Introduction

Theorizing Local Migration Law and Governance

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A paradox lies at the heart of contemporary scholarship on local authorities and migration. On the one hand, as cities are becoming increasingly involved in the reception and inclusion of migrants, their engagement has also taken on a transnational dimension. When world leaders came together in Marrakesh in 2018 to pass the Global Compact for Safe, Orderly and Regular Migration, mayors from all over the world gathered at a separate event on the same site, launching the Mayors' Migration Council to further develop already existing links between cities and towns.[1] This being only one example of a growing 'transmunicipal solidarity'[2] in this domain, such initiatives have consolidated the status of local authorities as actors with legitimate interests that national policymakers need to take seriously. Many scholars, on the other hand, remain somewhat hesitant to 'zoom out' and employ a global rather than purely local or national lens to theorizing how cities and towns deal with the question of migration. Even the seminal contributions that avoid the lure of 'methodological localism'[3] operate at a relatively high level of abstraction, for instance, by introducing 'horizontal' and 'vertical dimensions' of 'multilevel migration governance'[4] or advocating for a 'multiscalar perspective' that situates the relation of localities to migration in the power structures created by the global economy.[5]

While these conceptual insights have all been valuable, they seem to overlook the fact that expressions of transmunicipal solidarity are fuelled not

[1] Oomen, "Cities, Refugees and Migration", p. 240.
[2] Heimann et al., "Challenging the Nation-State from Within".
[3] Filomeno, *Theories of Local Immigration Policy*, p. 7, and Caponio, Scholten and Zapata-Barrero, *The Routledge Handbook of the Governance of Migration and Diversity in Cities*.
[4] Scholten and Penninx, "The Multilevel Governance of Migration and Integration".
[5] Çağlar and Glick Schiller, *Migrants and City-Making*.

only (or even largely) by organizational rationales or economic calculations but also by a perception that local authorities increasingly face similar challenges in their national contexts. For instance, a rise of populist parties riding the wave of anti-immigrant sentiment can be observed in various places, as can civic[6] and legal mobilization[7] countering these trends. Despite their somewhat different expressions, there are intuitive links between these developments. The 'deportation turn'[8] that was first identified in many Western states in the mid-2000s received further rhetorical tailwind with the success of the Brexit campaign in the United Kingdom and through the actions of Donald Trump as the US president.[9] Controversial measures such as the automatic, public health-reasoned 'Title 42' deportations of asylum seekers have hereby survived the election of President Joseph Biden in 2020.[10] Likewise, the threat of deportation now looms large for populations in the global South, for instance, for Muslims with a precarious legal status in India.[11] The net effect of such trends is not always more expulsions (in fact, comparing the Trump presidency to the Obama presidency, a decrease in such trends could be observed).[12] However, there are often disproportionate effects on specific localities, as seen with the targeted 'immigration raids' in the United States during the Trump era,[13] as well as an activation of local resistance and 'solidarity' movements opposing deportations and immigration detention in Austria, Germany, Switzerland and the United States.[14] In such contexts, municipal and other subnational authorities in different countries find themselves in analogous situations.

The deportation example serves to illustrate another point: confronted with similar challenges, local actors often react in the same manner to

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[6] See, for instance, Rao, "Nationalisms by, against and beyond the Indian State".

[7] Kawar, "Contesting Migration Governance through Legal Mobilization".

[8] Gibney, "Asylum and the Expansion of Deportation in the United Kingdom".

[9] De Orellana and Nicholas Michelsen, "Reactionary Internationalism".

[10] Blitzer, "How Biden Came to Own Trump's Policy at the Border".

[11] Changoiwala, "India's Muslims Are Terrified of Being Deported" and Kumar, "Turning Their Back on the Rohingyas: A Border Control Regime Blind to the Collapse of Burmese 'Democracy'".

[12] Caldwell and Radnofsky, "Why Trump Has Deported Fewer Immigrants than Obama".

[13] For a recent reference on the gendered and raced effects of the local immigration enforcement in the United States, see Simmons, Menjívar and Valdez, "The Gendered Effects of Local Immigration Enforcement: Latinas' Social Isolation in Chicago, Houston, Los Angeles, and Phoenix".

[14] See Rosenberger, Stern and Merhaut, *Protest Movements in Asylum and Deportation* and Kagan, "Toward Universal Deportation Defense", p. 306.

contest national policies, thereby deepening schisms in policy approaches. In Barcelona, for instance, the city council ordered the close-down of the local state–run detention centre, partly due to human rights concerns about detention conditions, invoking local jurisdiction over the use of public buildings.[15] While this initiative eventually failed, it demonstrated Barcelona's willingness to pressure the national government on what is usually perceived as an uncontested national competency. Similar developments can be seen in the United States where 'sanctuary cities' have been resisting the enforcement of federal immigration law dating back at least to the 1980s.[16] Debates about 'immigration federalism'[17] have recently sprung up in India,[18] where several states have pushed back against the central government's intention to implement a National Register of Citizens. Some Indian states have gone as far as challenging the new Citizenship Amendment Act in the Supreme Court.[19] More examples exist of subnational authorities, including local governments, asserting themselves on matters of deportation, the *ultima ratio* of immigration law and the traditional prerogative of national authorities. Commentators have noted that this trend ends up generating 'geographically varied terms that constitute immigrants' daily lives' even within one country, which notably includes 'differing local risks of detention and/or deportation'.[20] And while these reflect a range of shifts in the power dynamics in the political, economic and social realm, they are intimately linked to questions of the law. Conditioning and conditioned by the law, the actions of local authorities in the domain of migration cannot be divorced from the complex domestic and international legal structures in which they are embedded.

1 The Dynamics of Migration Governance and Research

Deportation is, of course, only one of many legal techniques through which immigration is regulated. Departing from the observation of

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[15] Fernández-Bessa, "A Theoretical Typology of Border Activism".

[16] Collingwood and Gonzalez O'Brien, *Sanctuary Cities*.

[17] Ramakrishnan and Gulasekaram, *The New Immigration Federalism*.

[18] Kennedy, "Federalism as a Moderating Force? State-Level Responses to India's New Citizenship Law".

[19] See Mongia's chapter in this volume (Chapter 7).

