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Subnational policies and migration in the USA: post-national citizenship or sovereignty?

Abstract

This paper aims to: (i) investigate whether Republican legislatures were more inclined than Democratic ones to uphold laws of national sovereignty and whether Democratic legislatures were more likely than Republican ones to prioritise bills linked to the post-national perspective; (ii) assess the US migration laws by considering how state-level legal systems affect migrants' lives. Using data from the National Conference of State Legislatures and Legiscan and techniques like clustering, statistical, and geospatial analysis, we found that bills sponsored by the Democratic Party are indeed more likely to belong to the post-national category than bills by the Republican Party.

Keywords: Citizenship; Federalism; Migration; Sub-national Territory; USA.

After an unequivocal experience of the inefficiency of the subsisting federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire in many respects the most interesting in the world.

(Alexander Hamilton, The Federalist Papers: General Introduction)

Introduction

In an effort to curb the economic impacts caused by the Covid-19 pandemic, the USA resorted to emergency cash transfers to contain poverty levels. However, federal government stimulus cheques were *not* sent to millions of undocumented immigrants, which gave rise to criticism and widespread popular repercussions.

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One example of a contrasting approach would be that of Washington State, which drew on local and state funds to allow immigrants who were not eligible for federal assistance to draw up to three thousand dollars (Hellmann 2020).

This is an example of one of the many ways that state governments can affect the lives of immigrants. This article will consider the broad range of pertinent state programs. To do so, we will classify state legislation[1] according to two theoretical models: "national sovereignty", related to traditional conceptions of citizenship; and "post-national citizenship", a more recent conception rooted in the inviolability of basic human rights. Our source for each state's legislation[2] will be the reports published by the National Conference of State Legislatures[3] (NCSL) and the website Legiscan.[4] We drew on these to construct a database of 456 laws passed between 2016 and 2018 that deal with a variety of topics: from education to public security, from budget allocation to human trafficking.

Data analysis associates the dyad represented by our two categories with expectations about common party stances of democrat and republican representatives. Our hypothesis was that there would be a clear alignment between parties and their formal ideological takes on migration. We expected that Republicans would be more likely to draft laws that would uphold national sovereignty and that Democrats would be more likely to draft laws that would uphold post-national citizenship. In terms of methodological tools, we used exploratory and descriptive statistical analysis, cartographic data visualisation and K-means clustering.

Following this (1) introduction are two sections that summarise the contributions of the literature on (2) post-national citizenship and sovereignty and (3) federalism and state legislatures. We then take a look at (4) methodology. This section details the construction of the database, the classification of cases into the dyad that underlies this work and data analysis techniques. In the (5) results and discussions section we present and discuss our findings. In our (6) final considerations, we consider previous discussions in this field and discuss paths for future research.

Sovereignty and Post-National Citizenship

Debates on Post-National Citizenship tend to emphasise connections with fundamental rights intrinsic to human life. This view seeks to transcend the usual hegemonic distinctions made between individuals based on their state affiliations and national citizenships (Soysal 2012). The idea of

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[1] Municipal legislators and government officials are important players in various aspects of the experience of being an immigrant in the USA. Nonetheless, as our focus was on state-level legislation, we were unable to consider them in our research.

[2] "State legislature websites: for U.S. states and territories." Congress.gov, 2021. https://www.congress.gov/state-legislature-websites

[3] "State laws related to immigration and immigrants." National Conference of State Legislatures, 2021. Acessed in January 20, 2021. https://www.ncsl.org/research/immigration/state-laws-related-to-immigration-and-immigrants.aspx

[4] LegiScan: Bringing People to the Process. 2021. Access January 20 2021. http://www.legiscan.com

Post-National Citizenship arose as a response to the growing inadequacy of the more common models of citizenship that endow nation-states with a homogeneity that cannot be sustained in the face of the countless changes in the current world, such as more intense levels of globalisation (Tambini 2001).

Any defence of this homogeneous character and the traditional model calls for a clear notion of sovereignty that makes a distinction between citizens by birth and immigrants. Because this is the most common approach, ideas of sovereignty[5] have gone through several iterations in the social sciences. In *Class, Citizenship and Social Development*, T. H. Marshall (1964) defines citizenship as a status granted to full members of a society, for whom access to the rights and duties underwritten by the state is guaranteed. Marshall contrasts this with the denial (to non-citizens) of access to innate or universally upheld rights. A central role is thus attributed to countries' physical borders as delimiters of the areas in which citizens can be born and their rights upheld.

This delimitation reflects the operations of the international system of states. It is commonplace for citizenship affiliations to be exclusive and sovereign. Consequently, access to public rights and services is guaranteed only in a predetermined location and by an actor endowed with its own sovereignty (Somers 1994). The construction of post-national citizenship, then, offers a means to overcome the problems that arise from such an exclusive system.

It is natural to locate the theoretical archetype behind the notion of post-national citizenship as being in opposition to the traditional assumptions that underpin geographically conditioned affiliations. The logic of the concept of post-national citizenship holds that the traditional Westphalian axiomatic configuration loses its plausibility in the face of the rapid pace of globalisation. Contemporaneity deals with a process of increasing interconnection between states vis-à-vis the circulation of goods and people. Among other effects, this translates into a greater displacement of individuals outside their countries of origin, removing them from the security ensured by national affiliation[6] (Linklater 1996).

The inadequacy of the traditional model of citizenship has been the object of exploration for some time – consider Aron and Hofstader (1974), writing in the context of a bipolar world – but this remained peripheral to the mainstream debates on International Relations for some considerable time. Works like Soysal and Soyland (1994) and Morris (1997) first engaged in discussions on terms familiar to us and pioneered the idea of building post-national citizenship.

Although they primarily consider European examples, they expound a thesis according to which the broad provision of benefits delivered by State-based institutions must be understood as an irrevocable goal for contemporary society and should supersede geographical circumscriptions. The empirical evidence presented in these works points to a systematically inferior quality of life for people of foreign origin. Reduced access to health care and education on the part of immigrants

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[5] The term "sovereignty" is used throughout this article to refer to traditional models of citizenship. This sharpens the contrast with "post-national citizenship".

