

POSITIVE EMOTIONS AND IMMIGRANT RIGHTS: LOVE AS RESISTANCE

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INTRODUCTION

Are you ready to win?
Are you ready to fight?
*Are you ready to love?*¹

Within its first year, the Trump Administration has gained a notorious reputation for expressing anti-immigrant sentiment.² Donald Trump himself, first as a candidate and then as President, has made extreme anti-immigrant statements and announced clearly anti-immigrant policies.³ So what does love have to do with Trump and immigration? Despite the clearly xenophobic sentiment expressed by President Trump and others in his Administration, expressions of hope, love, and compassion have been at the core of two highly visible pro-immigrant social movements: the sanctuary and Dreamer movements. While these emotions may not immediately come to mind when one thinks of activism and civil disobedience, they are strongly imbedded within the two movements and shed light on the resilience of these movements in the era of anti-immigrant sentiment by the federal government.

The quote above was spoken at a rally in January 2018, on the eve of a government shutdown during stalled negotiations over legislation to provide immigration status to Dreamers, undocumented immigrant youth.⁴ The negotiations eventually fell apart despite bi-partisan support, in part due to the

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1. Nestor Ruiz (@_NestorRuiz), TWITTER (Jan. 19, 2018, 8:19 PM) (quoting video), https://twitter.com/_NestorRuiz/status/954523624202997760.

2. As one writer describes, “Donald Trump made his formal entry into politics with the racism and xenophobia that would become a hallmark of his lightning-rod candidacy and, ultimately, his first year in the Oval Office.” Maryam Saleh, *One Year of Immigration Under Trump*, THE INTERCEPT (Dec. 31, 2017, 9:00 AM), <https://theintercept.com/2017/12/31/one-year-of-immigration-under-trump>.

3. *See infra* Part I.

4. *See* Seung Min Kim, *Trump Rebuffs Dreamers Deal Reached by Senators*, POLITICO (Jan. 11, 2018, 8:00 PM), <https://www.politico.com/story/2018/01/11/dreamers-deal-reached-but-trump-has-yet-to-sign-off-336501>.

President's threat to veto the agreement.⁵ Like the sanctuary and Dreamer movements I describe here, this quote captures the role of love in countering hate in immigration advocacy today.

The goal of this piece is to invite a conversation about how positive emotions may be fueling the resistance against the Trump Administration's anti-immigrant agenda.⁶ I first provide an overview of the Trump Administration's anti-immigrant rhetoric and policies to date. Drawing on critiques of social movement theory for minimizing or ignoring the role that emotions can play in social and political mobilization, I then highlight the role that positive emotions play in the sanctuary and Dreamer movements. The lesson these movements hold is simple, but powerful: Responding to hate towards immigrants is happening around us not simply by fighting hate, but also by showing love.

I. THE TRUMP ADMINISTRATION AND HATE OF IMMIGRANTS

President Trump's anti-immigrant sentiments were marked well before his election in November 2016. In the summer of 2015, then-candidate Donald J. Trump kicked off his campaign with a rally at which he called Mexicans rapists.⁷ Throughout his campaign, Trump expressed hateful rhetoric against immigrants, making generalized statements about Latinx immigrants as violent and prone to criminality.⁸ By doing so, he built an anti-immigrant agenda, likening immigrants to criminals, in an attempt to contrast them with the White, Christian, law-abiding U.S. citizen.⁹

Now as President, Trump has continued to engage consistently in hateful remarks against immigrants. The Trump Administration confirmed its staunch anti-immigrant view when one of the President's first acts was to issue an executive order banning noncitizens from seven Muslim-majority countries from entering the United States.¹⁰ During his presidency, Trump has continued

5. *Id.*

6. I focus on the Trump Administration, as opposed to hatred in American society broadly, because of the visibility of hate in rhetoric used by Trump and the direct relevance of hateful rhetoric used by the Administration in immigration policy.

7. Michelle Ye Hee Lee, *Donald Trump's False Comments Connecting Mexican Immigrants and Crime*, WASH. POST (July 8, 2015), https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/?utm_term=.88493331c64d.

8. See, e.g., Carolina Moreno, *9 Outrageous Things Donald Trump Has Said About Latinos*, HUFFINGTON POST: LATINO VOICES (Aug. 31, 2015, 3:49 PM), https://www.huffingtonpost.com/entry/9-outrageous-things-donald-trump-has-said-about-latinos_us_55e483a1e4b0c818f618904b.

9. Adam Goodman, *The Core of Donald Trump's Immigration Policy? Fear.*, WASH. POST (Aug. 24, 2017), https://www.washingtonpost.com/news/made-by-history/wp/2017/08/24/the-core-of-donald-trumps-immigration-policy-fear/?utm_term=.2499c0700aaf.