[20] Goodwin-White, "Today We March, Tomorrow We Vote!". See also Schneider, Segadlo and Leue, "Forty-Eight Shades of Germany".

parallel developments in its local governance in different countries, this volume discusses the role that legal instruments, doctrines and principles – 'the law' broadly understood in its various forms and in different legal fields – play in constituting these processes. For this purpose, this book provides contrasting views from different national and local jurisdictions that, like pieces of a mosaic, display contours of a larger picture.

The moment could hardly be more apt for such a discussion. While debates about the direction of migration governance have loomed large for many years, the adoption of particular policy measures by subnational administration now raises broader questions on whether and how their totality fits within existing legal frameworks, for instance, when it comes to the separation of powers and individual rights. Divergent reactions by local authorities are an important part of this story, reinforcing political divisions and adding to them legal conflicts regarding national and local competencies. Despite its notorious ambiguity and indeterminacy, the legal dimension of migration governance seems to be pulling towards points of consolidation, which is reflected in many complex technical debates on how to reconcile contradictory legal norms and objectives. This section provides a short overview of the most prominent of these dynamics to situate the contribution of this volume and its individual chapters, all of which offer different perspectives on the role that law plays in local migration governance.

The first dynamic related to the rise of local authorities in the domain of migration concerns processes of decentralization and devolution of state authority. Devolution can hereby be defined as 'political decentralization' constituting 'the lawful transfer of revenues and responsibilities to subnational levels: to states or provinces, and counties or municipalities'.[21] This development, which took place in a great number of jurisdictions, is frequently cited as one contributing factor (and at times even as the main reason) behind the emergence of local migration governance as a 'worldwide phenomenon'.[22]

In the United States, for example, reforms of federal legislation in the 1980s and 1990s provided 'significant opportunities for state and local lawmaking'[23] that came to be used especially in the period following the 9/11 attacks. Strikingly, this has benefitted both cities that sought to adopt more

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[21] Bresser-Pereira, *Democracy and Public Management Reform,* p. 241.
[22] Filomeno, *Theories of Local Immigration Policy*, p. 4.
[23] Ramakrishnan and Gulasekaram, *The New Immigration Federalism*, p. 49.

welcoming policies and those that wanted to curb the number of arrivals.[24] A more varied kind of devolution has taken place in the European context where, to use the popular formulation by Guiraudon and Lahav, migration competencies were 'shifted up' to the European Union (EU), 'out' to non-state actors and 'down' to substate entities including local government.[25] Another way of devolution, observable in 'new' immigration countries like Indonesia, consists of the formalization of responsibilities in refugee reception, which local governments previously held informally.[26] While idiosyncratic, all these variants of devolution share a commonality: in formally breaking down responsibilities, they create more heterogeneous, 'messy'[27] spaces of migration governance that bring in a greater number of public (and indirectly also private) actors in the process.[28]

Trends of devolution have been widely observed across states and jurisdictions; empirically speaking, such processes are still ongoing in many places.[29] However, as Daniel Morales shows in his contribution (Chapter 9), there are also compelling normative reasons to support devolution as a way of creating a more pluralistic environment in which liberal and restrictive migration policies could coexist.[30] Analytically, devolutionary trends can also be understood as a function of the proliferation of neoliberal governance.[31] In many instances, however, local authorities (particularly in larger cities) have also adopted proactive approaches to migration governance even when there is no legal basis for their involvement and no allocation of competencies and resources.[32] In countries like Indonesia, cities' rather recent involvement in refugee protection and

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[24] See Chapter 6 by Lasch, as well as Visser and Simpson, "Understanding Local Government's Engagement in Immigration Policy Making in the US".

[25] Guiraudon and Lahav, "A Reappraisal of the State Sovereignty Debate", pp. 181–184.

[26] Missbach et al., "Is Makassar a 'Sanctuary City'?", pp. 206–208.

[27] In fact, migration scholar Anna Triandafyllidou argues in favour of a "messy governance approach" that "embraces complexity and uncertainty and acknowledges conflict and dissensus" and suggests that tension and dissonance are "inherent in the governance of international migration". See Triandafyllidou, "The Global Governance of Migration: Towards a 'Messy' Approach".

[28] For a more detailed discussion of this point, see also the concluding chapter by Mariana Valverde (Chapter 11).

[29] See Oomen and Leenders, "Symbolic Laws, Street-Level Actors".

[30] See Chapter 9 by Morales.

[31] See Dobrowolsky, "Nuancing Neoliberalism" and Filomeno, *Theories of Local Immigration Policy*, p. 4.

[32] Kühn and Münch, "Zuwanderungspolitik: ein neues kommunales Aufgabenfeld?".

migration management was subsequently formalized.[33] While some cities have been at the forefront of legal reforms, both pushing for decentralization from below[34] and participating in the making of new immigration laws,[35] others have rebuked central government policies and laws.

That said, there are also instances of 're-centralization' in federal states like Germany, where the states (*Länder*) held responsibilities for a longer time.[36] Similar observations with regard to integration policies have recently been made in Denmark and Sweden.[37] In the US context, President Trump's 'war' on sanctuary cities and states was politically motivated, trying to reign in defiant localities by threatening either to defund them or to remove federal immigration officials from them.[38] With such formal struggles over authority potentially serving either political side,[39] changes in administration do not necessarily curb these centripetal forces. De- and re-centralization can actually go hand in hand,[40] with decentralized solutions allowing superordinate authorities to enlarge their regulatory reach.[41]

Finally, tensions resulting from crises, which also regularly make their way into the media,[42] have recently spurred an almost exponential growth of scholarship that analyses and interprets trends in migration governance, including at local or urban scales, and frequently also with an implicit normative outlook on how to improve policies in terms of their efficacy and equity. This 'local turn'[43] in migration studies is generally also understood as a response to the critiques of 'methodological nationalism',[44] with the concept of the 'local' principally relating to processes that revolve around local authorities (though we will see that it brings

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[33] Missbach et al., "Is Makassar a 'Sanctuary City'?", pp. 206–208.

[34] Nijman, "The Urban Pushback: International Law as an Instrument of Cities".

