refer to this population include irregular, undocumented, or illegalized migrants as well as *sans-papiers/sin papeles*. In the context of the below analysis, “non-status” describes the situation in which migrants may be known to local authorities but national policies deny them formal residency status.

## Background

According to the IOM’s [World Migration Report 2015](#) (p. 39) foreign-born residents account for 35-40 percent of the total population in the major cities of Auckland, Sydney, Los Angeles, Singapore, London, New York, Melbourne; in Toronto the share of the foreign-born population is 46 percent, in Brussels 62 percent, and in Dubai an astonishing 83 percent. Newcomers gravitate to cities for numerous reasons, including opportunities for work, an existing settlement and migrant-help infrastructure, a high quality of life, and the presence of co-ethnic communities. For non-status migrants, cities additionally offer relative anonymity and prospects to find work in the informal economy.

Correspondingly, urban municipalities and urban civic society have considerable experience in dealing with migrants. They are major policy innovators not only in respect to integrating migrants who possess status documents, but also in regard to accommodating migrants with no or precarious status. Sanctuary cities are such an innovation in response to restrictive national migration policies.

### Sanctuary cities in the USA, Canada, and the UK

The notion of “sanctuary” city has been used in the United States, Canada, and the United Kingdom. It includes a range of different policies and practices that seek to ease the lives of non-status migrants. At the root of these policies and practices lies that sanctuary cities consider all inhabitants, independent of national status, as residents entitled to municipal services and protection.

In the United States, an early sanctuary city was San Francisco, which in the 1980s protected refugees from Central America by refusing to cooperate with national immigration authorities. Thereafter, the focus of sanctuary-city policies shifted towards non-status migrants settling more-or-less permanently in a municipality. An important aspect of sanctuary-city policies in the USA are so-called Don’t-Ask, Don’t-Tell (DADT) policies that prohibit the local police, school administrations, municipal-health services, libraries, and other municipal offices to ask inhabitants about their status (don’t ask) and, if they happen to find out, report this information to national authorities (don’t tell). Some cities are issuing their own identification cards to enable residents to access municipal services and identify themselves to local authorities.

Toronto became Canada's first sanctuary cities by adopting DADT policies in 2004 and by a formal city-council vote in 2013. Although a recent *RCIS Working Paper* shows that Toronto's police officers and municipal employees are still not always fully implementing DADT policies, many other Canadian cities followed Toronto's example and also declared themselves sanctuary cities. In the United Kingdom, "cities of sanctuary" follow slightly different aims and correspondingly pursue a different strategy: rather than focusing on non-cooperation with national migration authorities, they emphasize the symbolic inclusion of refugees and imagine the city as a place for all inhabitants.

Based on an examination of sanctuary policies and practices in the United States, Canada, and the United Kingdom, four sanctuary-city dimensions can be identified:<sup>1</sup>

1. *Official commitment and support* of sanctuary policies and practices by the municipal legislative body.
2. *Mobilization of local resources* to mitigate the adverse effects of exclusionary national migration and refugee laws and policies.
3. *Challenging anti-migrant and refugee discourses* that portray migrants and refugees as undeserving, harmful, and predatory.
4. *Formation of collective urban identities* that frame the city as belonging to all inhabitants.

In the following section, I show that similar policies and practices – represented by the presence of the four sanctuary-city dimensions – also exist in other countries where the term "sanctuary city" may not be used.

### Urban Initiatives in Spain, Germany, and Chile

A 2013 *PICUM Submission to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families* suggest that 600,000 non-status people lived in Spain in 2012. The preferred term used to describe municipal initiatives providing assistance to refugees and non-status migrants is "refuge city." The city of Barcelona illustrates how local initiatives involve all four dimensions of sanctuary-city policies and practices. In 2015, city council declared Barcelona a "refuge city" and developed a corresponding official plan, *Barcelona, Ciutat Refugi*, to bolster city services and resources, and cooperate with local NGOs, charities, and service-provider organizations to accommodate non-status inhabitants. City council and local NGOs have actively and vocally challenged public discourses that construe migrants as the "other" and dispelled inaccurate myths and stereotypes related to migrants. In addition, expressions of solidarity among the city residents and their political representatives imagine the city as a space of belonging for all inhabitants.

According to the *Update report Germany: Estimated number of irregular foreign residents in Germany* authored by Dita Vogel, the number of non-status people in Germany was estimated to be 180,000-520,000 in 2014. The number has likely increased since the mass-arrival of migrants and refugees in 2015. Municipal legal obligations to register and report all foreign residents to national authorities constrains the scope among municipalities to develop and implement sanctuary-city policies. Correspondingly, city councils have shied away from official declarations that protect non-status inhabitants. Nevertheless, "solidarity-city" initiatives, such as in the city of Freiburg i.Br., address the remaining three sanctuary-city dimensions. A local network of NGOs, charities, and activist alliances provide health, housing, legal and financial aid, and other services to non-status migrants. This network also forcefully confront exclusionary migrant and refugee discourses, and support the local cohabitation by all inhabitants, irrespective of their national status.

Chile has an *estimated 150,000* non-status people. Since the reestablishment of a democratic government in 1990, *responsibilities have slowly been transferred from the national government to regions and municipalities, allowing* communities to implement innovative initiatives for non-status inhabitants to gain access to education, health services, and other social services. The municipality of Quilicura developed programs

<sup>1</sup> Modified from Bauder, Harald (2017) Sanctuary Cities: Policies and Practices in International Perspective. *International Migration*. 55(2): 174-182.

that meet all four sanctuary-city dimensions, although the preferred term identifying these initiatives is “commune of reception.” In 2010, Quilicura created the Municipal Office for Migrants and Refugees and in 2014 it launched an Action Plan for the inclusion of all inhabitants regardless of administrative status. The “reception” policies aim to promote equal rights and duties, as well as civil, cultural, and social participation of all inhabitants. Initiatives like the annual Migrant Fest seek to cultivate a sense of diversity, shared culture, and common belonging.

