

# Subnational Migration States and the New Politics of Immigration

Mireille Paquet\* 

## ABSTRACT

Using Catherine Dauvergne's *The New Politics of Immigration and the End of Settler Society* (2016) as a starting point, this article explores subnational policy dynamics in Canada, Australia and the United States. It considers whether the trends associated with legalization, two-step programmes, rapid policy changes and economic discourses are present in Canadian provinces as well as in U.S. and Australian states. It shows that the forces described by Dauvergne contribute to a further rescaling of policymaking and to the emergence of subnational migration states. However, this article also demonstrates that this common movement varies in its consequences and identifies two central subnational policy responses typical of the new politics of immigration: 1) the "economic subnational migration state" (Canada and Australia) and 2) the "access subnational migration state" (United States). The models and the global trends described in this article have implications for immigration policymaking in federations.

## INTRODUCTION

Using as a starting point Catherine Dauvergne's *The New Politics of Immigration and the End of Settler Society* (2016), this article explores subnational policy dynamics in Canada, Australia and the United States. It considers whether the trends associated with legalization, two-step programmes, rapid policy changes and economic discourses are present in Canadian provinces as well as in U.S. and Australian states. It shows that the forces described by Dauvergne contribute to a further rescaling of policymaking and to the emergence of subnational migration states. However, this article also demonstrates that this common movement varies in its consequences and identifies two central subnational policy responses typical of the new politics of immigration: 1) the "economic subnational migration state" (Canada and Australia) and 2) the "access subnational migration state" (United States). The models and the global trends described in this article have implications for immigration policymaking in federations.

In a work combining legal scholarship and migration studies, Catherine Dauvergne's (2016) *The New Politics of Immigration and the End of Settler Society* traces the establishment of a new global politics surrounding immigration, marked by a convergence in terms of legislation, policy instruments and political discourses. Central to this movement is the dismantling of the characteristics that enabled researchers, policymakers and politicians to identify some states as immigration "settler societies" or traditional immigration societies. These countries – Canada, the United States and Australia – have generally been presented as states built through immigration and differentiated from other countries, most notably Western European states. This difference was translated into

---

\* Concordia University, Montreal, Quebec

settler societies' immigration policies, which were presented as more generous and more open to immigrants, providing means of permanent settlement for newcomers and giving them access to membership by way of naturalization. What Dauvergne describes as the "new politics of immigration" erases this difference: settler societies slowly but surely grow less distinguishable from other countries in terms of their treatment of immigration, and several "non-settler" states are transformed into new migration societies (Dauvergne, 2016). The result is a politics that Dauvergne characterizes as "mean-spirited" and in which immigration gathers unprecedented and, most often, negative public attention. Globally, this trend is characterized by policy paralysis regarding the governance of global immigration, as well as by policy convergence and competition amongst states.

While arguing that these changes represent overarching trends, Dauvergne focuses most of her analysis on the main settler states: Canada, Australia and the United States. In these "nations built through extensive migration" (Dauvergne, 2016: 4) she documents four policy trends at play since the early years of the twenty-first century: an increased legalization of issues related to migration and mobility; a rapid and constant evolution of immigration policies, laws and programmes; a growth of temporary programmes and two-step migration policies; and the dominance of economic discourses and rationales when it comes to immigration management.

If we are to recognize paradigmatic settler societies as "crucible[s] of our regulatory frameworks and of our immigration typologies" (Dauvergne, 2016: 4), it is crucial to be as exhaustive as possible in our description of legal, political and institutional developments. In that regard, one trend is surprisingly absent from Dauvergne's account of the new politics: the emergence of a plethora of new actors, beyond economic interest holders, in the governance of immigration. In the last two decades, cities, private actors, universities, subnational and regional authorities, transnational governments and corporations have become increasingly involved in novel ways when it comes to immigration policymaking and implementation (e.g. Guiraudon and Lahav, 2000; Geiger and Pécoud, 2013; Boucher and Cerna, 2014; McCollum and Packwood, 2017).

Building on these trends, the focus of this article is on a central feature of the three quintessential settler states – federalism – and the presence of subnational states that are sovereign within their own federal architecture. In relation to subnational policy developments in the last 25 years, this article asks two questions: 1) are subnational governments affected by the new politics of immigration and, if so, how?; and 2) are the patterns of immigration politics and policy described by Dauvergne reproduced at the subnational scale in Canada, Australia and the United States? To answer these questions, this article mobilizes Hollifield's concept of the "immigration state" and Keating's three-tiered analysis of rescaling, as well as published research on immigration and federalism in Canada, Australia and the United States.<sup>1</sup> The goals of this article are to identify broad policy trends, to flesh conceptual tools to further analyse contemporary subnational immigration politics and to identify implications the role of federated units in immigration governance. It aims at furthering Dauvergne's work, as opposed to presenting a systematic review of the evidence on the topic or at exhaustively documenting the policies of all Canadian provinces and of all Australian or U.S. cases.<sup>2</sup>

Considering whether subnational government is affected by the trends described by Dauvergne, this article demonstrates that the new politics of immigration generate incentives that support the rescaling of some portion of immigration politics and policymaking towards Canadian provinces as well as Australian and American states. These incentives, it is argued, mesh and interact with other forces that have allowed or forced subnational governments to become more involved in immigration in the past 25 years. As a result, I show that under the new politics, subnational governments in these three federations complete their emergence as "migration states" (Hollifield, 2004): they see immigration regulation, broadly conceived, as being something that is essential to their governing functions. As such, this article proposes that federated units are important and distinct actors in the new politics of immigration.