[35] See, for instance, the example of São Paulo municipality as discussed by Filomeno, "Global Cities and Local Immigration Policy in Latin America".

[36] Soennecken, "Germany and the Janus Face of Immigration Federalism".

[37] Emilsson, "A National Turn of Local Integration Policy".

[38] Grad and Tchekmedyian, "Trump's Immigration War with California Has Reached a Fever Pitch".

[39] See Chapter 6 by Christopher N. Lasch.

[40] Oomen and Leenders, "Symbolic Laws, Street-Level Actors".

[41] See Chapter 5 by Graham Hudson.

[42] See, for instance, Edgecliffe-Johnson, "Why Cities and National Governments Clash over Migration" and Horowitz, "Italy's Crackdown on Migrants Meets a Grass-Roots Resistance".

[43] Zapata-Barrero et al., "Theorizing the 'Local Turn' in a Multi-Level Governance Framework of Analysis'.

[44] Wimmer and Glick-Schiller, "Methodological Nationalism and Beyond: Nation-State Building, Migration and the Social Sciences".

in a host of other actors, such as civil society organizations and social movements).[45] It is important to note that the involvement of cities and local authorities in migration governance, which includes the development and implementation of own policies, does not actually constitute a new phenomenon.[46] Scholarship on the local turn is yet to unpack the various historical precedents and (dis)continuities that characterize such processes.[47] Furthermore, some of the responses to the critiques of methodological nationalism (such as transnational perspectives) still contain a 'residue of methodological stateism' as they are premised on 'relatively stable understandings of the state that do not account for its historical transformations, such as its 'nationalization''.[48]

2 The Local Turn in Migration Scholarship and the Curious Demotion of the Law

To be sure, efforts in theorizing the relationship between migration and local settings, policies, practices and actors bring together insights from a broad spectrum of disciplines.[49] Scholarship at the nexus between migration and localities (or cities specifically) often touches upon legal questions such as access to rights, citizenship and (precarious) legal status. For instance, legal theories such as 'immigration federalism'[50] or specific concepts such as 'sanctuary firewalls'[51] were engaged to study local approaches to forced migration. However, these studies are exceptions rather than the rule and do not address the 'local turn' in migration governance from a distinctively legal perspective. *Theorizing Local Migration Law and Governance* seeks to fill this significant gap in scholarship by demonstrating how legal debates, processes and principles informs the theorization of the role of local governments in migration

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[45] In the present volume, Chapter 3 by Handmaker and Nalule and Chapter 7 by Mongia conceptualize the "local" more broadly and not necessarily related to local governments.

[46] Darling and Bauder, *Sanctuary Cities and Urban struggles* and Prak, *Citizens without Nations: Urban Citizenship in Europe and the World.*

[47] See, however, Lucassen and Lucassen, *Globalising Migration History*, Hirota, "Limits of Intolerance: Nativism and Immigration Control in Nineteenth-Century New York", and Räuchle, "Discursive and Administrative Dimensions of Hamburg's Arrival Infrastructures around 1900".

[48] Mongia, *Indian Migration and Empire: A Colonial Genealogy of the Modern State*, p. 153.

[49] Caponio, Scholten and Zapata-Barrero, *The Routledge Handbook of the Governance of Migration and Diversity in Cities.*

[50] Soennecken, "Germany and the Janus Face of Immigration Federalism".

[51] Crépeau and Hastie, "The Case for 'Firewall' Protections for Irregular Migrants".

governance. Our notion of 'theorizing' is hereby markedly *not* one of 'grand theory' but implicates a range of analytical claims usually centred around middle-range concepts.[52] The following sections will expound how these kinds of theoretical contributions take the shape of empirical perspectives, conceptual accounts and critiques, and normative angles. The chapters in this volume place different emphases in their contributions and will therefore be divided into three distinct parts, even if all of them speak to multiple of these interrelated themes. Before introducing these, we will first elaborate on the reasons and implications of the 'demotion' of law in research on local migration governance. Perhaps surprising and certainly problematic, this state of affairs can be attributed to several factors.

The first explanation for the marginalization of legal debates is that these continue to be steeped in a methodological nationalism wedded to the Westphalian model,[53] which is 'the idea that the state presents itself as an ultimate point of reference for both domestic and international law'.[54] There is more than a grain of truth to this claim, with much legal scholarship and practice remaining strongly embedded especially in national law, entrenching in society an attitude that Resnik refers to as 'sovereigntism'.[55] It is also correct, however, that the cutting edge of legal theory has long moved past accepting methodological nationalism uncritically. Legal scholars have turned their critical gaze towards, amongst others, non-singular conceptions of citizenship,[56] immigration federalism and its links to trans-state and trans-local collaborations[57] and the role of non-state actors as well as cities in international law.[58] They have challenged statist perspectives by demoting the state to one of several sources of law at transnational and subnational levels[59] and have examined how the mobility of law and transnational transplantation of legal norms is tied to the

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[52] This resonates with other recent interventions that have tried to broaden our perspectives on the legal regimes in play in processes dealing with migration at the local level; see notably Moffette and Pratt, "Beyond Criminal Law and Methodological Nationalism".

[53] Abraham, "Law and Migration: Many Constants, Few Changes", pp. 289 and 292.

[54] Michaels, *Globalization and Law*, p. 5.

[55] Resnik, "Law as Affiliation", p. 33.

[56] Resnik, "Bordering by Law", p. 141.

[57] Villazor and Gulasekaram, "Sanctuary Networks", p. 1270.

[58] See, for instance, Clapham, *Human Rights Obligations of Non-State Actors* and Nijman, "The Urban Pushback: International Law as an Instrument of Cities".

[59] See Griffiths, "What Is Legal Pluralism?" or more recently, Von Benda-Beckmann and Turner, "Legal Pluralism, Social Theory, and the State".

mobility of people.[60] Chapter 3 by Jeff Handmaker and Caroline Nalule illustrates this trend as it traces the transnational transplantation of border control policies from the United States to South Africa, which entrenched the already existing 'racial underpinnings' of the country's deportation and detention regimes. In short, there is enough critical legal scholarship to make a meaningful contribution to any theory on the emergence and consequences of local migration governance.