[6] This is the usual case, but we must not forget about the existence of stateless individuals born in disputed areas or dissolved countries with no citizenship guarantee anywhere in the world.

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indicates that individuals of foreign origin are segregated from their local peers, which is clearly incongruous with the egalitarian notion of fundamental rights.

Far from a mere abstraction, this theoretical framework is the natural complement to discussions about human migration around the world. Regardless of whether an individual has entered a country legally or illegally or plans to stay in it temporarily or permanently, an immigrant is a foreigner[7] in the sense that he or she is outside the environment in which his or her national affiliation guarantees him or her various rights.

Thus, the focus of this work is immigrants[8] who left their original states, where, in theory, they would enjoy the guarantees due to them as citizens. Our decision to focus on this population is supported by works such as those of Damien Tambini (2001), in which the phenomenon of increased migratory flows is seen as one of the factors that challenge traditional notions of citizenship.

Our decision to adopt the USA as the sample universe for our research is justifiable. Not only is the USA the world leader in terms of immigrant diversity and numbers (Cooke and Kemeny 2017), its federal configuration gives ample freedom to state legislatures, which enables it to deal with immigrant populations on a wide range of fronts.

We thus have a conceptual starting point (citizenship debates) and a group to be analysed (immigrants residing in the USA). All that remains is to define our methodological approach. Some works deal with these themes in a more individualised manner, analysing the particular experiences of the migrant population (Quesada et al. 2011; Ayón 2015). We have taken another angle: to explore the content and quantity of state laws that directly mention immigrants, regardless of whether these laws are focused on issues related to the foreign-born population or constitute general provisions that may affect immigrants.

This is not a pioneering choice. Several previous works have set out to create a systematic classification of the various subnational laws related to immigration in the USA (Gilbert 2009; Boushey and Luedtke 2011; Sanchez and Williams 2020). There have also been studies that discuss the relationship of US immigration control institutions as a whole and their implications for the development of post-national citizenship (Basok 2004). Our analysis seeks to explore a possible intersection between these two approaches.

In actuality, the intent to venture on that intersection is another reason why the USA was chosen as an appropriate standpoint: with the stability of the bipartisan divide significantly helping our analyses. For centuries, this system has been in apparent equilibrium between the Republican and Democrat parties, with their dominance basically uncontested at higher level posts. Nonetheless, the opposite parties have also been positioned at distinct sides on the migration debate; Hammer

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[7] Throughout this article, the term "foreigner" is used as a synonym for "immigrant" for reasons of textual fluidity and to highlight the separation in the traditional model between those of foreign origin and native born citizens.

[8] Although some of the laws we analysed deal with specific groups of immigrants, such as refugees, our analyses do not take these distinctions into account.

and Kafura (2019) argue that republicans are way more likely to view immigration as a threat, for instance.

Diving in a wide selection of political discourses, this positioning becomes even more clear. Democrat leaders are eager to sustain a more receptive stance on the inclusion of foreign populations, especially in the aftermath of the racial tension of the 1990s; while Republican representatives continued to associate the steady growth of these populations with economic and social concerns (Hui and Sears 2018).

Roughly speaking, the spectrum of political takes on migration would tend to simulate the formal ideological positions of each party: social liberalism and social conservatism, respectively. Still, that would also be a crass oversimplification, since a plethora of reasons can affect the general attitudes toward immigrants, and how representatives act on that. A possible example is the proximity to the US-Mexico border, a major entry point for immigrants and important factor computed in papers, such as Ghatak and Ferraro (2021).

On this project, such specificities couldn't really be explored, but the oversimplification concerns remain active. Resorting again to arguments developed for the European case, authors like Dancigyer and Morgalit (2019) state that different parties might not act as distinctly on migration issues as expected due to the particularly divisive nature of this topic. With that, we want to adjust expectations and point out that cloudy divisions among the parties might be found but, even if that sounds counterintuitive, they might be a starting point to further investigations on the reasons why democrat and republican representatives may diverge from what its leaders have been saying about migrant populations.

Those expectation-reality disparities, in fact, ought to be discussed at the light of the federalism debate on the USA, through which the capacity of state legislators to take an active role in the migration issue is secured. While the federation has always ensured ample legislative freedom for states, the issue of immigration had been out of their purview for an extended period. This began to change in the 1990s, when the doctrine that ensured federal exclusivity in migratory issues was abandoned. This was a consequence of the events discussed in the next section.[9]

Federalism and state legislatures

So far, we have focused on linking migration to our theoretical starting points: From different notions of citizenship, via ideological markers, to justifications of the relevance of debates to our research. Our decision to focus on state-level legislation shall be treated likewise. Most research in this field considers congressional legislation and executive orders at the federal level.

Studies of state-level legislation on migration have made a number of theoretical contributions, in spite of their scarcity relative to studies of federal-level legislation. In addition to filling an

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[9] It is worth noting that putting post-national citizenship into practice goes beyond the scope of the legislation that we analyse in this article (Russell 2005). That being so, we have not considered factors outside formal institutional frameworks.

academic gap, the study of these laws is essential for understanding the reality of the millions of immigrants in the USA that are directly affected by laws and public policies promulgated at state level. The need for such studies is accentuated by the fact that indices of state-level legislation on migration issues are a relatively recent phenomenon. This section discusses how migration issues gain space in the subnational sphere and how the subnational legislative framework affects the lives of individuals.

Although state legislatures have the freedom to legislate in several areas, the Plenary Power Doctrine,[10] instituted in 1889, has ensured the virtually exclusive domination of the federal branch on the topic of immigration for more than a century (Filindra and Kovács 2012). The first major change to this guideline took place in 1996, with the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)[11] and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),[12] both of which give the states greater discretion over immigrant access to public services.

These two acts facilitated the exclusion of undocumented individuals from the food stamps programme and made it much harder for immigrants to become eligible for the Medicaid programme, including for legal migrants who entered the country after both laws were enacted. These and other provisions set forth in the two laws continue to contribute to the widening of the rights gap between citizens and non-citizens (Hagan et al. 2003).