10. Exec. Order No. 13769, 82 Fed. Reg. 8,977 (Jan. 27, 2017); Michael D. Shear & Helene Cooper, *Trump Bars Refugees and Citizens of 7 Muslim Countries*, N.Y. TIMES (Jan.

to express anti-Muslim sentiments and has gone as far as posting anti-Muslim videos on his Twitter account.¹¹ The executive order restricting entry of noncitizens from Muslim-majority countries into the United States, or “travel ban,” is now on its third iteration.¹²

The same week that the President issued a travel ban from majority-Muslim countries, the Trump Administration also began what some have called a “crusade” against pro-immigrant policies at the state and local level.¹³ The President first issued a separate executive order aimed at limiting the provision of federal funds to localities that had implemented so-called “sanctuary” policies, defined as policies that limit the sharing of immigration status information by local officials to federal immigration authorities.¹⁴ Both President Trump and Attorney General Sessions have spoken out against such policies, Sessions claiming that they “undermine the moral authority” of law.¹⁵ In September 2017, Sessions announced that the federal government was terminating the Deferred Action for Childhood Arrivals (DACA) program, an Obama-era program that has provided young undocumented immigrants limited protection from deportation and the ability to work lawfully for renewable two-year periods.¹⁶

The Trump Administration’s anti-immigrant stance is also evident from its prosecutorial practices. Since 2016, the federal government has exponentially grown its practice of arresting individuals who show up to court hearings, even when those individuals are released on bond.¹⁷ In January 2018, the

27, 2017), <https://www.nytimes.com/2017/01/27/us/politics/trump-syrian-refugees.html>.

11. Brian Naylor, *Trump Retweets Incendiary Anti-Muslim Videos from Controversial Group*, NPR: POLITICS (Nov. 29, 2017, 10:07 AM), <https://www.npr.org/2017/11/29/567159205/trump-retweets-incendiary-anti-muslim-videos-from-controversial-group>.

12. Proclamation No. 9645, 82 Fed. Reg. 45,161 (Sept. 24, 2017). For a procedural history of the three executive actions taken by President Trump to ban or limit noncitizens from specific countries from entering the country, see *Int’l Refugee Assistance Project v. Trump*, 883 F.3d 233, 250–52 (4th Cir. 2018), *as amended* (Feb. 28, 2018). At the time of this writing, the Supreme Court has heard oral arguments on whether the ban exceeded lawful authority or is otherwise unlawful. *Hawaii v. Trump*, 878 F.3d 662 (9th Cir. 2017), *cert. granted*, 86 U.S.L.W. 3365 (U.S. Jan. 19, 2018) (No. 17-965).

13. Editorial, *Jeff Sessions Keeps Waging His Failing War Against Sanctuary Cities*, WASH. POST (Nov. 21, 2017), https://www.washingtonpost.com/opinions/jeff-sessions-keeps-waging-his-failing-war-against-sanctuary-cities/2017/11/21/00add736-ce2d-11e7-81bc-c55a220c8cbe_story.html?utm_term=.fb3f134622ec.

14. Exec. Order No. 13768, 82 Fed. Reg. 8,799 (Jan. 25, 2017).

15. Steven Dubois, *Sessions: ‘Sanctuary Cities’ Undermine Law’s Moral Authority*, CHI. TRIBUNE (Sept. 19, 2017, 9:18 PM), <http://www.chicagotribune.com/news/nationworld/politics/ct-sessions-sanctuary-cities-20170919-story.html>.

16. Jonathan Swan, *Sessions Announces End of DACA*, AXIOS (Sept. 5, 2017), <https://www.axios.com/sessions-announces-end-of-daca-1513305282-f63c6548-8b19-46a0-ad09-349078fbd989.html>; Memorandum from Janet Napolitano, Sec’y of Dep’t of Homeland Sec., on Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

17. See IMMIGRANT DEFENSE PROJECT, ICE OUT OF THE COURTS (Nov. 17, 2017), <https://www.immigrantdefenseproject.org/ice-courts>.

Department of Justice began prosecuting activists providing assistance to undocumented immigrants in Arizona, alleging that offering water, food, beds, and clean clothes to immigrants violates federal criminal laws prohibiting the harboring of undocumented individuals.¹⁸ That same month, the Department of Justice threatened to subpoena over twenty jurisdictions, indicating it was investigating whether the jurisdictions were violating federal law and suggesting it might be contemplating the withdrawal of federal funding.¹⁹

Although the travel ban, sanctuary policies, and the termination of DACA have all been partly blocked by federal courts at the time of this writing, even on grounds that the actions are discriminatory,²⁰ President Trump continues to make front-page news for his anti-immigrant stances. The President has made pejorative categorical comments about the foreign born, such as saying that Haitians “all have AIDS,” and that Nigerians could “go back to their huts.”²¹ During the course of negotiations over the “Dream” legislation, a piece of legislation aimed at providing a path to legalization for undocumented youth, Trump sparked an outcry when he purportedly claimed that Haiti and certain nations in Africa were “shithole” countries.²² Most recently, President Trump described immigrants involved in MS-13, a gang organization, as “animals,” and the White House soon after issued an official press statement also using the

18. Jacques Billeaud, *Volunteer Arrested After Border Agents Seen Dumping Water*, ASSOC. PRESS (Jan. 22, 2018), <https://www.apnews.com/ee090a053cb74c18be783053de370c9f/Volunteer-arrested-after-border-agents-seen-dumping-water>; Ryan Devereaux, *Nine Humanitarian Activists Face Federal Charges After Leaving Water for Migrants in the Arizona Desert*, THE INTERCEPT (Jan. 23, 2018, 5:39 PM), <https://theintercept.com/2018/01/23/no-more-deaths-arizona-border-littering-charges-immigration>.