This common movement, however, is variegated in its consequences. In response to the second question, this article argues that in these three countries, subnational governments reproduce some

of the characteristics of Dauvergne's new politics but also veer away from the trends operating at the national scale. This is visible in the three dimensions of rescaling identified by Keating: functions, institutions and politics. In particular, two ideal-type subnational policy responses typical of the new politics of immigration are identified: 1) the "economic subnational migration state," a model with low politicization dominated by economic discourses surrounding immigration (Canada and Australia) and 2) the "access subnational migration state," a highly politicized model centrally concerned with issues of social, political and physical boundaries (United States). Embedded within each country's institutional framework and national immigration policy regimes, these responses are indications of the diversity of forms the new politics of immigration can take.

This article is divided into three sections. First, the conceptual tools central to the analysis – the process of rescaling, Keating's three-tiered model and Hollifield's concept of the "migration state" – will be introduced. The next section will explore the incentives created by the new politics for a further rescaling of immigration policy and politics in Canada, Australia and the United States. The last section of the article describes the general characteristics of the two models supported by the new politics: the "economic subnational migration state" and the "access subnational migration state."

## RESCALING AND THE NEW SUBNATIONAL MIGRATION STATES

Since the 1990s, Canada, Australia and the United States have all seen subnational units emerge as both institutional venues and political agents within their respective national immigration regimes (Hugo, 2008; Monogan, 2013; Akbari and MacDonald, 2014). To be sure, immigration has always had multiscalar consequences in those federations but, after the Second World War, most subnational governments disengaged from direct immigration policymaking (e.g. Jupp, 2002; Barker, 2015; Law, 2015; Suro, 2015). The results of this renewed attention and activity have been different from country to country and from subnational unit to subnational unit. U.S. states' actions have often focused on exclusionary policies but also on policies to ensure the inclusion of undocumented immigrants, whereas Australian and Canadian states have tended to get involved as a way to gain powers to select and welcome immigrants directly.

The growing importance of subnational governments in immigration governance has been analysed idiosyncratically and as individual case studies in political science using concepts such as privatization or multilevel governance (e.g. Hepburn and Zapata-Barrero, 2014; Caponio and Jones-Correa, 2018). While these concepts are useful, there is something particular about subnational governments in federations that demands a distinctive analysis. As opposed to private actors, NGOs or even government departments, subnational units exist as semi-sovereign governments within the state. Their boundaries and authority have a legal basis. They elect representative governments by means of democratic elections, provide basic services to citizens and are generally accountable to their population. As with national governments, they are concerned with maintaining a considerable degree of legitimacy and with demonstrating their relevance in relation to other orders of governments. These particularities are lost if we analyse the rise of these governments on the same plane as the involvement of private actors or even cities in the management of contemporary immigration.

To account for the specificities of subnational units, this article mobilizes the concept of rescaling, which "refers to the migration of functional systems, identities, and institutions to new levels" of governments or to new scales of governance (Keating, 2013: 22). Rescaling is a reorganization of the state that might involve the creation of new institutions, the revitalization of existing state public administrations or the repurposing of already active structures. Rescaling processes are usually explained by economic factors and are also supported by political processes (e.g. regionalism) and political decisions (e.g. regional integration) that focus directly or indirectly on scale. Perhaps more importantly, rescaling has political consequences. These include the reorganization of political

actors and political forces, the establishment of new political venues and the contestation of political images or discourses (Hepburn and Zapata-Barrero, 2014).

When it comes to immigration, rescaling is occurring in settler states (Varsanyi, 2008). Subnational units, regions and cities are active in the management, governance and regulation of immigration. This rescaling has been presented as the result of legal and political changes stemming from neoliberalization processes (e.g. Varsanyi, 2011). These include the dismantling of the post-war welfare state in favour of a privatized and punitive set of social policies. As part of this change, delivery of social services has also been decentralized towards states and provinces, often with limited financial transfers and an even more limited set of conditions for the implementation of welfare provisions (Varsanyi et al., 2012; Paquet, 2019). Rescaling has also been described as going hand in hand with the growing criminalization of immigrants (Coleman, 2012; Provine et al., 2012). In the United States, it has also been reinforced by the devolution of some immigration policing powers to the states, which has encouraged the further linkage of immigration and crime. In Canada, this process has operated in relation to the overall evolution of national economic policies and with changes to national skilled immigration programmes (Paquet, 2017).

As a result of rescaling, subnational governments in Canada, Australia and the United States establish themselves as subnational “migration states.” For migration states, the “[...] regulation of international migration [becomes] as important as providing for the security of the state and the economic well-being of the citizenry” (Hollifield, 2004: 885). The concept of “migration state” is used here to express the growing importance of immigration as a domain of subnational state intervention. Immigration becomes a sector through which to demonstrate subnational state capacity and as a source of political legitimacy. The emergence of subnational migration state is indicated by the growth in policy outputs and the increased visibility of subnational interventions in this policy area.

Because they develop into migration states, subnational governments are not simply engaging with a new policy area by default, for example because of decentralizing decisions (Paquet, 2014). Through rescaling, subnational governments include immigration as a new policy area through which contemporary state-building operates (Linz, 1993). Subnational migration states focus on establishing institutions, managing human resources and, more broadly, justifying their existence through governance actions that have to do with immigration. These activities can result in increased conflicts between levels of government as well as in a diversification of place-specific policies and rights bundles for immigrants. While these outcomes are often described as “immigration federalism” or described as a “federalization” of immigration governance, rescaling and the concept of subnational migration states allow for a consideration of the forces specifically affecting subnational governments under the new politics.

## RESCALING UNDER THE NEW POLITICS

In Canada, Australia and the United States, immigration rescaling has been unfolding since the early 1990s, but it is reinforced by the new politics of immigration. The new politics includes decisions about where to focus the attention, resources and capacities of central governments in federations. Issues of security, for example, are increasingly the object of national governments’ attention. These shifting concerns reorganize the space available for interventions by other scales of governments and intensify economic or societal pressures for subnational state intervention. In particular, three of the trends described by Dauvergne create new incentives for subnational activity in immigration:

- (a) the increased legalization of immigration,
- (b) the disappearance of permanent settlement and
- (c) the dominance of discourses about the economy.