These examples illustrate two key characteristics of state migration laws: when set in contrast to the federal legal apparatus, they tend to be reactive and to effect marginal changes. They tend to be reactive in that they only exist as a consequence of the notion that federal members of congress are not doing enough. The need for state control over immigrant access to local public services stems from concerns that the immigrant population will overwhelm those services (Zingher 2014).

Therefore, state legislators make accessory changes to the general institutional set of migration laws. Competence with respect to such matters as deportations, the issuance of visas and the construction of border facilities remains exclusive to the federal government. States control foreigners' access to education and public health, coordinate cooperation between local security forces and federal agencies, and define what proportion of the annual budget can be allocated to refugee support, to name a few examples.

It is worth remembering that the stated goal of the first states that imposed more rigid immigration laws was to reduce new immigrant numbers. There is little empirical evidence that this goal has in any way been achieved. The real impact of this systematic onslaught is more likely

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[10] Instituted by the United States Supreme Court, this doctrine defined migration issues as the exclusive purview of the federal branch (Filindra and Kovács 2012).

[11] "The personal responsibility and work opportunity reconciliation act of 1996." Office of Child Support Enforcement. November 1, 1996. Accessed March 23, 2021. https://www.acf.hhs.gov/css/policy-guidance/personal-responsibility-and-work-opportunity-reconciliation-act-1996

[12] Responsibility Act of 1996. Pub L. No. 104-208, 110 Stat. 3009 (1996). Accessed January 20, 2021. https://www.aila.org/infonet/text-of-iiraira

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to be seen in reduced immigrant access to such public services as education (Androff et al. 2011) than in reduced migrant flows.

The examples cited above clearly fall within the category of "conservative" state legislation. But there are also several more "liberal" laws that aim to include immigrants in the limited space of the state. Whether through the formulation of policies aimed at migrant populations or to include them in existing programs, these laws aim to bring the rights of citizens and non-citizens closer together.

With regard to the relationship between immigrants and state legislators, the end of the Plenary Power Doctrine was only the first of many subsequent steps. The diverse laws that we analysed throughout our research revealed themselves to be key elements in the discussion on the quality of life of immigrants in the United States. They demonstrate the heterogeneity of forces that determine immigrants' access to the rights they are owed.

The theoretical review set out in the final section of this article clarifies a central argument: study of state legislative production is important to understand how the migration debate unfolds in the USA and to understand how it goes beyond the federal sphere. First, we shall present the techniques to be used and the way in which concepts will be employed in the following section.

Methodology

Most of this section concerns the construction of a database that could provide answers to the questions asked in the theoretical part of the research. The database has a total of six variables: (i) the state in which the law in question was approved; (ii) the year in which it was approved; (iii) its official legislative code; (iv) the general subject that it deals with, i.e., its thematic axis; (v) the party affiliation of its primary sponsors; and (vi) a binary classification under one of the two perspectives on citizenship described in the previous section, namely, sovereignty and post-national citizenship.

Of these six variables, the first four were taken from the annual reports of the National Conference of State Legislatures (NCSL).[13] Among other activities, the NCSL publishes annual lists of all laws passed in state legislatures on a variety of topics, including immigration, and served as a useful tool for defining which laws should be included in our analysis.

The survey carried out by NCSL is quite extensive and complete, although some exclusions were necessary. The full texts of some laws were not publicly available, making any analysis impossible – such laws were excluded. Legislative resolutions were excluded[14] due to their symbolic character and lack of major effects on immigrant quality of life. Laws from non-state territories,

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[13] "State laws related to immigration and immigrants." National Conference of State Legislatures, 2021. Acessed in January 20, 2021. https://www.ncsl.org/research/immigration/state-laws-related-to-immigration-and-immigrants.aspx

[14] Written motions presented in legislative sessions. "Concurrent and simple resolutions [...] are used merely for expressing facts, principles, opinions, and purposes of the two Houses." (Congress.gov, 2007).

such as Washington DC and Puerto Rico, were excluded so that we could retain our focus on the general dynamics of state legislatures without interference from the specificities of these entities. Our final corpus consisted of 456 laws approved between 2016 and 2018 and positioned among ten thematic axes defined by the NCSL.[15]

The decision to exclusively focus on passed bills is important, making it possible to assess how current legislative trends of change in migrant legislation can affect the lives of migrant people. In the same vein, the far-reaching selection of every law that cited migrants in the period we analyzed included bills that may not have migrant populations as their prime concern, but still reflect how the local political establishment deals with the specific issues of these individuals.

Our period begins in the year Donald Trump was elected to the presidency. Although beyond the scope of this article, Trump's anti-immigrant rhetoric is widely documented (Villazor and Johnson, 2019). The fact that our period coincides with the first half of the Trump presidency is important because it resembles other moments of social and economic disruption that were drivers of change in the production of migratory legislation, such as the post-9/11 period (Woods and Damien 2014) and period of the 2008 international financial crisis (Ybarra et al. 2016). Starting from 2016 enabled us to capture the initial moment of a possible rupture. 2018 was the latest year for which complete data were available. Nonetheless, NCSL overall data shows that state legislatures levels of activity have been on a somewhat steady rise since at least 2009, way before Trump got elected.

Regarding the construction of the variable referring to the party association of the actors responsible for each law, we obtained primary sponsor affiliation[16] information from the official websites of each legislature[17] and Legiscan.[18] With our data collected the variable reported six possible results: (i) all primary sponsors from the Democratic party (172 observations); (ii) all primary sponsors from the Republican party (154 observations); (iii) a bill whose sponsor was from the New York Independence Party (one observation); (iv) cases where sponsors belonged to different parties (56 observations); (v) bills tabled by legislative committees (63 observations); (vi) bills tabled in the non-partisan Nebraska legislature (five observations) and (vii) bills where party information was unavailable (five observations).

For analytical purposes, we decided to simplify the classifications of primary sponsors in the discussion of our findings by allocating them to the Democratic Party, the Republican Party or "Miscellaneous" – being all the aforementioned cases that cannot be classified as strictly Democratic or Republican. On this category, mixed results are to be expected, as the final position

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[15] These axes are: Budgets, Educations, Employment, Health, Human Trafficking, I.D/Licenses, Law Enforcement, Miscellaneous, Public Benefits and Voting.