19. See Press Release, Dep’t of Justice, Justice Department Demands Documents and Threatens to Subpoena 23 Jurisdictions as Part of 8 U.S.C. 1373 Compliance Review, (Jan. 24, 2018), <https://www.justice.gov/opa/pr/justice-department-demands-documents-and-threatens-subpoena-23-jurisdictions-part-8-usc-1373>.

20. See Int’l Refugee Assistance Project v. Trump, 857 F.3d 554, 602 (4th Cir. 2017), *vacated as moot*, 138 S. Ct. 353 (2017) (affirming preliminary injunction against second travel ban on religious discrimination grounds); Int’l Refugee Assistance Project v. Trump, 883 F.3d 233, 269 (4th Cir. 2018), *as amended* (Feb. 28, 2018) (same as to third travel ban).

21. Michael D. Shear & Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda*, N.Y. TIMES (Dec. 23, 2017), https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html?_r=0.

22. Julie Hirschfeld Davis, Sheryl Gay Stolberg & Thomas Kaplan, *Trump Alarms Lawmakers with Disparaging Words for Haiti and Africa*, N.Y. TIMES (Jan. 11, 2018), <https://www.nytimes.com/2018/01/11/us/politics/trump-shithole-countries.html>. I say “purportedly” only because of President Trump’s steadfast denial of making the comment, even though the White House did not disclaim the statements were made. See Seung Min Kim & Matthew Nussbaum, *White House Doesn’t Deny Trump’s ‘Shithole’ Immigration Remark*, POLITICO (Jan. 11, 2018, 5:56 PM), <https://www.politico.com/story/2018/01/11/trump-shithole-immigration-remark-337070>. Of course, President Trump’s denial may merely be a technical one, as reports also indicate that the statement he expressed may have been “shithouse” instead of “shithole.” Andrew Prokop, *The “Shithouse Defense,” Explained: How Trump’s Allies Are Trying to Dig Him Out of His “Shithole”*, VOX (Jan. 16, 2018, 2:10 PM), <https://www.vox.com/2018/1/16/16897016/trump-shithole-shithouse-countries>.

term “animals” to describe this group of people.²³

Although the anti-immigrant rhetoric by the Trump Administration is likely aimed at motivating an anti-immigrant base of voters,²⁴ the President’s statements cannot be explained solely as a reflection of the American public. Public perception of immigration in the United States has, over the past ten to fifteen years, trended as pro-immigrant.²⁵ Specific to the most recent election, according to an exit poll, half of Trump voters stated they think that immigrants who had entered the country unlawfully should be allowed to apply for legal status.²⁶ Currently, a majority of Americans support a path to legalization for young undocumented immigrants.²⁷

II. POSITIVE EMOTIONS AND SOCIAL MOVEMENTS

Social movement theory can provide a useful lens through which to view and analyze resilience in immigrant rights movements, as the field studies how social movements “materialize and operate, devoting attention both to the processes of mobilization and to methods of persuasion and survival.”²⁸

23. Scott Neuman, *During Roundtable, Trump Calls Some Unauthorized Immigrants ‘Animals’*, NPR (May 17, 2018, 6:21 AM), <https://www.npr.org/sections/thetwo-way/2018/05/17/611877563/during-roundtable-trump-calls-some-unauthorized-immigrants-animals>. See also *What You Need to Know About the Violent Animals of MS-13*, THE WHITE HOUSE (May 21, 2018), <https://www.whitehouse.gov/articles/need-know-violent-animals-ms-13/>.

24. See Kurt Bardella, *Trump’s ‘Shithole’ Comments Typify How the GOP Uses Immigration to Energize Its Base*, NBC NEWS: THINK (Jan. 12, 2018, 2:40 AM), <https://www.nbcnews.com/think/opinion/trump-s-shithole-comments-typify-how-gop-uses-immigration-energize-ncna836996> (“Immigration has become a vehicle for conservatives to promote xenophobic and even racist world views.”); Matt Fuller, *Conservatives Alarmed by Trump’s ‘Comprehensive Immigration Reform’ Talk*, HUFFINGTON POST: POLITICS (Jan. 9, 2018, 9:16 PM), https://www.huffingtonpost.com/entry/conservatives-comprehensive-immigration-reform-alarm_us_5a554dfce4b0b117f88060b4.

25. According to the Pew Research Center, since 1994, the country has seen a 36% decrease in the belief that immigrants are a burden on the country because they “take [] jobs, housing and health care.” Karlyn Bowman, Opinion, *Reading the Polls: Welcome to America? What Americans Say About Immigration*, FORBES (Feb. 14, 2017, 11:56 AM), <https://www.forbes.com/sites/bowmanmarsico/2017/02/14/reading-the-polls-welcome-to-america-what-americans-say-about-immigration/#7b072e6c24e6>. During this same time period, the country saw a 32% increase, from 31 to 63%, of individuals saying immigrants strengthen the country “because of their hard work and talents.” *Id.* In addition, a Quinnipiac poll of registered voters indicated that 59% of them believed that immigrants who had entered the country illegally should be permitted to stay in the United States and apply for citizenship. *Id.*

26. *Id.*

27. Harmeet Kamboj & Robert P. Jones, *Majorities of Republicans and Democrats Support Basic Policies of DACA Program*, PRRI (Aug. 29, 2017), <https://www.prri.org/spotlight/trump-dream-act-immigration>.