If relevant legal works are not always given due consideration by other fields, a second explanation for the demotion of law is linked to dynamics internal to the legal discipline. The fact that most, though not all, analyses of the law concentrate on national or international legal frameworks promote a certain kind of legal scholarship – narrow in scope, exceedingly detailed and technical – over another – comparative, contextual and open-ended. For instance, US legal scholars have abundantly discussed the 'new immigration federalism' that has elevated the authority of states and local authorities in recent times.[61] Based on detailed exegeses of case law including from the US Supreme Court, they have engaged in complex legal debates concerning 'pre-emption' and 'anti-commandeering' doctrines to understand the authority of Congress, as well as its limits, in questions of immigration and alienage law.[62] Recounting such exchanges is beyond the scope of this introduction. We want to note, however, that while these debates have been immensely relevant for the US context (including for the situation of migrants), they have had little resonance elsewhere – and probably never intended to have any in the first place. In Europe, likewise, accounts of the legal regimes governing migration, asylum and integration are usually 'siloed' into EU and national frameworks.[63] The result is that, although there is generally no shortage of scholarship on immigration law, the latter remains fragmented along jurisdictional lines.[64] Moreover, attitudes remain generally inward-looking from a disciplinary standpoint and hyper-focused on the (legal) questions at hand.

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[60] Von Benda-Beckmann and Von Benda-Beckmann, "Mobile People, Mobile Law".

[61] See, for instance, Motomura, *Immigration Outside the Law* and Ramakrishnan and Gulasekaram, *The New Immigration Federalism.*

[62] See, amongst many others, Olivas, "Immigration-Related State and Local Ordinances", Rodriguez, "The Significance of the Local in Immigration Regulation" and Armacost, "'Sanctuary' Laws: The New Immigration Federalism".

[63] Guild and Groenendijk, *Illiberal Liberal States.* It should be noted that concerns with local authorities and actors more generally have been less prominent with these authors.

[64] However, see Baglay and Nakache, *Immigration Regulation in Federal States*, which offers a more comparative angle featuring chapters on several federal countries.

The consequence is a disciplinary divide that wastes talents and insights that could help us improve our general understanding of local migration governance in at least three respects. First, a look at the practical functioning of the law and questions concerning its application and interpretation can be empirically revealing. The fact that local migration governance remains highly politicized and torn between competing policy rationales is frequently reflected in legal regulation. Indeed, such tensions tend to jump out from the point of view of the law where principles of consistency, foreseeability and certainty – dare we say the rule of law in general – demand their resolution. Sidelining legal perspectives in the study of local migration governance means bypassing those who are trained to expose incongruities, which may mediate or deepen political schisms. At the same time, legal analysts need to make greater effort to consider the wider political and societal implications of their work. This suggestion and the possibilities that arise from removing disciplinary barriers will be elaborated upon in Part I of the book as well as Section 3.

The second shortcoming related to the demotion of legal perspectives is the loss of a critical angle on processes of 'scaling' such as devolution, which includes their effects. It is odd, in our view, that theories on the 'local turn' in migration governance are presently agnostic as to *what* is actually being pivoted, which, in many cases, is the law. This remains true for the inherently legal process of devolution (or re-centralization) where competencies are shifted downwards (or indeed upwards). Likewise, there have been many instances in which local authorities have empowered themselves by using the law and legal arguments. Sanctuary cities in the United States are once again a case in point, illustrating the exogenous effect of the legal realities that will determine whether Congress can pre-empt such initiatives or whether these can be defunded by the federal government.[65] Chapter 4 by Moritz Baumgärtel and Franziska Pett shows how, in the German context, the strategies adopted by the City of Berlin vis-à-vis the national government are significantly shaped by its special legal position as a city-state, which allows it to make a legal push for more liberal admission policies. To be sure, these debates should not be reduced to their doctrinal dimension, although it is relevant. The point is that legal frameworks, *at least partially, influence* the content of debates on migration as well as the terms of their potential escalation and resolution. The

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[65] See Chapter 6 by Lasch.

second objective of this volume is to set out and critique the implications that arise from legal processes of scaling.

Finally, not taking into consideration legal processes means to marginalize normative voices, which have always been strongly present in literature dealing with law. True, legal positivists have traditionally been adamant to maintain a strict conceptual and analytical distinction between law and morality.[66] Deontological questions nonetheless 'creep in' even for the strictest of analytical jurists, if only in the form of a choice between two equally valid legal interpretations. For most lawyers, normative queries are both more common and meaningful. In international law scholarship, for instance, it has long been recognized that the proliferation and constantly evolving nature of rules bring forth an intimate connection between the law that is (*lex lata*) and the law as ought to be (*lex ferenda*).[67] As argued earlier, legal scholarship also has a tendency to question the status quo in order to resolve conflicts in the law and to fill legal gaps, both of which are legion in migration governance. It thus provides a pool of (largely untapped) resources for anyone interested in developing solutions in a policy domain where these are wanting. Such possibilities will be explored in Part III.

To conclude, the law should not be reduced to mere context or to an epiphenomenon but considered an integral piece of the puzzle when it comes to theorizing local migration governance. This volume seeks to prove this point, address the disciplinary divide and form a launchpad for future theorization based on analyses of legal debates, processes and principles. The remainder of this introduction outlines the three themes addressed in *Theorizing Local Migration Law and Governance*, situating them within recent scholarship on local immigration law and governance while also introducing the chapters of this volume.

3   Legal Contradictions and Tensions in Local Migration Governance

The demotion of legal perspectives has made scholarship on the local turn in migration governance overlook the valuable theoretical insights that can be gained from having a closer look at the genesis and workings of the law in concrete contexts. To illustrate and address this oversight, Part

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[66] Cotterrell, *The Politics of Jurisprudence*, pp. 114–115.
[67] Virally, "A propos de la lex ferenda".

I of this volume offers empirical perspectives based on three case studies from Canada, South Africa and Germany, all of which foreground specific tensions and contradictions in local immigration law and governance. They do so by discussing how these are reflected in the legal instruments, doctrines and principles that have a bearing at the local level. It should be noted that several other chapters also speak to this theme even if, due to their somewhat different emphases, they have been assigned to a different part. This section outlines some of the pertinent tensions and contradictions in reference to existing literature, which provides the backdrop for the respective contributions.