[16] Representatives responsible for tabling bills during legislative sessions.

[17] "State legislature websites: for U.S. states and territories." Congress.gov, 2021. https://www.congress.gov/state-legislature-websites

[18] LegiScan: Bringing People to the Process. 2021. Access January 20 2021. http://www.legiscan.com

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of these bills are influenced by varying factors, such as the dominant party in each locality, process requirements, and a wide array of contextual influences.

With our first four variables obtained from NCSL reports, and a fifth party variable defined above, we can present an overview of the laws under examination. The clearest pattern that we found concerned the fluctuation between the different sample years: 96 laws were passed in 2016, 202 in 2017 and 159 in 2018. As the numbers of laws passed changed, so too did their content. Graph 1 illustrates the distribution of laws passed across ten themes as defined in the NCSL reports.

Graph 1. Frequency of laws by theme
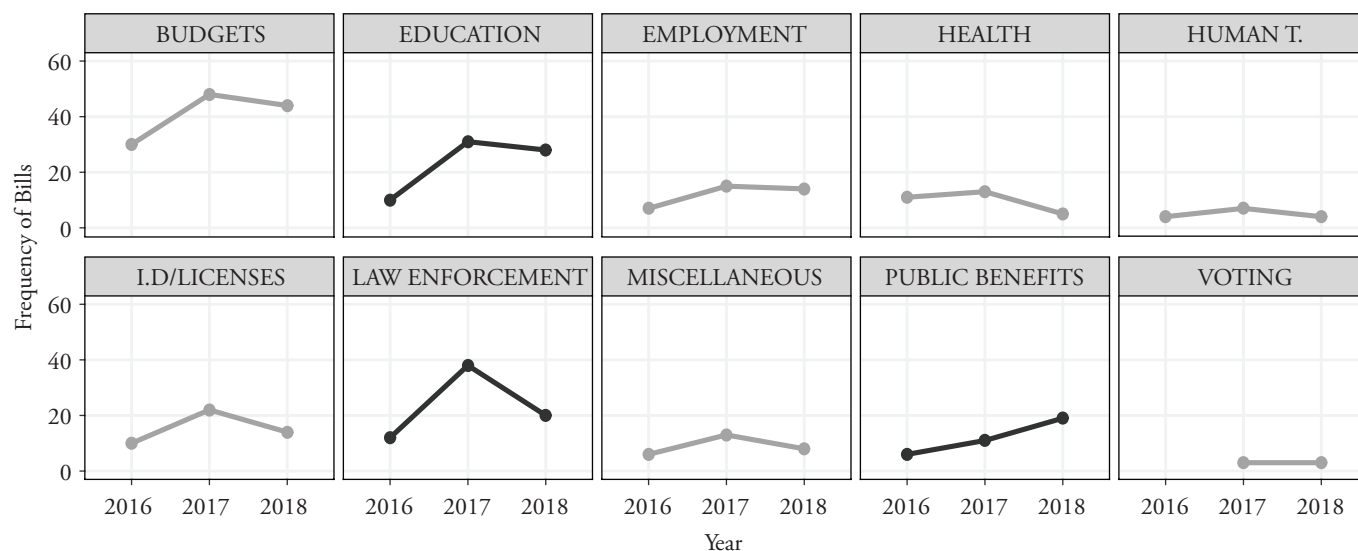
Graph 1 depicts considerable diversity in legislation, with each theme being present in all years of the sample, the only exception being laws dedicated to electoral issues ("Voting"), of which there were none in 2016. The three main groups with the most abrupt percentage changes[19] (whether positive or negative) are shown in black. As can be seen, issues related to education, law enforcement and public benefits were most subject to change (all above 44%).

As for absolute frequency, laws that deal with budgetary issues ("Budget") are predominant in the sample, accounting for 26.75% of the total and maintaining a distribution similar to the general fluctuation across our period. This is because many of the cases allocated to this category relate to the annual formulation of state budgets. These laws also reveal how the institutional framework of each state incorporates immigrants by using state funds to include or exclude them. Education and Law Enforcement are quite common in our database and are distributed in a similar way to the general fluctuation across the period.

In view of the size of the United States we expected to see considerable heterogeneity in legislative production across states that would reflect the specific circumstances of each one. This expectation is confirmed in Figure 1.

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[19] Calculated based on the coefficient of variation: standard deviation divided by the mean and multiplied by 100.

Figure 1. Number of laws passed by year and state
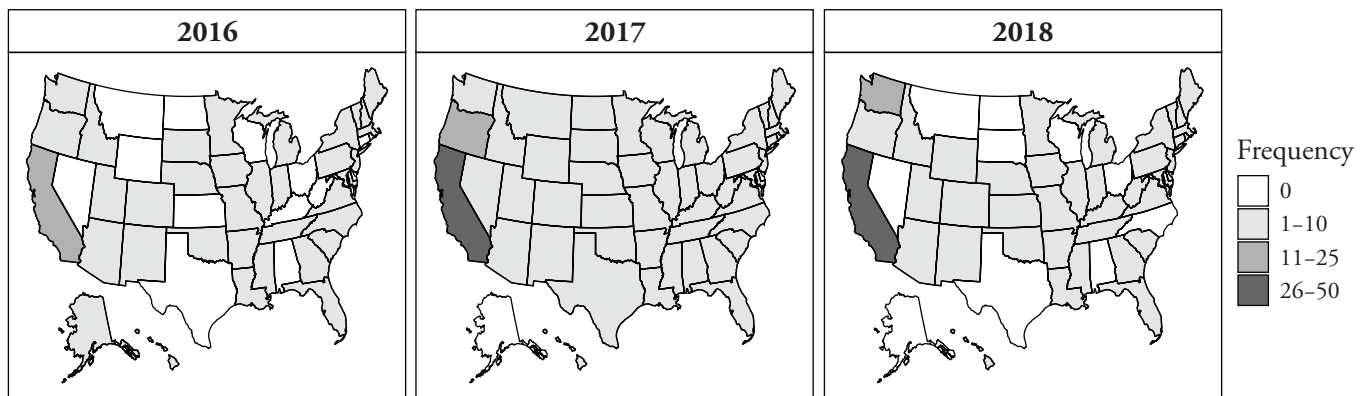
California, the largest economic centre in the country, emerged as the largest producer of immigration laws in our period, with 93 laws in total. The States of Alaska, Alabama, Delaware, Ohio and Wisconsin came in last, with one law each. Various reasons explain this variation: the size of the immigrant population in the state can define the urgency of the issue, while party representation can lead to fewer laws being produced (in our sample, Democrats were numerically more active than Republican or miscellaneous lawmakers). Procedural issues can also decrease the frequency of laws being passed. For instance, the Texas State legislature operates a system whereby it holds regular sessions for one year and in alternate years meets for a limited number of special sessions.[20]