28. Douglas NeJaime, *The Legal Mobilization Dilemma*, 61 EMORY L.J. 663, 669 (2012). As NeJaime suggests, social movement theory could aid social legal analysis and legal scholarship, since social movement frameworks provide useful insights for social legal work. *Id.* at 670.

However, until recently, the role that emotions can play in the formation, sustenance, and success of social movements was understudied.²⁹ Social movement theorists Jeff Goodwin, James M. Jasper, and Francesca Polletta call for greater attention to the role of emotions in social movements.³⁰ By pitting emotions as irreconcilable with rational action, these theorists argue that social movement scholars have missed the crucial role emotions can play in effecting positive change.³¹

According to Goodwin, Jasper, and Polletta, the past few decades indicate a positive trend of theorists analyzing the emotional underpinnings of social movements, engaging with how emotions can fuel social and political activity.³² A few scholars have pointed out how anger, for example, can serve as a politically useful emotion for subordinated groups, helping to form identity and instilling motivation within them.³³ In this way, emotions such as anger and frustration are now recognized as action-inducing.³⁴ Although much of the attention has been focused on anger and frustration, what I call “negative emotions,” other emotions, such as love and compassion, which I refer to as

29. Jeff Goodwin, James M. Jasper, and Francesca Polletta chronicle how social movement theorists have traditionally failed to address adequately the role of emotion in social movements despite ample sociological inquiry into how emotions affect social life. Jeff Goodwin, James M. Jasper & Francesca Polletta, *The Return of the Repressed: The Fall and Rise of Emotions in Social Movement Theory*, 5 MOBILIZATION: AN INT’L Q. 65, 65-83 (2000). As one of these authors has claimed, social movement theory would benefit from “a sociology that recognizes the unicity of emotions, moods, and affect in social life and which treats emotions as potential causal mechanisms” JEFF GOODWIN & STEVEN PFAFF, *Emotion Work in High-Risk Social Movements: Managing Fear in the U.S. and East German Civil Rights Movements*, in PASSIONATE POLITICS: EMOTIONS & SOCIAL MOVEMENTS 282, 283 (Jeff Goodwin, James A. Jasper & Francesca Polletta eds. 2001).

30. Goodwin, Jasper & Polletta, *supra* note 29, at 77-78. These scholars argue that the same tools used to understand cognitive beliefs and moral visions can be applied to the study of emotions in social movements. See JEFF GOODWIN, JAMES M. JASPER & FRANCESCA POLLETTA, *Emotional Dimensions of Social Movements*, in THE BLACKWELL COMPANION TO SOCIAL MOVEMENTS 413, 414 (David A. Snow, Sarah A. Soule & Hanspeter Kriesi eds., 2004).

31. Goodwin, Jasper & Polletta, *supra* note 29, at 66. As Goodwin, Jasper, and Polletta explain, throughout numerous decades, “[p]resenting activists as rational seemed to prevent their being emotional.” *Id.* at 70.

32. *Id.* at 66. For an analysis of how emotions may influence how individuals process and assert legal rights, see Kathryn Abrams, *Emotions in the Mobilization of Rights*, 46 HAR. C.R.-C.L. L. REV. 551 (2011). Elisabeth Jean Wood claims that emotional benefits, such as the pleasure derived from exercising agency, can contribute to social mobilization. ELISABETH JEAN WOOD, *The Emotional Benefits of Insurgency in El Salvador*, in THE SOCIAL MOVEMENTS READER: CASES AND CONCEPTS 143, 149-50 (Jeff Goodwin & James M. Jasper eds., 2015).

33. See, e.g., Tomiko Brown-Nagin, *Elites, Social Movements, and the Law: The Case of Affirmative Action*, 105 COLUM. L. REV. 1436, 1505 (2005); Janine Young Kim, *Racial Emotions and the Feeling of Equality*, 87 U. COLO. L. REV. 437, 487-88 (2016).

34. As Tomiko Brown-Nagin writes, “[t]here is an express role for emotion in social movements because breaking mental chains of oppression, creating new forms of cultural expression, and awakening participants from quiescence are fundamental to the initiation, growth, and development of a movement.” Brown-Nagin, *supra* note 33, at 1504-05.

“positive emotions,” are now gaining recognition for their mobilizing capabilities.³⁵

This Essay argues that, at a time where most media attention is focused on hate in society, we should not discount the role of positive emotions in countering hate in immigration.³⁶ Two social movements at odds with the Trump Administration’s immigration policies can be illustrative of how positive emotions serve to sustain social and political activity. The sanctuary movement has mobilized as a community-based cluster of religious leaders and activists providing shelter and other assistance to individuals whom federal immigration authorities are actively seeking to remove from the United States. The Dreamer movement engages in political activism in favor of legalizing the immigration status of young undocumented immigrants, as well as other pro-immigrant policies. Together, these two movements highlight the importance of positive emotions in resisting anti-immigrant sentiment and policies and provide lessons about the power of positive emotions for future social mobilization.