These incentives operate on subnational governments simultaneously and in conjunction with existing rescaling forces – neoliberalization, the criminalization of immigration as well as regionalism (Wells, 2004).

### **Legalization**

The increased use of legal instruments and logic in the governance of immigration operates first and foremost at the national scale in Canada and Australia, but is also highly visible in U.S. states. National attempts – successful or not – to reform the legal architecture of immigration management and to respond to affiliated concerns of sovereignty and security have impacted the context in which subnational governments think and act in immigration. New versions or amendments of immigration acts have created mechanisms for legal subnational government involvement in immigrant selection. The creation of the Canadian Provincial Nominee Program is the paramount example of this (Lewis, 2010). Created through regulations in 1998, this programme has been included in the revision of the Canadian Immigration and Refugee Protection Act (IRPA). The programme allows provinces to directly select a portion of the skilled migrants planning on residing in their jurisdictions (Pandey and Townsend, 2011). In Australia, state-specific visas and other initiatives have carved pathways for legal involvement of subnational governments in immigrant selection since the mid-1990s (Hugo, 2008). New national laws associated with immigration have also enabled subnational governments to increase their role in immigration enforcement. Following the establishment of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), U.S. states have been enabled to enter into collaboration agreements with the federal government when it comes to the detention and arrest of immigrants (Creek and Yoder, 2012). The REAL ID act has also provided states with the capacity to check on immigrants' presence and identity within their territory (Bradley et al., 2017).

Legalization thus enables subnational governments to be immigration actors or intensifies their capacity to act. It contributes to a political, functional and institutional rescaling of immigration politics. Legal contestations clarify and make more salient the existence of the subnational migration state. In a context of immigration reform paralysis – as in the United States – legalization increases pressures on subnational states to act as pressure valves or as policy innovators. The subnational migration state is then capable of experimenting with interventions that mitigate (e.g. sanctuary policies) or reinforce (e.g. immigrant detention) dimensions of the new politics of immigration.

### **The loss of settlement**

The disappearance of the strong relationship between national identity and immigration also creates incentives for the establishment of the subnational migration state. At the level of identity and politics, this loss has the direct consequence of rendering a robust subnational role in immigration tolerable for national political actors and governments. As long as immigration was closely related to the construction and performance of national identity, the rescaling of some of the state functions was analysed through the lens of competitive nation-building. Nowhere was this more evident than in Canada, where Quebec's early involvement with immigration was perceived as a threat to the development of a pan-Canadian immigration system, with similar integration services provided by the national government throughout the country (Paquet, 2019). In recent years, the involvement of provincial governments in immigrant selection and integration has not created the same type of intense tensions in Canada. Generally, then, the loss of settlement relaxes the necessity of presenting immigration as the sole responsibility of the national or central state in the three federations. As Washington, Ottawa and Canberra become increasingly focused on the link between security and immigration, space is freed from the subnational migration state.

In Canada and Australia, this space is reinforced by the growing importance of temporary and two-step migration programmes. The growth of temporary visas number and programmes is now coupled with pathways to permanence in Canada, including provincial selection to the provincial nominee programme (Lenard and Straehle, 2012). A similar pattern is at play in Australia, where foreign students contribute tremendously to national skilled migration numbers (Hawthorne and To, 2014) and where states can nominate immigration candidates for permanent and temporary visas. Because the provincial and state governments are in a position to participate directly and indirectly in the management of these programmes, they increasingly act a transmission belt between the local immigration stakeholders and national departments of immigration or labour force. As the number of temporary migrants rises in provincial and state labour markets, the function of subnational governments becomes recognized by economic actors and employers. New institutions are developed to provide subnational economic elites with information and support to participate in temporary immigration programmes (Paquet, 2014). In the U.S., as states become able to affect employers' capacity to access the labour of unauthorized migrants through restrictive or accommodating policies, administrations and institutions might become the target of attention of employers and anti-immigration political forces (Commins and Wills, 2017).

### **The domination of economic discourse**

For Dauvergne, a central characteristic of the new politics is the strength of economic discourses and logics. The end of the nation-building phase of immigration governance has meant that there is an "increased policy focus on tying migration more closely, more effectively, more nimbly, to increasingly anachronistic national economies." (Dauvergne, 2016: 180). This trend applies perhaps even more to subnational states, as the management of the economy of their territory is a foundational function of these governments. The fact that subnational economies are diverse in these federations reinforces the importance of states and provinces developing place-specific strategies to ensure survival and development.

The dominance of economic discourses makes it possible for subnational immigration states to enter into the global competition for skilled and talented immigrants (Schech, 2012). In doing so, they rival nation-states and increasingly work to present themselves as particularly hospitable locales in which to do business and work. This positioning is also operating internally; a focus on immigration as a contributor to the economy is another way subnational states can present themselves as responding to the challenges created by globalization. Interestingly, the dominance of economic discourse is also used in the process of developing exclusionary policies. In some U.S. states, the potential economic consequences of irregular migrants are used to reinforce anti-immigrant rhetoric and to support the passage of restrictive policies. This is reinforced by federal welfare laws, e.g. the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which allows state to decide on the admissibility criteria of social programmes implemented at the subnational level (Hero and Preuhs, 2007). Similarly, states increasingly voice their concerns about not only the social but also the economic consequences of national anti-immigration policies (Villazor and Gulasekaram, 2018). Despite having different consequences, these strategies must also be considered a way for subnational elites to present themselves as working to mitigate the impact of a changing economy on their territory.