These descriptive results depict a panorama of legislative production on migratory themes across each legislature. They enable us to see such things as which states were more active or which themes appeared more consistently. None of this directly answers central questions about citizenship models, their distribution by the sample or the way in which each model is reflected in the drafts of bills. We shall start with the construction of the last variable described at the beginning of this section relative to the positioning between the different notions of citizenship.

The variable identified whether legislation directed at migrants adhered to the sovereignty model or the post-national citizenship model. Although a few exceptions did occur, PNC-leaning bills tended to act through at least one of four pathways: allocating state budget to migrant inclusion programs, modifying existing institutions to better accommodate these populations, creating new programs to deal with immigrant-specific issues or by signaling non-conformity with repressive federal acts. On the other hand, bills classified as NS would present themselves through the allocation of state budget to the repression of migrant access to public services and housing, attempts to further exclude them from existing programs or by showing compliance and intent to assist repressive federal acts.

These categories were defined and employed using bottom-up logic. In other words, we carried out a careful and complete reading of each draft. This enabled us to report on the behaviour of

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[20] Texas legislative sessions. Austin: Texas Council for Developmental Disabilities, 2021. Accessed March 23, 2021. https://tcdd.texas.gov/public-policy/texas-legislature

each type of law. These patterns were repeated throughout the sample and are useful indicators of how each citizenship model translated into legislation.

Mississippi state law HB2003 of 2016, for instance, fell under the sovereignty model. It lays down punitive mechanisms for state higher education institutions that allocate any part of their budgets to immigrants – a position consistent with the view that access to public services must be guaranteed to citizens only.

Illinois state law HB5202 of 2018, which established a minimum immigrant employment quota in respect of positions at the Youth Budget Commission, fell clearly under the post-national citizenship model.

These two cases are paradigmatic, with obvious and clear classifications. This was not always the case in the laws we looked at. Uncertainty was indeed present with respect to some of the laws in our database. The choice of a binary categorisation, while useful for the purposes of this research, does not always reflect the nuances of the real world.

Idaho law HB209 of 2017 is a case in point. It establishes measures to prevent notaries public from providing advice to immigrants. We classified it under "post-national citizenship" even though it appears to reduce the possibility of access to legal protection for immigrants because its purpose was to prevent immigrants from being defrauded by notaries public.

It is worth pointing out that the categories of our variable relate only to legislative production and not the institutional frameworks in which it takes place. A state may have an institutional apparatus linked to traditional models of citizenship and at the same time have laws with respect to its borders that promote the inclusion of migrants – or vice versa. Our analyses focus on determining the intentions of legislators in specific cases rather than constructing a representation of how a set of institutions might affect the life of a given immigrant community.

Several techniques were employed to obtain the results shown in the next section. Our main analysis tool comes from exploratory and descriptive statistics with cartographic data visualisation. As the database that we used was constructed especially for this article, one of its guiding principles was to know how each analytical unit (i.e., each state) behaved in producing legislation aligned with one or the other of our categories. This justifies our categories. We made frequent use of chi-squared tests (x^2) to verify whether the difference in means that we observed in the groups and categories under analysis was in fact statistically significant.

Content Analysis (via manual coding) was the technique used to classify each law in each state. A non-hierarchical clustering technique (K-means) was used to try to divide states into four groups[21] based on their quantitative legislative output in respect of migrants. The selection of the optimal number of clusters (in our case, 4 groups) was reached based on the elbow method which was calculated using the within cluster sums of squares (WSS) in a Euclidean distance. As

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[21] Our decision to divide the states into four groups was not arbitrary or random. On the contrary, we used the elbow method to determine the number of clusters. This method is one of the most used for this purpose in the specialised literature.

for the K-means itself, we have used 50 random sets to serve as our initial configuration. Our results are discussed below.

Results and Discussions

The first results to be discussed correspond to the classification of laws in the theoretical dyad that underpins this work. The sample reports more laws classified under Post-National Citizenship (PNC) (73.68%) than Sovereignty (NS) (26.31%). This trend would seem to indicate a favourable scenario for the social inclusion of immigrants in our period. This movement, however, is not uniform over the years, as can be seen in Graph 2:

**Graph 2. Annual frequency by classification**
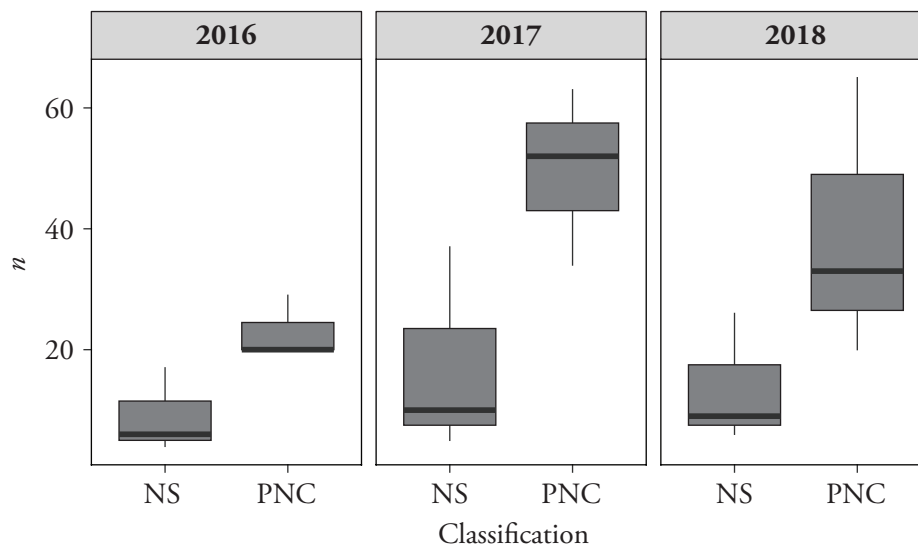
Starting from the median of each boxplot, the category "post-national citizenship" retains a consistently higher position. However, the graphs show a slight overlap in 2017 and 2018, indicating that the difference between categories does not appear to be of a radical magnitude. Indeed, according to Pearson's chi-squared test, it appears that the probability that this difference in averages is due to chance is high and does not reach statistical significance (x^2 = 0.205, p-value = 0.90).