III. THE SANCTUARY MOVEMENT

Named after a similar movement from the 1980s, the sanctuary movement today provides assistance to individuals fearing imminent removal from the United States in various forms, including shelter, food, and other basic needs.³⁷ The movement today, like that of the 1980s, is led through faith-based activism and guided by religious teachings of loving the stranger.³⁸ The revival of the sanctuary movement has followed the Trump Administration’s move to aggressive removal priorities and practices.³⁹ Since the election of Donald

35. A few scholars have noted how social mobilization can be rooted in love. See Amy Kapczynski, *Why Civil Disobedience, and Why Now?*, LAW & POL. ECON. BLOG (Dec. 18, 2017), <https://lpeblog.org/2017/12/18/why-civil-disobedience-and-why-now/> (“From the outside, confrontational protests often look angry. On the inside, they are pervaded with love.”). See also Kim, *supra* note 33, at 487.

36. This is not to suggest that positive emotions function to the exclusion of other motivators or factors or to discount the strategic decision-making involved in immigrant rights social movements. Indeed, legal scholars have argued that immigrant rights movements have or should choose certain strategies using a lens of social movement theory. See, e.g., Jennifer J. Lee, *Outsiders Looking in: Advancing the Immigrant Worker Movement Through Strategic Mainstreaming*, 2014 UTAH L. REV. 1063, 1068 (2014); Vasanthi Venkatesh, *Mobilizing Under “Illegality”: The Arizona Immigrant Rights Movement’s Engagement with the Law*, 19 HARV. LATINO L. REV. 165, 188 (2016).

37. Dwyer Gunn, *The Sanctuary Movement: How Religious Groups Are Sheltering the Undocumented*, GUARDIAN (Feb. 8, 2017, 7:00 AM), <https://www.theguardian.com/us-news/2017/feb/08/sanctuary-movement-undocumented-immigrants-america-trump-obama>.

38. *Id.* (“The modern-day sanctuary movement is rooted in deeply held religious values of welcoming the outsider.”)

39. During the Obama Administration, the Department of Homeland Security (DHS) had operative a set of priorities for removal enforcement, prioritizing the removal of individuals who DHS believed posed “threats to national security, public safety, and border security.” Memorandum from Jeh Johnson, Sec’y of Dep’t of Homeland Sec., on Policies for

Trump, the number of religious establishments that officially form part of the sanctuary movement has doubled.⁴⁰

The sanctuary movement got its start when hundreds of religious establishments opened their doors to undocumented immigrants fearing removal from the United States in the 1980s.⁴¹ Civil wars in Central America led to a rush of refugees entering the country through the southern border, and religious leaders' states near the U.S.-Mexico border began providing refugees basic needs assistance.⁴² The federal government instituted removal practices that included mass detention and deportations.⁴³ Members of the then-sanctuary movement intentionally provided housing in churches, synagogues, and mosques to those seeking to avoid deportation by immigration officials.⁴⁴ Soon thereafter, a number of localities declared themselves "cities of refuge," refusing to turn over undocumented residents to federal authorities or check immigration status.⁴⁵

The movement strategically used the media to garner public support and call attention to the federal government's aggressive removal practices.⁴⁶ After media coverage illuminated the sanctuary movement, the Department of Justice, under the Reagan Administration, began criminally prosecuting religious leaders under the federal anti-harboring law.⁴⁷ The prosecutions were upheld against constitutional and other challenges,⁴⁸ and the government

the Apprehension, Detention and Removal of Undocumented Immigrants (Nov. 20, 2014), https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf. Shortly after the turn in administration, then-Secretary of the DHS, John Kelly, issued a new memorandum rescinding the Obama-era removal priorities and implementing a new policy that DHS "no longer will exempt classes or categories of removable aliens from potential enforcement." Memorandum from John Kelly, Sec'y of Dep't of Homeland Sec., on Enforcement of the Immigration Laws to Serve the National Interest, (Feb. 20, 2017), https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf.

40. Although the new sanctuary movement formed during the Bush Administration, the number of religious establishments has doubled since Donald J. Trump's election. Michael Arria, *The Sanctuary Movement Was Reignited Under Obama and It's Growing Under Trump*, TRUTHOUT (Apr. 3, 2017), <http://www.truth-out.org/news/item/40067-the-sanctuary-movement-was-reignited-under-obama-and-it-s-growing-under-trump>; Gunn, *supra* note 37.

41. Arria, *supra* note 40.

42. Joseph Darrow, Note, *Criminalizing Love of Thy Immigrant Neighbor? The Conflict Between Religious Exercise and Alabama's Immigration Laws*, 26 GEO. IMMIGR. L.J. 161, 164 (2011).

43. Barbara Bezdek, *Religious Outlaws: Narratives of Legality and the Politics of Citizen Interpretation*, 62 TENN. L. REV. 899, 921 (1995).

44. Judith McDaniel, *The Sanctuary Movement, Then and Now*, RELIGION & POLS. (Feb. 1, 2017), <http://religionandpolitics.org/2017/02/21/the-sanctuary-movement-then-and-now/>.

45. Darrow, *supra* note 42, at 166; McDaniel, *supra* note 44.

46. Kristina M. Campbell, *Humanitarian Aid Is Never a Crime? The Politics of Immigration Enforcement and the Provision of Sanctuary*, 63 SYRACUSE L. REV. 71, 102 (2012).

47. Darrow, *supra* note 42, at 167.

48. *Id.* at 167–68.

claimed success over the movement.