## **THE SUBNATIONAL POLITICS OF IMMIGRATION**

The new incentives for substate immigration involvement generated by the new politics open the door to an important question: are the patterns described by Dauvergne reproduced by states and provinces? To answer this question, this article considers published evidence using Keating's three-tiered analysis of rescaling (Keating, 2013, 2017). Comparing instances of region-building in Europe,

Keating differentiated between the functional, institutional and political embodiments of rescaling. The *functional dimension* captures how subnational states represent the reason for their interventions in immigration and the associated movements of state functions from the national state towards new scales of governance. The *institutional dimension* describes the establishment (or penetration) of venues and the use of different institutional resources, at the subnational scale, to achieve policy objectives. The *political dimension* represents the pattern of mobilization of political actors (entrepreneurs, interest groups, partisan coalitions) at the subnational level and, potentially, its relation to the rescaling of parts of the national politics of immigration at the state or provincial levels.

Using these three dimensions, it becomes possible to differentiate between two ideal-typical modes of subnational engagement under the new politics. As Table 1 summarizes, the United States stands alone, with highly visible politics surrounding issues of access. Canadian and Australian states, on the other hand, cluster in an inconspicuous politics dominated by economic discourses. While this is beyond the scope of this article, it is important to note that the access and the economic migration subnational states can both generate inclusive and exclusive policy outputs and outcomes. The two modes of politics emerging from these subnational migration states are both reflective of and divergent from the patterns described by Dauvergne.

This typology does not capture the rich divergence in terms of functions, institutions and politics between subnational units within each country and each type. Subnational economic migration states, for example, vary tremendously in the orientation of their recruitment strategies and when it comes to the discourses used to justify their actions (Cameron, 2011; Paquet, 2019). Moreover, when considering these types, it is crucial to keep in mind that counter discourses and political dynamics also operate in each of those subnational units. In U.S states, discourses and partisan coalitions linking immigration with economic growth do exist and policies that could be associated with economic migration states are sometimes implemented (Thangasamy, 2015; Reich, 2018). For example, Ohio's Global Reach to Engage Talent (GREAT) aims at retaining international students as a way to respond to local labour market needs (Pottie-Sherman, 2018). Despite these differences, these two types represent the most common subnational state responses to the new politics of immigration.

## THE ECONOMIC SUBNATIONAL MIGRATION STATE

### Functions

In Canada and Australia, the function of the subnational migration state is labour market management. Immigration policies in provinces and states are centrally concentrated on the attraction of

TABLE 1  
TWO TYPES OF SUBNATIONAL NEW POLITICS OF IMMIGRATION

	Economic Migration State Canada and Australia	Access Migration State United States
Functions	Labour market management and economic development	Provide or limit access (territory, labour market, welfare state)
Institutions	Executive and public administration Dedicated bureaucracies	Executive, legislative, elections and citizens Existing non-dedicated bureaucracies
Politics	Regulations and programmes Non-partisan and consensual Economic interest groups Administrative entrepreneurs	Legislation Partisan and non-consensual Immigration interest groups Political entrepreneurs

skilled migrants and their appropriate selection (Paquet, 2017). While some of these functions are accomplished through collaboration with the national governments, most of the immigration work of these subnational units is carried out using explicit immigration selection schemes, such as the provincial nominee programme or state-specific visas. In relation to this, states and provinces also act as access facilitators for immigrants when it comes to their inclusion in the subnational labour market and, as a consequence, their retention. With the exception of Quebec, which provides a full continuum of integration services (e.g. language and social integration), these subnational migration states steer away from immigrant integration policies, beyond targeted labour market access programmes. These programmes include skill and credential recognition, bridging internships and general employment support (Hawthorne, 2012; Paquet, 2019). These functions are remarkably similar across the subnational units of these two countries, despite idiosyncratic divergences on particular selection criteria reflecting the peculiarities of local labour markets.

In the two countries, these interventions mark an attempt at recasting the subnational government as one of the units responsible for the maintenance of a strong relationship between the economy and immigration. Subnational migration states are developing into the manager of mechanisms supporting the mobility of specific classes of migrants (skilled and semi-skilled migrants; temporary workers) and their inclusion into the economy. These actions are presented as necessary for the subnational economy; discourses about labour shortages, population decrease and the positive contribution of foreign investment are paired with immigration programmes (Schech, 2012; Paquet, 2019). For example, in the state of South Australia, state nominated skilled migrants are represented as “highly qualified and [...] expected to compete for work with other potential candidates” (South Australia, 2017). These policies contribute to, and are affected by, larger processes of economic rescaling which have linked economies to broader market forces in the last 50 years. The functions of immigrant selection correspond to a classical understanding of the migration state, where regulation aims primarily at ensuring the conditions for capital accumulation for both migrants and non-immigrants (Hollifield, 2004). These actions are generally presented as being complementary to national immigration programmes, by providing input into subnational economic conditions. It is important to note, however, that immigrant settlement supports, asylum policy, family reunification are all actively presented as the exclusive functions of the national government (Hawthorne, 2012; Baglay and Nakache, 2013).

### **Institutions**

To achieve these functions, Canadian and Australian subnational states have created departments and units that are explicitly responsible for immigration (Paquet, 2017; Jenson and Paquet, 2019). The province of Saskatchewan, for example, manages its immigration activities through the Department of Immigration and Career Training (Government of Saskatchewan, 2018). Either as stand-alone venues or as divisions in departments responsible for economic development or labour market management, these bureaucracies are responsible for the implementation of the provincial nominee programme and of state-specific visas. They also make great use of new information policy instruments, such as websites, to attract and support skilled migrants.

These subnational units rarely use courts to challenge national immigration policies and laws are seldom used to pursue immigration-related functions. When it comes to national policies, conflict and cooperation between governments is managed through formal and informal intergovernmental forums (e.g. First minister’s conferences and ad hoc working groups, Schertzer, 2015). Within provinces and states, regulations, executive decisions and administrative discretion are generally central to subnational immigration actions. This applies not only to programme implementation but also to policy design.