The absence of a clear tendency is in accordance with the diversity of laws pointed out in Boushey and Luedtke (2011) and reaffirmed more recently in works such as Butz and Kehberg (2019). This reflects the existence of a contingent balance between the two theoretical poles in the American political context that becomes unbalanced when some major social event affects the debate on immigration, such as the election of Republican Donald Trump in 2016.

However, attributing this apparent balance to the bipartisanship mentioned above is not as simple as it seems. Although by absolute measures the parties do in fact align themselves as

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expected, more robust statistical tests show that this relationship cannot be affirmed in all cases. This point is better discussed after we have looked at Graph 3.

Graph 3. Frequency by sponsor party and classification
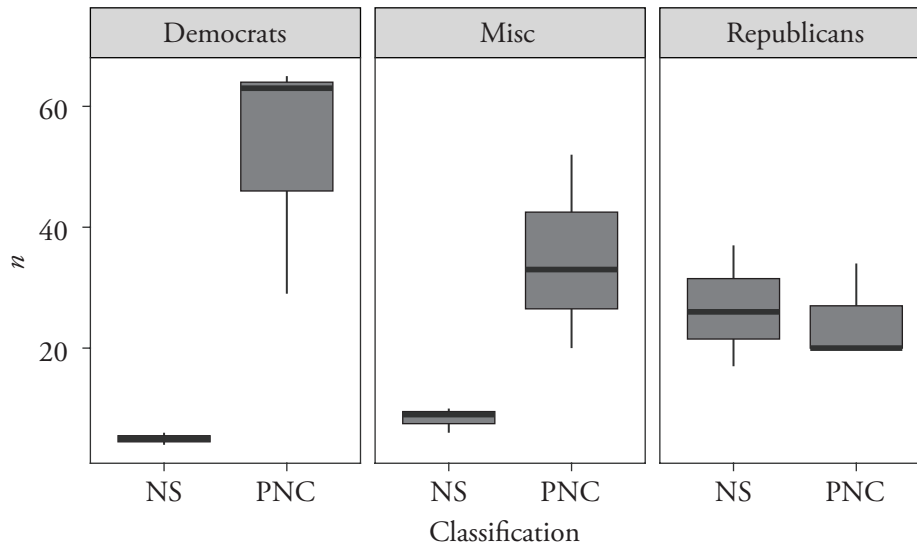
First, a general overview: in the sample, the set of laws presented by Democrats and other configurations (Misc.) acts strongly linked to post-national citizenship. The distance between the graphs and their lack of overlap indicates that the difference is clear and robust. It is not possible, however, to make the same statement about laws sponsored by Republicans. Although this is the only category in which sovereignty has a higher median than post-national citizenship, the graphs intersect, pointing to a less radical difference in averages – a situation confirmed by Pearson's chi-squared test (x^2 = 83, p-value <0.001).

It is therefore impossible to confirm that there is a relationship between the Republican Party and sovereignty. Although this frustrates one of our expectations, it reflects the heterogeneity that must be expected in two parties as large as the two in question (Ceron 2016). Several reasons lie behind this. The work of Butz and Kehberg (2019), cited above, looks at how popular pressures can change the formulation of state migration laws. Geography, to which we will return below, also has a part to play.

For now, the cohesion of the Democratic Party vis-à-vis this issue, which appears to overcome any internal heterogeneities, is a sign that migration issues are clearly defined at the party's ideological core. Although individual legislators may dissent, this is an issue where there does not seem to be much room for regional change.

Miscellaneous results are particularly important here as they can be seen as proof that Democrats and Republicans work together more often than expected. That is to say, work together to defend post-national citizenship. Works like Bonilla and Mo (2018) have identified a migratory issue on which Republicans and Democrats tend to agree: Human trafficking. However, as this theme accounts for a very small part of the general sample, the results found here suggest a broader

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panorama of mutual interests between the two parties, a topic for future investigation that would look more closely at the contents of specific laws. There is more to be said on the determinants of this cooperation.

The figure below illustrates the geographic distribution of these results. This stratification has its own affirmations.