Some variations on the 1980s sanctuary movement have persisted, including providing shelter to those who protested war.⁴⁹ During the Bush Administration, a new sanctuary movement was formed to provide shelter to individuals facing removal by immigration authorities, and the movement continued into the Obama Administration.⁵⁰ Today, it stands as a coalition of over 800 local religious establishments and communities,⁵¹ and reports of individuals taking sanctuary in congregations around the country is widely reported.⁵² And these churches are found not just in Democrat-leaning states, but across the country in states such as North Carolina, Texas, Colorado, and Ohio.⁵³ The movement does not simply bring temporary reprieve; it has additionally garnered successes in resisting removal efforts by the federal government. For example, in October 2017, one organization collecting data indicated that out of thirty-four individuals who had sought sanctuary during the Trump Administration, seven were able to avoid removal orders.⁵⁴

Positive emotions are central to the identity of the sanctuary movement. In providing guidance to carry out the mission of the movement, members of the sanctuary movement cite religious teachings such as “love[] the stranger[], providing them food and clothing,” and “stand with the oppressed.”⁵⁵ These positive emotions are, as one social movement scholar describes, shared emotions that help create and fuel a social movement.⁵⁶ It builds trust to

49. Gregory A. Loken & Lisa R. Babino, *Harboring, Sanctuary and the Crime of Charity Under Federal Immigration Law*, 28 HARV. C.R.-C.L. L. REV. 119, 122 (1993).

50. Although the new sanctuary movement has garnered media attention as a response to the Trump Administration’s removal enforcement practices, a network of churches formed a “New Sanctuary Movement” in 2006, with individuals taking refuge at religious establishments during the Bush and Obama Administrations. See Emily Breslin, Note, *The Road to Liability Is Paved with Humanitarian Intentions: Criminal Liability for Housing Undocumented People Under 8 U.S.C. 1324(a)(1)(A)(III)*, 11 RUTGERS J.L. & RELIGION 214, 224 (2009) (describing the newly-formed “New Sanctuary Movement”); Arria, *supra* note 40 (detailing the taking of sanctuary during the Obama Administration); Campbell, *supra* note 46, at 103 (describing the New Sanctuary Movement formation as a response to an anti-immigrant bill introduced in Congress in 2005).

51. Gunn, *supra* note 37.

52. For example, in Connecticut, multiple churches served as temporary homes for individuals who ICE had informed it would remove from the United States. See Christopher Peak, *Second Immigrant Takes Sanctuary in a New Haven Church*, CT MIRROR (Aug. 8, 2017), <https://ctmirror.org/2017/08/08/2nd-immigrant-takes-sanctuary-in-a-new-haven-church/>.

53. Yonat Shimron, *Resisting Trump, Churches Give Sanctuary to Immigrants Facing Deportation*, USA TODAY (Nov. 29, 2017, 10:58 AM), <https://www.usatoday.com/story/news/nation/2017/11/29/resisting-trump-churches-give-sanctuary-immigrants-facing-deportation/904889001/>.

54. Laurie Goodstein, *Immigrant Shielded from Deportation by Philadelphia Church Walks Free*, N.Y. TIMES (Oct. 11, 2017), <https://www.nytimes.com/2017/10/11/us/sanctuary-church-immigration-philadelphia.html>.

55. Arria, *supra* note 40.

56. See James M. Jasper, *The Emotions of Protest: Affective and Reactive Emotions in and Around Social Movements*, 13 Soc. F. 397, 412 (1998).

understand that another member of a social movement understands an emotion because she shares it, helping form bonds between members.⁵⁷

The sanctuary movement illustrates the potential power of positive emotions in social movements. Members of the sanctuary movement today face potential criminal prosecution,⁵⁸ similar to the prosecution of religious leaders involved in the sanctuary movement in the 1980s. Indeed, the current Administration has shown no signs of playing a timid prosecutorial role against those that resist its aggressive removal agenda.⁵⁹ Despite awareness of potential future prosecution, the sanctuary movement is thriving and has nevertheless grown significantly during the current Administration.⁶⁰ The commitment to love the stranger is driving sanctuary movement members to engage in social activity that exposes them to potential prosecution. Love and compassion for undocumented immigrants have provided the sanctuary movement members with such strong convictions to outweigh the risks associated with social activity in the movement.⁶¹ Love, in this movement, is the resistance.

IV. THE DREAMER MOVEMENT

The social movement comprised of Dreamers—undocumented young immigrants seeking a path to legalizing their immigration status—is at the forefront of immigration policy today. Despite the prevalence of anti-immigrant rhetoric espoused by the Administration, or the base of conservative voters it supposedly caters to, the Dreamer movement is not only alive, but thriving. A look at how it was built and the characteristics it holds reveal a movement that is compassionate and loving, emotions which ensure commitment among the movement's members and fuel its success.

57. *Id.* at 402.

58. Jacob J. Hutt, *Under This Law, Encouraging Undocumented Immigrants to Seek Shelter Could Be a Crime*, ACLU (Oct. 19, 2017, 1:45 PM), <https://www.aclu.org/blog/free-speech/under-law-encouraging-undocumented-immigrants-seek-shelter-could-be-crime>.

59. In an oral argument, a Department of Justice attorney recently suggested that providing free legal services to an undocumented immigrant could plausibly violate the federal harboring law used in the 1980s to prosecute sanctuary movement leaders. *See* Oral Argument at 1:00:10-1:00:49, *United States v. Evelyn Sineneng-Smith*, No. 15-10614 (9th Cir. 2018), https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000013099. *See also* Brief for Plaintiff-Appellee at 44-46, *United States v. Evelyn Sineneng-Smith*, No. 15-10614 (9th Cir. 2018).