## Analysis

The geographical, historical, and geopolitical situations differ between world regions and countries. While Canada, for example, is protected by its relative isolated geographical location and the United States to the south, Spain is at the Mediterranean border of Europe’s Schengen Area and possess two enclaves – Ceuta and Melilla – on the African continent. In addition, there are large variations regarding national migration and residency laws. Thus, the criteria to obtain status and the circumstances in which life without status is possible differ between national contexts. Furthermore, the relationship between municipal and national governments vary between countries. Unlike in the United States, cities in Germany do not possess independent police forces. Due to these differences, the four dimensions of sanctuary combine in particular ways in the United States, Canada, the United Kingdom, Spain, Germany, and Chile. Despite these national differences, a common municipal “sanctuary” approach towards non-status migrants is discernible.

Besides the normative argument that all inhabitants should be excluded in the urban community, there are important practical advantages: the expansion of municipal health, policing, and other services to non-status migrants can prevent the spread of infection and disease and help solve crimes. Thus, sanctuary-city policies and practices are in the interest of national and international communities.

However, as the [American Immigration Council](#) points out, sanctuary-city policies and practices do not nullify national migration and residency laws and therefore cannot offer full protection from detection, and possible detention and deportation by national migration enforcement and border-protection authorities. While sanctuary cities cannot offer amnesty, they seek to make life without full national status possible within the urban community.

Many municipalities are using the scope of their political maneuvering space granted by national (and regional) government structures to establish sanctuary-city policies and practices helping non-status migrants. On the down side, municipal governments can also use this maneuvering space to disenfranchise and exclude non-status migrants. There is a tendency, however, that cities with large migrant and non-status populations also seek to protect these population through sanctuary policies and practices, while cities with fewer non-status migrants enact exclusionary policies as a form of mostly symbolic anti-migrant politics.

## Conclusions

Cities in different parts of the world are confronting similar problems of how to serve non-status inhabitants. The preceding discussion illustrates that municipal governments and civic-society actors are finding practical solutions to this problem. Many of the corresponding local policies and practices in different countries align along four core sanctuary-city dimensions.

The preceding discussion focussed on only a small sample of cities and national contexts. Cities in Brazil, Italy, Switzerland, and other countries are also implementing similar initiatives. Urban sanctuary policies and practices are thus of global relevance.

## Recommendations

The following recommendations align with various “elements” listed in the Global Compact for Save, Orderly and Regular Migration (as listed in Annex II, Section III of the New York Declaration for Refugees and Migrants).

*Recommendation 1: Recognize the multi-scalar perceptions of migration at international, national, and local scales.*

The perception of migration and migrants differ between international, national, and local perspectives. For example, migrants who are seen as threats through a national lens, can be seen as economic or social-development opportunities through a local lens, and vice-versa. Similarly, ideas of belonging differ between national and local frames of reference. The recognition that international migration – although defined as crossing an international border – disproportionately affects local communities is an important step towards empowering municipalities to enact policies accommodating non-status migrants.

*Recommendation 2: Facilitate exchange of policies, experiences, and best practices related to sanctuary among migrant-receiving cities in different national and regional contexts.*

Sanctuary cities in the USA, Canada, and the UK have benefitted from networks through which they exchange information on sanctuary policies and best practices as well as policy failures and mistakes. These experiences are also relevant for cities in other countries. Similarly, the experiences of cities in Chile, Germany, or Spain can also inspire municipal action in North America, the UK, and other countries around the world. The Mayoral Forum on Mobility, Migration and Development, which was held in Barcelona in 2014 and the *Barcelona, City of Refuge*'s call to establish a European network of cities, are steps in the right direction. This recommendation aligns with element (f) of the GCM calling for “greater international cooperation, with a view to improving migration governance.”

*Recommendation 3: Support local municipal governments and local civic society to meet migrants' needs, independent of migrants' status.*

The local scale, more than regional, national or global scales, defines the life-circumstances of migrants and non-migrants alike. Families send their children to local school, people tend to work locally, migrants engage with the local community and civic society, and receive health, policing, and other essential services locally. National governments and the international community should therefore support local municipal governments and local civic society to ensure that migrants' needs are met, independent of their national status. Corresponding measures protect “the human rights and fundamental needs of migrants, including women and children, regardless of their migratory status, and the specific needs of migrants in vulnerable situations” (element (i) of the GCM).

*Recommendation 4: Consult municipal governments in national migration, regularization, and citizenship policy making.*

International, national, and local governments often pursue different aims regarding migration and migrants. National governments are typically in charge of border control, visa policy, and immigrant selection, while municipalities often have mandates to serve and protect their inhabitants. To mitigate these structural differences between national and municipal scales and include local perceptions of migration (Recommendation 1), municipal government should be consulted as important stake holders in respect to migration and residency policy, including regularization policies. In the absence of a process mediating conflicting national and local perspectives, national or other levels of government should permit municipalities to pass and implement sanctuary-city policies without punishment. This recommendation aligns with element (x) of the GCM, calling for “cooperation at the national, regional and international levels,” element (o), seeking the “promotion of migrants in host societies, access to basic services for migrants”, and element (p), advocating “policies to regularize the status of migrants.”



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