The first and from a legal perspective most obvious tension involves jurisdictional conflicts, most notably between federal, state and local authorities. As mentioned, this theme has been at the core of scholarship on 'sanctuary' policies in the US and Canadian cities. Likewise, political scientists in Europe have observed the interplay between governance levels and actors, developing theories of multi-level governance and coining concepts such as 'disjointed governance' and 'governance decoupling'.[68] In this line of scholarship, 'decoupling' refers to local-level policies that follow 'a very different logic of policymaking than on the national level', which can result in direct conflicts.[69] Authors such as Scholten and Penninx have claimed that that these could (and should) be resolved, with different constellations of multi-level migration governance illustrating alternative pathways.[70] Others have pointed to the virtues of 'concurrency' rather than exclusivity of jurisdiction, for instance for women who may benefit from a multiplicity of sources and legal forums for the enforcement of their rights.[71]

Such questions also play a prominent role in this volume, for instance in Benjamin Perryman's chapter on the 'emplacement' of non-citizens in specific localities which, as he argues, complicates notions of citizenship that are formally linked to the national level. He also shows that such emplacement influences legal and practical outcomes in the context of deportations. Jeff Handmaker and Caroline Nalule, in their contribution, describe how in South Africa, repeatedly failed efforts to reform the

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[68] Scholten, "Agenda Dynamics and the Multi-Level Governance of Intractable Policy Controversies".

[69] Scholten, "Two Worlds Apart? Multi-Level Governance and the Gap between National and Local Integration Policies", p. 159.

[70] Scholten and Penninx, "The Multilevel Governance of Migration and Integration".

[71] Jackson, "Citizenships, Federalisms, and Gender", p. 463.

system of migration control at the national level have brought about an 'everyday legal governance', sustained at both national and local levels and marked by a violence, corruption and above all racism, that stands in marked contradiction to the constitutional system of post-apartheid South Africa. Graham Hudson's chapter in Part II of the book challenges conventional understandings of sanctuary policies as protection from the reach of federal authorities. He highlights how the latter can, in effect, extend their jurisdiction: drawing on the example of Canada and specifically Ontario, Hudson demonstrates how data sharing between local police and federal immigration authorities spurs a process of 'urban securitization' that undermines the legal strength of sanctuary cities. All these contributions make clear that a closer look at the law, although not resolving these jurisdictional tensions (as some may hope), still tells us a lot about their functioning and concrete, 'everyday' implications. This conclusion resonates with what legal pluralists have long been arguing, namely that essentialist approaches to what constitutes 'law' are fruitless in an interconnected world and that the real point of inquiry ought to be 'which social norms are recognized as authoritative sources of obligation and by whom'.[72]

Conceptualizing the tensions between levels of government also provides a good entry point for deeper inquiries into the (non-)functioning of migration governance. Recent scholarship on the local turn has described migration policy as a 'battleground' in which 'different actors take part according to diverse economic interests, social bonds, moral values and political beliefs'.[73] Tensions can therefore also be identified insofar as the objectives and rationales of governance are at stake. For instance, inclusive local approaches towards forced migrants with precarious legal status that give rise to tensions in multi-level governance networks can reflect deep divisions between the objectives and interests of various governmental actors.[74] Such schisms are often manifest in the discourses and frames that local authorities and other actors adopt to justify their approaches.[75] Our argument, here as elsewhere,[76] is that legal tensions are often at the heart of these processes in the sense that they are linked to the interpretation, invocation and thus ultimately the application of norms.

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[72] Berman, *Global Legal Pluralism*, p. 56.
[73] Ambrosini, "The Local Governance of Immigration and Asylum", p. 197.
[74] Hepburn and Zapata-Barrero, "Introduction: Immigration Policies in Multilevel States".
[75] Spencer and Delvino, "Municipal Activism on Irregular Migrants".
[76] See Baumgärtel and Oomen, "Pulling Human Rights Back In?".

The chapters provide ample evidence for this suggestion. Moritz Baumgärtel and Franziska Pett show how Berlin's local government adopts a 'complex' set of strategies of divergence from different national laws relating to refugee admission and integration. Strikingly, the particular combination of seemingly contradictory strategies (and their interplay) allows Berlin to prove a cosmopolitan commitment to high sea rescue and integration of forced migrants while avoiding closer scrutiny on actions that undermine the same cause. Benjamin Perryman's chapter takes on one of the most contested norms – citizenship – and highlights how its conventional, formalistic notions may stand in direct competition with local understandings of citizenship as constituted by performative acts and social processes at the municipal level, which result from local emplacement in the child welfare system. At the same time, he sheds a light on how these iterations of local citizenship are connected to developments and debates in constitutional law and international human rights law regarding non-citizens' sociological connections to states. Chris Lasch's chapter, by contrast, reveals how debates on communal values are effectively removed from discourse through the application of formal legal principles. He draws our attention to the fact that sanctuary policies are not normally couched in terms of equal protection but in structural and formalistic arguments based on principles such as pre-emption, federal supremacy and the separation of legislative and executive powers. All these contributions show that the outcomes of these contestations, the legal 'realities' (for want of a better word), have a profound practical effect, for instance on the specific outlook of municipal policy (Baumgärtel and Pett), on individual cases of deportation (Perryman) and on the quality of debates concerning sanctuary (Lasch).