60. The awareness of potential prosecution has led to some congregations being cautious about how they express support for immigrants, and informing others that actions such as providing shelter could expose them to criminal prosecution. Kimberly Winston, *Sanctuary for the Undocumented Comes with Legal Consequences*, RELIGION NEWS SERV. (Mar. 17, 2017), <https://religionnews.com/2017/03/17/sanctuary-for-the-undocumented-comes-with-legal-consequences/>.

61. Jeff Goodwin and Steven Pfaff have described how emotions can work to sustain commitment to a social movement, noting the impact that moral support and encouragement have in forming intimate ties in a social movement facing repression. Goodwin & Pfaff, *supra* note 29, at 287.

The Dreamer movement began in the early 2000s, and at its roots stems from a piece of legislation called the Development, Relief, and Education for Alien Minors (“DREAM”) Act.⁶² The first DREAM legislation was introduced in 2000, has been introduced repeatedly since then, but at the time of this writing has not yet been enacted.⁶³ Over time, young immigrants formed local organizations to advocate for legalization and other pro-immigrant policies.⁶⁴ By 2010, local DREAM groups formed a national coalition called United We Dream (UWD).⁶⁵ Over a decade since the first DREAM Act, “youth organizing for the DREAM Act [went] from a subsidiary operation to a full-fledged movement.”⁶⁶ By 2011, Dreamers organized not just lobbying efforts and rallies, but also cross-country walks, such as a 1,500-mile trek from Miami to Washington D.C., and propelled Dreamers’ stories into the national media by “coming out” as undocumented residents.⁶⁷ By this time, the Dreamer movement had also organized hunger strikes and study sit-ins in Congress and had ventured into civil disobedience.⁶⁸ In what is known as the first act of civil disobedience by Dreamers, four were arrested in Senator McCain’s office in 2010 as part of an effort to obtain his support for the DREAM Act in that legislative session.⁶⁹ Three of the four arrested were given deportation orders.⁷⁰

Today, acts of disobedience by Dreamers are far from unheard of, but instead are constantly in the news. The Trump Administration itself has propelled to the forefront of Congressional politics their effort to obtain permanent legal status. After the Administration announced it was terminating the DACA program in September 2017,⁷¹ President Trump stated on multiple occasions on Twitter that it would now be up to Congress to authorize the

62. Elizabeth Keyes, *Defining American: The Dream Act, Immigration Reform and Citizenship*, 14 NEV. L.J. 101, 103 (2013).

63. After multiple bills failed to pass in the Senate, in March 2018 legislators attempted to negotiate a temporary protection bill for young immigrants who received DACA. Those negotiations stalled after legislators failed to reach an agreement to attach to a spending bill. Aubree Eliza Weaver, *Despite No DACA Fix, Mulvaney Praises Immigration Package in House Spending Bill*, POLITICO (Mar. 22, 2018, 1:39 PM), <https://www.politico.com/story/2018/03/22/immigration-house-spending-bill-mick-mulvaney-479728>. But much debate and confusion remains over whether the Trump Administration will support a path to citizenship for Dreamers, as he has both expressed support of such a bill, *see id.*, and rejected bills that contain provisions he has claimed to support. Kim, *supra* note 4.

64. *See* Daniel Altschuler, *The Dreamers’ Movement Comes of Age*, DISSENT MAG. (May 16, 2011), http://www.dissentmagazine.org/online_articles/the-dreamers-movement-comes-of-age.

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.*

71. Memorandum from Elaine C. Duke, Acting Sec’y of Dep’t of Homeland Sec., on Rescission of Deferred Action for Childhood Arrivals (DACA) (Sept. 5, 2017), <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

protections previously provided by the DACA program.⁷² The Dreamer movement then called on Democrats to demand that a legalization path be attached to any bill named a “must-pass” bill, such as a spending bill necessary for the government to continue with daily functions.⁷³ Those efforts failed in December when Congress approved a continuing resolution to fund the government temporarily,⁷⁴ but the demand for legalization in exchange for keeping the government funded again gained traction in January of 2018. On January 19, 2018, the federal government failed to pass a spending bill, halting all but necessary government functions, due to the impasse on a fix to the immigration status of Dreamers.⁷⁵ But the shutdown lasted only a few days,⁷⁶ and at the time of this writing, no DREAM-like bill has passed.⁷⁷

The Dreamer movement is nothing short of remarkable: a group of individuals who lack political power as a result of being undocumented, yet a group that is still able to exert strong force in politics.⁷⁸ The movement also holds the markers of incredible organization. Dreamers study civil rights movements, discuss them, and share strategies for achieving their political goals.⁷⁹ But the Dreamer movement is also marked by acts of compassion and love. At a national convening, these young activists shared not only political strategies, but also personal stories of learning that they were undocumented and the obstacles their undocumented status places in their lives.⁸⁰ One speaker received a 250-person group hug.⁸¹ Marches organized by Dreamers have been

72. See Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 5, 2017, 5:38 PM), <https://twitter.com/realDonaldTrump/status/905228667336499200> (“Congress now has 6 months to legalize DACA (something the Obama Administration was unable to do). If they can’t, I will revisit this issue!”).