## Politics

The new subnational politics of immigration in Canada and Australia are not hidden but do not attract tremendous attention. They are dominated by economic discourses, which renders them very consensual, and even more so as time passes (Paquet, 2019). After being absent from elections, immigration interventions are generally discussed in most political parties' platforms and presented as part of a strategy for economic growth of the subnational unit. Across parties, these discussions tend to resemble each other and only in rare cases are issues of immigration the object of conflict during subnational elections.

This landscape opens the door to two central patterns of politics: economic interest groups influence and administrative entrepreneurship. In addition to institutional features, these two patterns are supported by the partisan consensus around these issues, which limit the influence of public and majoritarian conflicts around immigration in elections and in legislative assemblies (Paquet, 2019: 23-28). Instead, subnational migration states are engaged in intense relationships with economic actors (employers, professional associations, industry representatives) who lobby them regarding the implementation of their immigrant selection programmes. These lobbying efforts simultaneously target elected officials and the units responsible for immigration. They focus on programmatic changes to subnational immigration policies (selection criteria, occupation lists, language requirements) but also on demanding that the state or the province convince the national government to change its policies.

Within governments, the politics is also characterized by the influence of administrative entrepreneurs who work to expand and modify policies and programmes (Paquet, 2014). These actors emphasize the issue of immigration inside closed venues, such as in bureaucracies and executive committees. They also work to influence the reach of subnational efforts in immigration, thereby pursuing strategies to increase the size and powers of their administration. This pattern of politics favours the use of discretion and reliance on regulations, as opposed to laws. It contributes to rapid policy and programme changes while reinforcing patterns of executive dominance and lack of transparency in immigration policymaking.

In Canada and Australia, the subnational new politics of immigration are dominated by economic discourses and rationales. Subnational migration states conform to several of the characteristics identified by Dauvergne: rapid policy change, competition for skilled migration and partisan alignments. Economic immigration policymaking becomes normal politics and, while visible, it does not generate high levels of conflict amongst political actors. When it comes to the loss of settlement, provinces and states depart somewhat from the new politics. While supporting and encouraging the growth of temporary migration programmes, subnational migration states also strive to make themselves into spaces of permanent establishment for desired migrants. This is reinforced, in some Canadian provinces and Australian states, with discourses linking immigration and population renewal (Hugo, 2008; Paquet, 2014, 2017).

## THE ACCESS MIGRATION STATE

### Function

In the United States, the functions of subnational migration states are related to providing access to entitlement, to state services and, to a certain extent, to rights (Boushey and Luedtke, 2011; Newton, 2012). As a result of these policies, U.S. states can indirectly provide or limit access to their territory by making it easier or harder to settle and to live in their state. As described by Reich (2018), these functions are supported by either restrictive or accommodating policies. Restrictive

policies entail increased collaboration with the U.S Immigration and Custom Enforcement agency (ICE) and mandatory immigration checks when individuals enter into contact with the state. These policies also encompass initiatives that limit the entitlement and access to social services for non-regularized state residents or limits on state health-care spending, which is used by states to complement federal services. State restrictions also have to do with limiting access to the state labour market by enforcing the use of the E-Verify system within the state for both private and public sectors hiring. Restrictive actions also include the numerous ways some states collaborate with federal authorities when it comes to immigration and border enforcement (Varsanyi, 2010; Reich and Barth, 2012; Wong, 2012; Marquez and Schraufnagel, 2013). On the other hand, accommodating policies include multiple forms of enforcement non-cooperation and the extension of public benefits to unauthorized or irregular migrants residing in the state (Gulasekaram and Ramakrishnan, 2015; Newton, 2018; Reich, 2018). Eighteen states, including Florida, Nebraska and Minnesota provide special educational financial aid and particular tuition fees for undocumented students (National Conference of State Legislatures, 2019). They also implement specific health care programmes for this population and sometimes lift residence requirements to allow for access to health and social state programmes. Moreover, IDs and driver's licences are being issued by some states (e.g. Enriquez et al., 2019).

For the last 25 years, restrictive and accommodating policies have been implemented in multiple ways across U.S. states. Despite qualitative and quantitative differences, these interventions all signal efforts by the subnational government to remain in control of its social, political, economic and territorial boundaries. This control may be physical, social or symbolic. U.S. subnational migration states make it either easier or harder for a large portion of immigrants to reside openly in the state. Significantly, this role is generally presented by states as a reaction to the failure of national immigration policy (e.g. Spiro, 1997). Restrictive policies, on the other hand, are framed as necessary because of the absence of a comprehensive immigration reform or because of the breakdown in enforcement by successive U.S. federal governments. Becoming states that regulate immigrant access to services, entitlement and, indirectly, residence allows subnational governments to respond to the perceived or actual consequences of immigration on their territory and to contests federal actions (Newton, 2015).

### **Institutions**

In the pursuit of these functions, U.S. states mobilize several existing venues and institutions. Evidence of a rescaling of immigration politics can be seen in state legislatures becoming institutions where immigration policies are debated and established. Restrictive and accommodating policies become items on the agenda of state elections, both when it comes to the selection of legislators and other state officials (e.g.: State Attorney) but also when it comes to instances of direct citizen participation. In most cases, the central policy instruments used by migration states are legal: ordinances, laws, decrees and regulations (Filindra and Kovács, 2012; National Conference of State Legislatures, 2017). State activism in relation to national policies is also playing out in a significant way in courts of justice (Schuck, 2007; Newton, 2015; Suro, 2015).

The implementation of subnational immigration policies in the United States relies on existing institutions. While in some cases, such as New York or Michigan, states have created offices dedicated to immigrants,<sup>3</sup> they also often assign new functions to universities, departments of education or social services and cities. Police-related institutions, especially, are provided with new roles, as state governments begin to consider that immigration is something that they should act on.

### **Politics**

The new subnational politics of immigration in the United States is highly politicized, visible and contentious. Mobilization mostly occurs around issues of crime and illegality, danger, lack of

control and failure of national policy (Marquez and Schraufnagel, 2013; Ybarra et al., 2016). Immigration regulations are mentioned in party platforms and most political candidates are expected to take a stance on immigration. Access for immigrants is debated in state elections and these debates reverberate in the legislature, keeping the issue on the agenda for long periods of time. Legal contests and conflicts between states and the national government also contribute to maintaining high levels of attention towards immigration and the need to for states to act in this policy area.