Figure 2. Frequency by year, classification and sponsor party
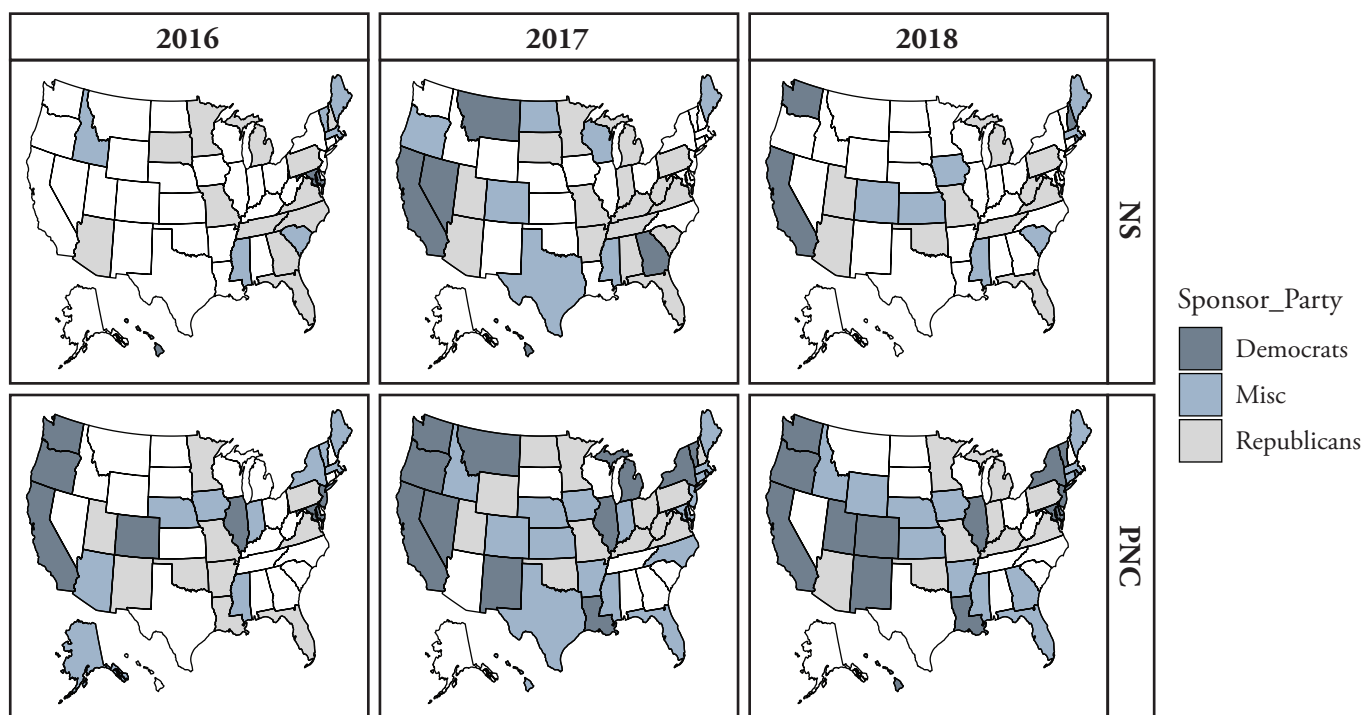

*States in White = Missing Data

To understand how geography influences Republican heterogeneity, it is necessary to look at the light grey distribution of the figure. In many of the locations where Republicans were primarily responsible for sovereignty laws, they were also the main proponent of laws linked to national citizenship. This trend signals the existence of predominantly Republican legislatures, a common phenomenon throughout the United States. While federal-level government is the scene of competition for a congressional majority between the two main parties, many state legislatures are massively occupied by one party only.

The Democratic case is similar, even though the trend towards post-national citizenship has been significant enough to overcome that. California, a Democratic stronghold, is home to Democrats who are proponents of sovereignty. An obvious explanation seems to exist: because the state has a Democratic majority, representing a relatively homogeneous party vis-à-vis immigration, legislators do not overlook sovereignty-related proposals sponsored by Republicans. This article only deals with bills that have passed into law. It would be desirable for future studies to consider bills that never made it onto the statute books in order to better understand the legislative production of minority parties in each state.

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In states where Miscellaneous leadership reigns, we expected that the two main parties would collaborate more frequently (excluding non-partisan Nebraska). The Miscellaneous position in several of the traditionally Republican states indicates that the Republican Party is the most flexible party and willing to enter into bipartisan proposals that mostly support post-national citizenship.

To close this section, figure 3, below, groups the states that acted according to patterns of behaviour that are relatively similar to each other.

Figure 3. Cluster between states and classification
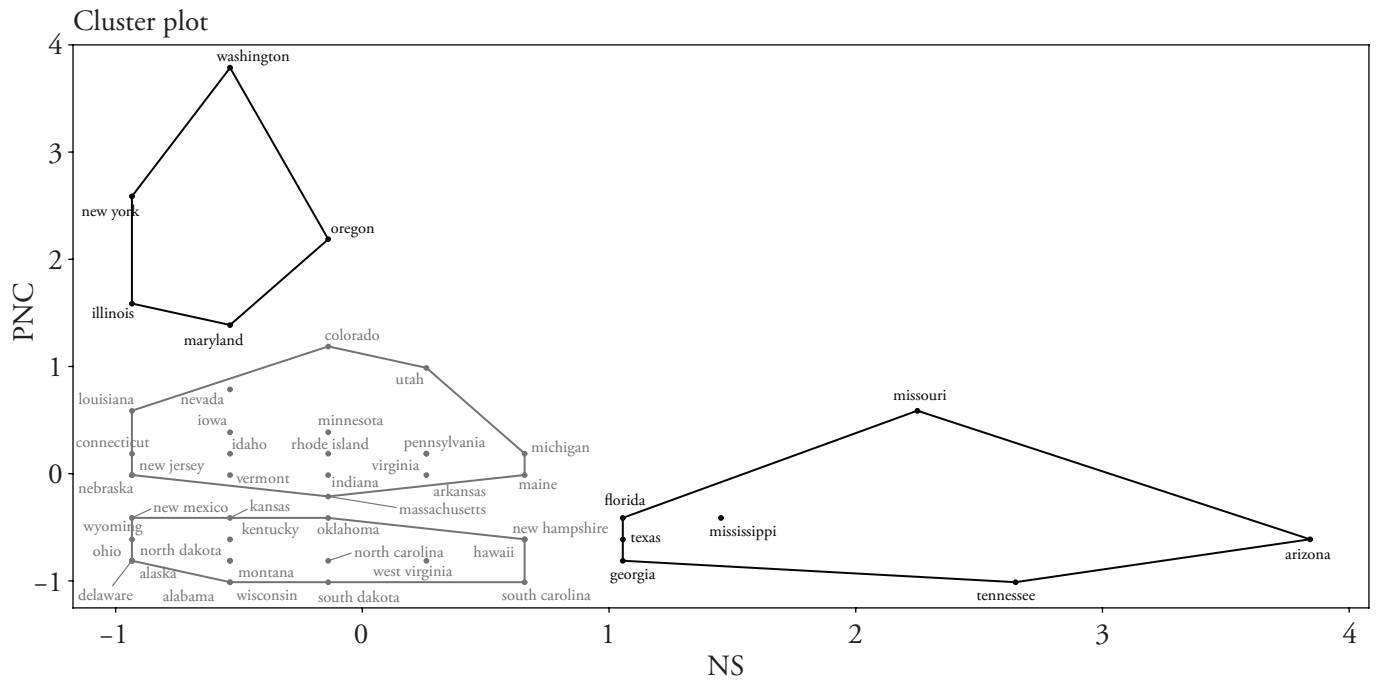
California was removed for being an outlier