73. Suzanne Gamboa, *Dreamers, Immigrant Families Ramp Up Pressure for Congress to Pass DREAM Act*, NBC NEWS (Dec. 19, 2017, 3:09 PM), <https://www.nbcnews.com/news/latino/dreamers-immigrant-families-ramp-pressure-congress-pass-dream-act-n831316>; Jim Newell, *Democrats Fold on a DACA Fix*, SLATE (Dec. 21, 2017, 8:32 PM), http://www.slate.com/articles/news_and_politics/politics/2017/12/why_democrats_folded_on_a_daca_fix.html.

74. Newell, *supra* note 73.

75. Lauren Gambino, *Failed Deal over Dreamers at the Heart of US Government Shutdown*, GUARDIAN (Jan. 20, 2018, 1:05 PM), <https://www.theguardian.com/us-news/2018/jan/20/government-shutdown-dreamers-immigration-democrats-trump>.

76. Editorial, *Stopgap Bill to End Government Shutdown Passes Congress*, N.Y. TIMES (Jan. 22, 2018), <https://www.nytimes.com/2018/01/22/us/politics/government-shutdown.html>.

77. Jen Herrick, *PFAW Calls for a DREAM Act Vote NOW*, PEOPLE FOR THE AM. WAY (Apr. 18, 2018), <http://www.pfaw.org/blog-posts/pfaw-calls-for-a-dream-act-vote-now/>.

78. See generally Altschuler, *supra* note 64 (describing how, by 2010, “the[] movement had arrived” as it grew from young students who “didn’t have agency” to “youth organizations [capable of] establish[ing] a broad repertoire of contentious action to push the envelope and transform DREAM into a big-ticket item on the congressional agenda”).

79. *Id.*

80. *Id.*

81. *Id.*

marked by singing, dancing, and crying.⁸² The Religious Action Center of Reform Judaism, one of the groups involved in recent activism in support of the Dreamer movement, cited love as the basis for this support, noting that “[i]n the Torah, we are called 36 different ways to love the stranger, the orphan, and the widow.”⁸³ The Dreamer movement, at its core, is based on a hopeful message.⁸⁴

The endurance of the Dreamer movement, as well as its visibility despite social vulnerability, reveal the immense power of the positive emotions on which the movement is based. The movement has only grown, both in numbers and in political power, despite DREAM legislation remaining on the table. Love, through direct expressions such as in the quote introducing this Essay, or through compassionate actions such as a 250-person group hug, has helped the Dreamer movement maintain endurance through many legislative losses. In addition, Dreamers do not simply advocate by calling representatives and holding peaceful marches; they also engage in numerous visible acts of civil disobedience,⁸⁵ despite potentially exposing themselves to deportation. Given the vulnerable position that Dreamers are in as a result of being undocumented, one might reasonably expect that Trump’s anti-immigrant rhetoric, coupled with the Administration’s policies, could keep undocumented youth at home in the shadows, their political power diminished. The opposite is true. The hope of becoming citizens is fueling Dreamers’ civil disobedience when the costs are extremely high. In taking such actions, Dreamers are illustrating for society the movement’s drive, commitment, and energy. Like the sanctuary movement, this is where the power of love as resistance is revealed.

CONCLUSION

The drive and resilience that love can promote in countering hate in the era of the Trump Administration is noteworthy. The rhetoric used by the President and his Administration suggesting immigrants are criminals, ill, or worth less than American citizens can easily shame and depress immigrants, reducing the

82. *Id.*

83. Jonah Dov Pesner, *Reform Jewish Leader Engages in Civil Disobedience in Support of Dreamers*, RELIGIOUS ACTION CTR. REFORM JUDAISM (Jan. 17, 2018), <https://rac.org/reform-jewish-leader-engages-civil-disobedience-support-dreamers>.

84. Indeed, coining the term “Dreamer” is a nod to the American dream, a fundamentally hopeful narrative of being able to “achieve greatness through hope and tenacity.” Keyes, *supra* note 62, at 109.

85. See, e.g., Sharon Bernstein, *‘Dreamers’ Disappointed That Congress Deferred DACA Deal*, REUTERS: POLITICS (Jan. 22, 2018, 6:01 PM), <https://www.reuters.com/article/us-usa-shutdown-dreamers/dreamers-disappointed-that-congress-deferred-daca-deal-idUSKBN1FC05Q>; Elise Foley, *More Than 180 Protesters Arrested at Rally for Dreamers as Congress Drags Its Feet*, HUFFINGTON POST: POLITICS (Dec. 6, 2017, 7:59 PM), https://www.huffingtonpost.com/entry/dreamers-protest-arrests-luis-gutierrez_us_5a287a60e4b0b185e5393969.

likelihood of social involvement.⁸⁶ The Trump Administration's anti-immigration policies plainly strive to instill fear in immigrants.⁸⁷ Yet the sanctuary movement is alive and active despite the threat of criminal prosecutions. Similarly, young immigrants in the Dreamer movement are invariably in the news and in congressional office, making political demands of Congress and shaping the discourse of immigration policy. And members of both, at their core, are hopeful, compassionate, and loving. At a time when anti-immigrant rhetoric is plentiful, these two movements teach us that love should be plentiful as well.

86. See Kim, *supra* note 33, at 487.

87. Goodman, *supra* note 9.