Comparative studies and work on individual states point to the highly partisan nature of their politics of immigration (Zingher, 2014; Ybarra et al., 2016). In individual states, restrictive policies are associated with conservative candidates and with the domination of the Republican party in state legislatures. The opposite pattern emerges for accommodating policies: they are generally enacted in states with majorities of Democratic legislators (Reich, 2018; : 2601). At the same time, partisan cleavages are reinforced by the specific circumstances of each state, such as its proportion of immigrant population, its geographic location and its economic context (Monogan, 2013).

This politics is also characterized by two interrelated factors: the influence of political entrepreneurs and considerable policy diffusion. When it comes to restrictive policies, specific individuals in the United States who are either running for office or who are public personalities (e.g.: media personalities, activists, lawyers) work to frame immigration as the most pressing and significant problem facing any given U.S. state. They do so by appealing to the media, voters and interest groups, especially by criticizing the inaction of state governments regarding the threats associated with immigration. Inclusive access policies were also the result of the entrepreneurship of pro-integration social movements and organizations, who were able to capitalize on the changing political landscape at the subnational and national scale (Gulasekaram and Ramakrishnan, 2015). The efforts of most of these entrepreneurs remain supported by partisan organizations and interest groups which operate at the national level, so entrepreneurship is associated not only with bringing immigration to the agenda but also to the diffusion of laws and policy initiatives across states (Newton, 2012; Gulasekaram and Ramakrishnan, 2015).

In the U.S., the subnational new politics of immigration is dominated by legalization and highly visible partisan conflicts. The subnational access migration state corresponds to several expectations laid out by Dauvergne: rapid policy changes, criminalization, mean-spiritedness and competition. At the same time, the focus state access functions generate instances of a politics accommodation that differs from Dauvergne's account. These policies signal that a new form of society-making through immigration is occurring at the subnational scale. While restrictive actions and nativist politics aim at society-making through the exclusion of immigrants, accommodating policies tell another story. In those rare cases, a potential new form of belonging might be emerging (Colbern and Ramakrishnan, 2018).

## CONCLUSION

Through legalization, the loss of settlement and the domination of economic discourses, the new politics of immigration contributes to the rescaling of state functions, institutions and politics in federations that were former settler states. The trends described by Dauvergne support the consolidation of subnational units as new "migration states". Canadian provinces as well as Australian and American states now consider immigration an important area of government intervention and they increasingly become political, social, economic and legal venues of immigration politics.

Two types of subnational state responses arise from the changes described by Dauvergne: a model deeply concerned with economics and a model centrally focused on access. This subnational politics of immigration operates beyond a pro-immigrant versus anti-immigrant axis. Indeed, in line with Dauvergne's argument, the economic and the access subnational migration state can both

produce inclusive or exclusive policies. In each subnational unit, these types are deeply affected by contextual dynamics (demographic, social, economic and political) as well as by national policy trajectories. This article shows that the new politics opens new spaces for subnational intervention while also generating new constraints on states that are active in immigration. As such, Dauvergne's account complements case-specific analysis of subnational immigration policy and country-specific explanations of patterns of immigration federalism, by showing how global changes in immigration politics has scalar consequences.

In the face of the global hardening of immigration politics and of particular national immigration policy stalemates, these findings remind us that subnational governments in federations – and not just cities – are venues for different politics and for policy innovation. Their potential, however, can only be further harnessed by taking seriously these subnational actors in international and national policy debates. Provinces, states and other federated units make particular calls for sovereignty and representation within federations, they have different capacities to directly and indirectly affect immigrants and experience forms of politics that are qualitatively distinct. Thus, the first policy implication of this article is that any national policy reforms and every international efforts at global migration governance must include federations' subnational governments as core partners. This partnership must go further than their inclusion in the growing list of the multiple stakeholders involved in immigration (e.g. cities, universities, employers, NGOs). Failure to involve these governments substantially will increase risks that they continue to bear the brunt of the unintended effects of immigration, which could reinforce intergovernmental conflicts and effectively represent barriers to immigration policy reforms. At the scale of individual federations, partnership could be achieved by the establishment of novel intergovernmental collaborations on immigration selection, the scaling up of subnational innovations and the consolidation of proper financial compensations for direct and indirect subnational intervention in immigrant integration. At the international scale, this could also be done by the reinforcement and the establishment of international exchanges and collaboration between states and provinces of different federations and semi-federations, as a complement to the multiple city networks on immigration, integration and interculturalism. These efforts would ensure that policy reforms are sensitive to scalar dynamics and would also facilitate the diffusion of subnational policy innovations within, across and beyond federations.

## ACKNOWLEDGEMENTS

The author wishes to thank the reviewers for the feedback on the manuscript as well as all of the participants to the Symposium on the New Politics of Immigration, held at Concordia University in June 2018. This research was supported by the Fonds de Recherche du Québec – Société et Culture (FRQSC) and the Social Science and Humanities Research Council of Canada (SSHRC).

## NOTES

1. The relevant approach is quoted in parentheses throughout the text and is included in the References. This approach is by no means exhaustive, cannot account for the rich specificities of all the subnational units concerned (territories are excluded from the analysis) and provides no information on the immigrant integration outcomes associated with these subnational state interventions.
2. This is nonetheless important since the literature on immigration and federalism tends to be country-specific, with an overarching focus on the United States. As most cross-country systematic comparisons of immigration policies and politics occur at the national level (Boucher and Gest, 2018), subnational cross-country comparisons remain limited. In addition, outside of the case of the U.S., within-country comparisons of different subnational policy approaches or of specific policy instruments are rare (Adam, 2018).