As a means of allocating each state according to its degree of adherence to one of our proposed categorical classifications, the K-means algorithm performed the task well. The groups in dark grey with black margins are the most intriguing, as they represent a significant link with one of the two categories. States like Washington, New York, Oregon, Illinois and Maryland have the common characteristic of passing laws that are very closely aligned to post-national citizenship and very few laws aligned with sovereignty. The opposite occurs in states like Texas, Florida, Georgia, Missouri, Tennessee and Arizona, where sovereignty-aligned laws abound and there are very few aligned to post-national citizenship.

Most states, however, occupy an intermediate status between the two categories and the frequency of laws they pass. Marked in grey, these states are subdivided into two groups. At the lower end are states where few laws are aligned with either post-national citizenship or sovereignty. The group of states above these represents those where laws linked to sovereignty are infrequent but laws linked to post-national citizenship are only slightly more common.

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This diversity of classifications seems to reflect how the immigration debate takes place around the country. While states like New York and Arizona are the scene of active and directly opposed discussions, most of the country is in a situation where the issue is much less prominent on the agenda of state legislators. Demographic issues partially explain this difference, with markers of size and composition of the locally-born and foreign population varying enormously. The political particularities of each area still play an important role in the debate; as noted in Butz and Kehberg (2019), popular pressures are seen as drivers of state immigration-related legislation.

The general results of this section point to a panorama that partially confirms our initial hypothesis: the parties are important in defining which path the approved laws take, but this relationship is not as absolute as we had expected. In fact, Republicans acted heterogeneously enough so that no relationship could be confirmed. Finally, the general distribution between poles and parties points to an apparent balance of forces vis-à-vis the issue of immigration, but geographic stratifications demonstrate that this statement will not always be an effective description of individual state contexts.

The most urgent gap to be filled by future research is that of variables that allow a more direct comparison between states. In our final considerations, we discuss how to overcome the limits of these and the other limits of research in this field, in addition to the way in which our work was able to achieve the intersection that we had aimed at between studies of state legislation on immigration and disparate views of citizenship.

Conclusion

This article explores different aspects of state immigration laws passed in the USA in light of discussions within the theoretical dyad "sovereignty" and "post-national citizenship", each of which is directly associated with the two main national political parties. Studies of subnational migratory legislation are rarer than studies of federal migratory legislation, but decisions made at the state level also directly affect the lives of local immigrants. Our research considered state legislative production over three years by evaluating the correspondence between party affiliation and our theoretical dyad.

Guided by the hypothesis that the contents of laws will depend on the party that sponsors them, techniques of statistical analysis and cartographic representation allowed the identification of patterns vis-à-vis the theoretical dyad, for the parties and in terms of the possible relationships between these two factors.

In absolute terms, laws associated with Post-National Citizenship formed the majority of our sample; however, chi-squared tests indicated that this difference can be random – possibly explained by the political context of our period. The expectations in our research hypothesis were partially fulfilled. As expected, Democratic legislators evinced a clear affinity for post-national citizenship. By contrast, their Republican peers performed heterogeneously in a way that did not

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guarantee statistical significance in their connection to any of the poles – although they did show a greater affinity, as expected, for sovereignty.

In addition, other party configurations (Misc.) appeared frequently in our sample and reproduced support for Democratic post-national citizenship. This finding indicates two things: there is more cooperation between parties than their ideologically antagonistic positions might have suggested, and that Republicans are more willing to defend post-national citizenship than was expected, even when this meant associating themselves with their main partisan rival.

As a last step, we grouped the states according to their patterns of behaviour. This demonstrated that most of the country deals with the migratory issue sporadically, while a few states have it in a much more privileged position and translated it into a larger number of laws.

Understanding the reasons why these states act so differently depends on overcoming some of the limits of this research. The addition of control variables that level out different population and geographic characteristics, for instance, would allow for more direct comparisons between states. Likewise, establishing a longer time horizon would allow researchers to observe the influence of relevant national events on the state in question's legislative production, and allow for trends that did not achieve statistical significance in our work to be more robustly tested.

With the process and results detailed here, we hope to have helped to elucidate how the state level of legislative production constitutes a fundamental part of the framework of immigration laws in the USA. Having clarified this point, a multitude of approaches is possible. For instance, by extending the focus on discourse and content analysis techniques, conclusions could be drawn about the specific premises of these laws.

A work of this nature would allow for a more detailed description of the contents of laws and allow for greater nuance with respect to the concepts of sovereignty and post-national citizenship. Such a graduated measure would allow better access to the way in which such laws affect the immigrant population in question. Finally, many of the justifications that underlie this analysis of state migration laws are also valid at the municipal level. This is a dimension that has also been little studied, but that also directly affects the life of the immigrant population and has its own prerogatives and singularities.

With the results and debates developed in this paper we hope to have explored an intersection of migrant and citizenship studies still rarely acknowledged. Even though mixed results were deemed unlikely, the fact that the two parties worked closer on the production of migration bills than expected is a sign that research on local and state-level legislative action still has a long way to go: specifically, on how do contextual differences may affect the way representatives act on various issues.

Nonetheless, a myriad of perspectives may be explored in future projects. Primarily, the inclusion of bills that did not pass their legislative rounds of vote is key to the better understanding of migrant sentiment across parties. Methodologically, further developments should involve using different techniques and new variables to test the robustness and the degree of generalization of the results we have found here. In this sense, tools like multivariate regression analysis, machine

learning algorithms (especially those of Natural Language Processing), and Qualitative Comparative Analysis (QCA) may be of great importance and impact in future research agendas.

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