The example of citizenship illustrates how conflicts regarding the interpretation of certain principles can play a crucial role in sustaining legal tensions. However, questions of interpretation can also create other kinds of complications, such as discretionary spaces that actors may or may not fill by adopting different kinds of strategies.[77] This circumstance has not gone unnoticed in migration scholarship, which has started to address the often striking diversity in local policy implementation as well as variations between states in federal contexts,[78] counties and localities.[79] While much of this literature offers descriptive analyses of the implementation of specific policies across different scales, some scholars have traced divergency

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[77] See also Oomen et al., "Strategies of Divergence".
[78] Töller and Reiter, "Federal Diversity of Asylum Policies in Germany".
[79] Schultz, "Ambiguous Goals, Uneven Implementation".

back to the ambiguity within legal instruments. For instance, Schammann concludes in his analysis of the ambivalent legal basis of the German Asylum Seekers Benefit Act that policy conflicts that remained unresolved at the national level are effectively shifted to the local level, where the purpose of the law is then decided.[80] In other cases, discretionary spaces result from conflictive legislative changes that enable more permissive practices (e.g. labour market access for asylum seekers) while, at the same time, installing other kinds of restrictive policy (e.g. on involuntary returns of rejected asylum seekers).[81] The consequences of such ambivalent legal bases and indeterminate legal terms are 'individual-level dilemmas of frontline implementers between law and practice',[82] as documented in North America and Europe.[83] Some migration scholars who managed to trace these go as far as recommending municipalities to 'choose the most extensive interpretation of the law' where national legal frameworks are unclear, for instance in questions of service provision.[84]

The tensions and conflicts that arise from such legal ambiguity and related questions of interpretation are a topic in all three chapters of Part I. Jeff Handmaker and Caroline Nalule, for instance, draw our attention to how South Africa's failure to effectively revamp its migration policy nationally has left ample space, at lower levels of governance and in local places such as border posts and deportation centres, for racial abuse and violence reminiscent of the apartheid era. The chapter by Benjamin Perryman makes two points regarding expansions and contractions in discretionary spaces in the deportation regulation in Canada. First, the once unquestioned authority of the federal state has been weakened by the interplay of international human rights norms and grassroots mobilization. Second, Perryman suggests the scope of discretion may be broader when the person concerned is a long-term resident. More specifically, he suggests it may be possible to recognize such an expanded scope of discretion not to deport in circumstances where the person concerned was a former crossover youth[85] who was apprehended by child welfare agencies for whom the state had failed to obtain citizenship.

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[80] Schamann, "Wenn Variationen den Alltag bestimmen", p. 177.

[81] Schultz, "Ambiguous Goals, Uneven Implementation".

[82] Dörrenbächer and Strik, "Implementing Migration Policies", p. 61.

[83] See ibid., Eule, *Inside Immigration Law*, and Schultz, "Ambiguous Goals, Uneven Implementation".

[84] Spencer and Delvino, *Migrants with Irregular Status in Europe*.

[85] As Perryman explains in his chapter, crossover youth are minors who grow up in the child welfare system and "crossover" to the youth criminal justice system.

Moritz Baumgärtel and Franziska Pett discuss how the local government in Berlin has inhabited the discretionary spaces that city-states (do not) enjoy in national legal frameworks in Germany. Above all, their chapter highlights the proliferation of such spaces even on a specific question (namely local-level admissions) and within a narrow time frame, in this case between 2018 and 2020.

To conclude, in examining tensions between governance levels, the invocation, interpretation and application of contested norms and principles – as well as discretionary spaces created by legal ambiguities – this book stresses the centrality of law for the unfolding of often highly contradictory dynamics in migration governance. At the same time, it shows that these processes are not as messy, unstructured and uninhibited as they may appear. Socio-legal approaches offer an effective tool to unearth their modalities by singling out specific legal objects (such as citizenship, detention and admission) and tracing *how*, *when* and *in whose interest* their outlook and effect has changed over time. In investigating the law, one may therefore be able to make sense of the evolution of the highly volatile field of migration governance, at least partially and within specific contexts.

4   Accounts and Critiques of Legal Processes of Scaling

While paying closer analytical attention to questions of law reveals the inherent tensions and contradictions in local migration governance, the law also structures the processes of 'scaling' and 're-scaling' of migration governance, including to (and at) the local level. As already mentioned, processes of devolution and (re-)centralization are normally effectuated through changes in the law, such as shifts in formal responsibilities and competencies from one level to another. Logically, the local turn in migration governance must therefore be mirrored by a local turn in legal frameworks. Based on our hypothesis that law is more than a mere epiphenomenon, Part II of *Theorizing Local Migration Law and Governance* hence tackles the question of the effects of legal processes of scaling. Like Section 3, the subsequent paragraphs seek to contextualize the contributions made by the chapters in this regard.

Any discussion regarding the legal quality of scaling processes in migration governance will benefit from engaging with the seminal work of Mariana Valverde; this introduction takes as its point of departure. Seeking to rehabilitate the 'technicalities of law' as a resource for social theory, Valverde suggests that the law can insightfully be understood as

creating and maintaining particular 'scales of governance'.[86] She illustrates this point by dissecting the notion of jurisdiction, an 'ancient legal machinery', the usage of which enables shifts in 'the where, the who, the what, and the how of governance through a kind of chain reaction'.[87] In a Foucauldian paradigm where governance takes place through power/knowledge rather than simple coercion, such path dependency turns jurisdictional moves into particularly potent ways of alternating the rules of the game 'as if by magic'.[88] Though not exactly hidden from the view of the public, the technicality of jurisdiction makes it less amenable to critical examination (a point worth remembering in connection with the demotion of law mentioned earlier); it may even lead to 'blackboxing' over time.[89] The combination of these two features as presented by Valverde is characteristic to jurisdiction and directly related to its legal character. Another example of a legal notion with similar 'structuration' quality is citizenship which, according to Valverde, represents neither an actual status or identity but rather a mechanism that facilitates the formation and domination of social and political groups.[90]

The chapters in this volume provide ample evidence for the general scale-making qualities of law. Graham Hudson, for instance, shows how sanctuary policies as one form of local resistance to repressive federal migration policies are limited by jurisdiction over matters of security that, shared at the local and federal levels, effectively create 'parallel legal modalities of urban securitization'.[91] The observation that overemphasizing federalism doctrine has obscured such potent dynamics in Canada strongly resonates with Chris Lasch's critique of the primacy of structural claims related to formal authority over substantive ones grounded in communal values in the United States. These two contributions illustrate another of Valverde's main claims regarding legal technicalities, namely that they frequently make the 'how' of governance subservient to questions of 'who' and 'where'.[92] Radhika Mongia, finally, draws our attention to the intimate and mutually constitutive relationship between migration law and the national scale. The concrete and even material quality of

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[86] Valverde, "Jurisdiction and Scale".
[87] Ibid., pp. 143–144.
[88] Ibid., p. 145.
[89] Valverde, "Practices of Citizenship and Scales of Governance", p. 238.
[90] Ibid.
[91] Chapter 5 by Hudson, p. 39.
[92] Valverde, "Jurisdiction and Scale", p. 144.

legal scale-making are hereby first situated in the British colonial context at the beginning of the twentieth century and find one expression in the legal object of the passport. A second set of explorations focuses on the complex dynamics of the changing migration and citizenship regime in postcolonial India and shows how subnational forces are embedded in the processes that reproduce and transform national space and national scale. Both sets of explorations bring into focus the centrality of migration and citizenship law to the making and recalibration of (national) scale.