A cross-country conceptualization of subnational policy responses thus provides the seed for a new type of comparison across these three divergent yet comparable federations.

3. While some states have innovated on this matter, the creation of offices of immigration and other immigrant-specific departments tend to occur more at the municipal level (De Graauw, 2016).

## REFERENCES

- Adam, I.  
2018 “Immigration and sub-state nations: Researching the nexus”, in K. Detterbeck and E. Hepburn (Eds.), *Handbook of Territorial Politics*. Cheltenham, Edward Elgar: 261–274.
- Akbari, A. and M. MacDonald  
2014 “Immigration policy in Australia, Canada, New Zealand, and the United States: An overview of recent trends”, *International Migration Review*, 48(3): 801–822.
- Baglay, S. and D. Nakache  
2013 “The implications of immigration federalism for non-citizens’ rights and immigration opportunities: Canada and Australia compared”, *American Review of Canadian Studies*, 43(3): 334–357.
- Barker, F.  
2015 *Nationalism, IDENTITY and the Governance of Diversity*. Palgrave Macmillan, New York.
- Boucher, A. and L. Cerna  
2014 “Current policy trends in skilled immigration policy”, *International Migration*, 52(3): 21–25.
- Boucher, A. and J. Gest  
2018 *Crossroads: Comparative Immigration Regimes in a World of Demographic Change*. Cambridge University Press, New York.
- Boushey, G. and A. Luedtke  
2011 “Immigrants across the US Federal laboratory”, *State Politics & Policy Quarterly*, 11(4): 390–414.
- Bradley, F., W.D. Schreckhise and D.E. Chand  
2017 “Explaining states’ responses to the real id Act: The role of resources, political environment, and implementor attitudes in complying with a federal mandate”, *Journal of the Knowledge Economy*, 8(3): 877–897.
- Cameron, R.  
2011 “Responding to Australia’s regional skill shortages through regional skilled migration”, *Journal of Economic and Social Policy*, 14(3): 4.
- Caponio, T. and M. Jones-Correa  
2018 “Theorising migration policy in multilevel states: The multilevel governance perspective”, *Journal of ethnic and migration studies*, 44(12): 1995–2010.
- Colbern, A. and S.K. Ramakrishnan  
2018 “Citizens of California: How the golden state went from worst to first on immigrant rights”, *New Political Science*, 40(2): 353–367.
- Coleman, M.  
2012 “The “local” migration state: The site-specific devolution of immigration enforcement in the US South”, *Law & Policy*, 34(2): 159–190.
- Commins, M.M. and J.B. Wills  
2017 “Reappraising and extending the predictors of states’ immigrant policies: Industry influences and the moderating effect of political ideology”, *Social Science Quarterly*, 98(1): 212–229.
- Creek, H.M. and S. Yoder  
2012 “With a little help from our feds: Understanding state immigration enforcement policy adoption in American federalism”, *Policy Studies Journal*, 40(4): 674–697.
- Dauvergne, C.  
2016 *The New Politics of Immigration and the End of Settler Societies*. Cambridge University Press, New York.
- De Graauw, E.  
2016 *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco*. Cornell University Press, Ithaca, NY.

- Enriquez, L.E., D.V. Vera and S.K. Ramakrishnan  
2019 "Driver's licenses for all? Racialized illegality and the implementation of progressive immigration policy in California", *Law & Policy*, 41(1): 34–58.
- Filindra, A. and M. Kovács  
2012 "Analysing US state legislative resolutions on immigrants and immigration: The role of immigration federalism", *International Migration*, 50(4): 33–50.
- Geiger, M. and A. Pécoud (Eds.)  
2013 *Disciplining the Transnational Mobility of People*. Palgrave Macmillan, London.
- Government of Saskatchewan  
2018 "Immigration and Career Training". Accessed July 10, 2019. <https://www.saskatchewan.ca/government/government-structure/ministries/immigration-and-career-training>
- Guiraudon, V. and G. Lahav  
2000 "A reappraisal of the state sovereignty debate: The case of migration control", *Comparative political studies*, 33(2): 163–195.
- Gulasekaram, P. and S.K. Ramakrishnan  
2015 *The New Immigration Federalism*. Cambridge University Press, Cambridge.
- Hawthorne, L.  
2012 "Australia", in C. Joppke and L. Seidle (Eds.), *Immigrant Integration in Federal Countries*. McGill-Queen's University Press, Montreal and Kingston: 22–56.
- Hawthorne, L. and A. To  
2014 "Australian employer response to the study-migration pathway: The quantitative evidence 2007–2011", *International Migration*, 52(3): 99–115.
- Hepburn, E. and R. Zapata-Barrero (Eds.)  
2014 *The Politics of Immigration in Multi-Level States: Governance and Political Parties*. Palgrave, New York.
- Hero, R.E. and R.R. Preuhs  
2007 "Immigration and the evolving American welfare state: Examining policies in the US states", *American Journal of Political Science*, 51(3): 498–517.
- Hollifield, J.F.  
2004 "The emerging migration state", *International Migration Review*, 38(3): 885–912.
- Hugo, G.  
2008 "Australia's state-specific and regional migration scheme: An assessment of its impacts in South Australia", *Journal of International Migration and Integration*, 9(2): 125–145.
- Jenson, J. and M. Paquet  
2019 "Canada's changing citizenship regime through the lens of immigration and integration", *Federalism and the Welfare State in a Multicultural World*, 198: 175.
- Jupp, J.  
2002 *From White Australia to Woomera: The Story of Australian Immigration*. Cambridge University Press, New York.
- Keating, M.  
2013 *Rescaling the European State: The Making of Territory and the Rise of the Meso*. Cambridge University Press, New York.
- 2017 "Contesting European regions", *Regional Studies*, 51(1): 9–18.
- Law, A.O.  
2015 "The historical amnesia of contemporary immigration federalism debates", *Polity*, 47(3): 302–319.
- Lenard, P. and C. Straehle (Eds.)  
2012 *Legislated Inequality: Temporary Labour Migration in Canada*. McGill-Queen's University Press, Montreal.
- Lewis, N.M.  
2010 "A decade later: Assessing successes and challenges in Manitoba's provincial immigrant nominee program", *Canadian Public Policy*, 36(2): 241–264.
- Linz, J.J.  
1993 "State building and nation building", *European Review*, 1(4): 355–369.

- Marquez, T. and S. Schraufnagel  
2013 "Hispanic population growth and state immigration policy: An analysis of restriction (2008–12)", *Publius*, 43(4): 347–367.
- McCollum, D. and H. Packwood  
2017 "Rescaling migration studies: Migration policy-making and implementation at the local government level", *Scottish Geographical Journal*, 133(3–4): 155–171.
- Monogan, J.E.  
2013 "The politics of immigrant policy in the 50 US states, 2005–2011", *Journal of Public Policy*, 33(1): 35–64.
- National Conference of State Legislatures  
2017 "Report on 2017 State Immigration Laws: January–June", Accessed June 10, 2018. <http://www.ncsl.org/research/immigration/report-on-2017-state-immigration-laws-january-june.aspx>.
- 2019 "Undocumented Student Tuition: Overview", Accessed June 12, 2019. <http://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>.
- Newton, L.  
2012 "Policy innovation or vertical integration? A view of immigration federalism from the states", *Law & Policy*, 34(2): 113–137.
- 2015 "Immigration federalism as ideology: Lessons from the States", *Laws*, 4(4): 729–754.
- 2018 "Immigration politics by proxy: state agency in an era of national reluctance", *Journal of Ethnic and Migration Studies*, 44(12): 2086–2105.
- Pandey, M. and J. Townsend  
2011 "Quantifying the effects of the provincial nominee programs", *Canadian Public Policy*, 37(4): 495–512.
- Paquet, M.  
2014 "La construction provinciale comme mécanisme : le cas de l'immigration au Manitoba", *Politique et sociétés*, 33(3): 101–130.
- 2017 "Wicked problem definition and gradual institutional change: Federalism and immigration in Canada and Australia", *Policy and Society Online first*, 1–18.
- 2019 *Province Building and the Federalization of Immigration in Canada*. University of Toronto Press, Toronto.
- Pottie-Sherman, Y.  
2018 "Retaining international students in northeast Ohio: Opportunities and challenges in the 'age of Trump'", *Geoforum*, 96(November 2018): 32–40.
- Provine, D.M., M. Varsanyi, P.G. Lewis, et al.  
2012 *Growing Tensions Between civic Membership and Enforcement in the Devolution of Immigration Control*. Policy, Politics, and Injustice. NYU Press, In Punishing Immigrants: 17–41.
- Reich, G.  
2018 "Hitting a wall? The trump administration meets immigration federalism", *Publius: The Journal of Federalism*, 48(3): 372–395.
- Reich, G., and J. Barth  
2012 "Immigration restriction in the states: Contesting the boundaries of federalism?" *Publius: The Journal of Federalism* 42(3): 422–448.
- Schech, S.  
2012 "Seeing like a region: Parliamentary discourses on asylum seekers and refugees in Scotland and South Australia", *Population, space and place*, 18(1): 58–73.
- Schertzer, R.  
2015 "Intergovernmental relations in Canada's Immigration system: From bilateralism towards multilateral collaboration", *Canadian Journal of Political Science*, 48(2): 383–412.

- Schuck, P.H.  
2007 "Taking immigration federalism seriously", *The University of Chicago Legal Forum*, 2007(4): 57–92.
- Spiro, P.J.  
1997 "Learning to live with immigration federalism", *Connecticut Law Review*, 29: 1627–1646.
- Suro, R.  
2015 "California dreaming: The new dynamism in immigration federalism and opportunities for inclusion on a variegated landscape", *Journal on Migration & Human Security*, 3(1): 1–25.
- Thangasamy, A.  
2015 "Let States nominate immigrants? Reconsidering US Immigrant entry policymaking", *International Migration*, 53(2): 374–385.
- Varsanyi, M.W.  
2008 "Rescaling the "alien", rescaling personhood: Neoliberalism, immigration, and the state", *Annals of the Association of American Geographers*, 98(4): 877–896.
- Varsanyi, M.W. (Ed.)  
2010 *Taking Local Control. Immigration Policy Activism in U.S. Cities and States*. Stanford University Press, Stanford.
- Varsanyi, M.W.  
2011 "Neoliberalism and nativism: Local anti-immigrant policy activism and an emerging politics of scale", *International Journal of Urban and Regional Research*, 35(2): 295–311.
- Varsanyi, M.W., P.G. Lewis, D. Provine, et al.  
2012 "A multilayered jurisdictional patchwork: Immigration federalism in the United States", *Law & Policy*, 34(2): 138–158.
- Villazor, R.C., and P. Gulasekaram  
2018 "The new sanctuary and anti-sanctuary movements", *U.C Davis Law Review*, 52(2018-2019):549–569.
- Wells, M.J.  
2004 "The grassroots reconfiguration of US immigration policy", *International Migration Review*, 38(4): 1308–1347.
- Wong, T.K.  
2012 "287 (g) and the politics of interior immigration control in the United States: Explaining local cooperation with federal immigration authorities", *Journal of ethnic and migration studies*, 38(5): 737–756.
- Ybarra, V.D., L.M. Sanchez and G.R. Sanchez  
2016 "Anti-immigrant anxieties in state policy: The great recession and punitive immigration policy in the American states, 2005–2012", *State Politics & Policy Quarterly*, 16(3): 313–339.
- Zingher, J.N.  
2014 "The ideological and electoral determinants of laws targeting undocumented migrants in the US states", *State Politics & Policy Quarterly*, 14(1): 90–117.