This last insight warrants further consideration. As already alluded to, Valverde's discussion of 'games of citizenship' exposes another manner in which law fortifies governance scales, namely by constituting the groups that are placed within them.[93] The chapters in this book point likewise to the dynamic identity-forming features of law. This understanding of law, not as an artefact, but as a 'constitutive practice that organizes interpersonal relations and daily routines' and a 'site of activity through which identity is expressed,[94] is of course not new. For instance, legal scholars have revealed how citizenship is a powerful yet exclusionary legal tool,[95] which is notably also engendered.[96] Yet, the law begets also other, arguably more subtle identities such as 'constitutional identity', which is distinct from citizenship and even national identity.[97] Another example is 'indigeneity' where native communities, faced with no alternative, are forced to prove their cultural distinctiveness to receive standing to claim land rights before courts.[98] Common to these examples is that they are the product of interactive legal processes and generative not only of identities but also of particular scales and physical spaces.

Three chapters in this book develop this connection in new directions with critical insights for scholarship on the local turn in migration governance. Radhika Mongia examines how the framing of migration law in terms of nationality in Canada and South Africa produced national identity in legal and affective registers. Her account of the legal regulation of colonial Indian migration historicizes this understanding of the scale-making and the identity-creating aspects of law whilst also challenging the primacy of the nation-state by exploring migration beyond, or rather

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[93] Valverde, "Practices of Citizenship and Scales of Governance", p. 226.
[94] Resnik, "Law as Affiliation", p. 63.
[95] See Shachar, *The Birthright Lottery* and Kochenov, *Citizenship*.
[96] Benhabib and Resnik, *Migrations and Mobilities.*
[97] Rosenfeld, *The Identity of the Constitutional Subject*, pp. 10–11.
[98] Merry, "Crossing Boundaries".

before, the emergence and limits of the nation-state. Mongia specifically highlights historical instances in which there were minimal regulations at locales of immigration and most migration occurred outside the purview of state authorities. This chapter also sheds light on more recent examples of the 'legal production of illegality' such as through the recent implementation of the National Register of Citizens in the Indian state of Assam, which was exacerbated further by the Citizenship Amendment Act. Benjamin Perryman's chapter similarly speaks to the identity-forming features of the law and legal mechanisms. It focuses on how the placement of migrant children and specifically cross-over youth in cities and local child welfare systems creates relational obligations of care that demand a redefining of citizenship. As Perryman notes, 'wards of the state are *of the* state'. His chapter argues that the state assumes the role of a parent when it apprehends migrant children in child welfare (because they are in the state's jurisdiction) by 'providing opportunities (and erecting barriers) to that child's development, and through this process, accepting that child as a member of the state, even if that child is a non-citizen'.[99] The chapter by Chris Lasch contributes to this discussion by demonstrating how a focus on structural legal doctrines fostered the formation of a coalition of sanctuary proponents despite the 'mixed motivations' within them. Their resulting 'identity', principally devoid of 'communal values' and generally thin, paradoxically also opens spaces for anti-sanctuary narratives, who can make their case using the same technical language without explicitly evoking anti-immigrant sentiments.

A final aspect relates to the processes of 'scaling', a word that we use deliberately both in this introduction and in naming the third section. Whilst the term 're-scaling' features prominently in recent scholarship on cities, migration and citizenship, it has been used to analyse a range of different phenomena and processes. Our introduction cannot examine all these different meanings in depth. However, reflecting on the various theoretical musings on the term, Brenner has noted that 're-scaling' is used as a 'general descriptor for the transformed global context within which cities are currently situated'.[100] These perspectives thus foreground *processes* of scal*ing* rather than the scales themselves, meaning the continuous reconfiguration of 'dimensions of particular processes' such as global, supranational, national, and local along 'a vertical hierarchy of relatively discrete

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[99] Chapter 2 by Perryman, p. 7.
[100] Brenner, "The Urban Question and the Scale Question", p. 38.

spatial units'.[101] This holds true, for instance, for the seminal work of Nina Glick Schiller and Ayse Çağlar, who have examined the role of migration in the rescaling of urban places within a neoliberal global economy.[102] The term is also increasingly used by migration scholars to refer to efforts to reconsider migration beyond national perspectives and to interrogate the possibilities for and contestation of urban citizenship, rights and belonging.[103] While aware of the contestation and critique that 'scalar thought' has elicited,[104] we contend that engaging with it still is useful. For one, because scaling enables us to denominate a specific type of process that, unlike 'reform' or 'legislation', for example, entails a profound transformation in the very logic of governance. Compared to 'devolution', scaling underlines the immanently political character of the change and its embeddedness in hierarchies of power. One question that Part II addresses is whether and how such processes of scaling are contingent upon operations of the law.

Thus, rather than proposing epistemological scale-shifting, for instance from national to local or urban scales, the chapters by Radhika Mongia and Graham Hudson develop alternative conceptualizations of scale and its relation to law in their analyses of historical and contemporary processes of migration governance. Graham Hudson draws on his empirical study of urban securitization process in Canada to demonstrate how federal immigration authorities 'scale down' by appropriating local powers, especially through the local police, thus amplifying their own regulatory reach. Importantly, this process does not result in a zero-sum shifting of sovereign power from one level to another but amplifies it overall, most notably through the local collection and cross-level sharing of data. Mongia focuses likewise on the role of law as a preeminent scale-making technique and highlights, for instance, how migration law and the legal regulation of colonial Indian migration were produced by and implicated in a deep restructuring of space. Drawing on an analysis of legal artefacts and technologies, she details how an imperial social–legal space was gradually rendered 'unintelligible' as a national social–legal space ascended. The chapter engages with critiques of scalar thought, most notably those that oppose spatial and temporal analysis as distinct approaches. Whilst Mongia draws on the work of Lefebvre to temporalize spatial categories

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[101]   Ibid., p. 32.
[102]   Schiller and Çağlar, "Towards a Comparative Theory of Locality in Migration Studies".
[103]   Darling and Bauder, *Sanctuary Cities and Urban Struggles*.
[104]   Isin, "City.State: Critique of Scalar Thought".

and historicize scale-making, it is her focus on the role of law that especially enables her to persuasively develop these alternative scalar conceptions and 'space-time formations'.

Common to all chapters, addressing legal processes of scaling and the scaling qualities of the law, is a concern for the historical context in which they arose. This attention is deliberate. For whether we talk about general scale-making, identity formation or critical interrogations of the concept of scaling, much will be gained by situating them in accounts of actual processes rather than relying on static categories that often turn out to be bound to the nation-state.[105]

5 Normative Perspectives on Local Migration Law and Governance

It has already been mentioned that much of the scholarship regarding local migration governance takes an empirical approach. That said, the observation that local authorities are (even if not for the first time) becoming more involved in migration governance has also spurred some debates about how the different levels of government could interact more beneficially.[106] Normative arguments feature hereby prominently in the form of general appraisals of local level pragmatism, which is presented as less politicized and more suited to overcome 'silo thinking' in policymaking than at national levels.[107] Beyond that, however, literature on the local turn does not usually have a clear normative orientation on the outlook of migration policy.[108] Likewise, the upsurge in local-level policymaking is conspicuously absent from the works of Joseph Carens, David Miller and other normative migration theorists,[109] which may yet again be attributed to the conceptual centrality of the nation-state and state sovereignty in these debates.[110]

The gap between these two bodies of literature is striking considering how politically charged the idea of local migration governance is, not least outside academia. The ongoing dispute surrounding sanctuary cities in the United States, addressed in this volume in the chapters by Chris Lasch and Daniel Morales, is probably the clearest illustration of this

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[105] Hoye, "Sanctuary Cities and Republican Liberty".
[106] See Scholten and Penninx, "The Multilevel Governance of Migration and Integration".
[107] See Wolffhardt, "Operationalising a Comprehensive Approach to Migrant Integration", p. 5.
[108] Missbach et al., "Is Makassar a 'Sanctuary City'?", p. 212.
[109] Hoye, "Sanctuary Cities and Republican Liberty", p. 71.
[110] Song, "Why Does the State Have the Right to Control Immigration?".

point. Another striking example is provided by Moritz Baumgärtel and Franziska Pett in their discussion of how the local government in Berlin challenges restrictive national legal frameworks. They contend that the legal action taken by the city of Berlin against the national government before the Federal Administrative Court emerges within specific socio-legal constellations that derive also from the support of a broader trans-municipal solidarity movement that calls for increased refugee admission. The chapters by Nikolas Feith Tan and the one by Baumgärtel and Pett forcefully show, moreover, how subnational and local efforts are no longer limited to addressing the reception and integration of those already present but are now also directed at refugee admission, resettlement and community sponsorship.

So why should local authorities (and local actors generally) participate in migration governance in the first place, this apparent and possibly last 'bastion of sovereignty'[111] in global times? The third objective of *Theorizing Local Migration Law and Governance* is to explore this question against the backdrop of the debates, sources and problems connected to law. Such legal perspectives have a lot to offer, not least because they are always (at least implicitly) engaged in normative queries because migration laws are always developing and often manifestly deficient. This section provides the background for this discussion by recounting some of the works that are relevant in this context.

A first noteworthy contribution that this volume makes is to the lively debate on citizenship. To be sure, the concept continues to be under heavy pressure, with critics not mincing their words. Shachar has described it as a 'birthright lottery',[112] while Kochenov calls it a 'somewhat whimsical and totalitarian' legal fiction that preaches equality but practices exclusion.[113] While understandable, there is a quixotic quality to these critiques: the pervasiveness of the concept of citizenship at all levels of governance means that those who are disadvantaged will normally fight for it rather than abandon it. According to Arendt, the significance of citizenship is most apparent when looking at refugees and displaced people who 'defend themselves furiously' against threats of statelessness.[114] It therefore comes as no surprise that the growing involvement of local authorities and actors has fuelled attempts to rethink this category in terms of 'urban' and

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[111] Dauvergne, "Sovereignty, Migration and the Rule of Law in Global Times", pp. 588.
[112] Shachar, *The Birthright Lottery*.
[113] Kochenov, *Citizenship*, p. 3.
[114] Arendt, *The Origins of Totalitarianism*, p. 292.

'municipal citizenship'.[115] While this body of literature continues to pro-liferate (making it impossible to do full justice to it here), the jury is still out on whether these efforts are feasible and indeed desirable. On the one hand, it has been argued that particularly in the domain of migrant inte-gration, urban citizenship plays a crucial role mediating formal member-ship and bottom-up claims made by those who are being excluded.[116] On the other hand, it has also been shown that urban citizenship claims can be competing and potentially fragmenting.[117] As Bauböck puts aptly though somewhat disappointingly from a normative perspective, urban citizen-ship 'is not intrinsically good or bad'.[118]

Several chapters in this book address the question of citizenship and flesh out its various contested forms and, more generally, how we can understand belonging in a world where it often has multiple anchors. Discussing the topical example of the implementation of the National Register of Citizens in Assam and the Citizenship Amendment Act in India, Radhika Mongia highlights how national citizenship, histori-cally one of the primary space-making techniques of migration law, permeates subnational and local regulations. The chapter by Benjamin Perryman demonstrates by contrast that even if municipal citizen-ship may not exist from a formal point of view, it still 'enables … [a] space for migrants to more readily become political actors'. Perryman also explores three different avenues to recognize political, social and moral claims in domestic law in the context of former cross youth facing deportation from Canada. Another perspective on the possibilities for local citizenship is offered by Luisa Sotomayor and Liette Gilbert. Their chapter brings into focus the limits of both sanctuary and solidarity in the post-pandemic, neoliberal city of Toronto, while also offering a nor-mative appraisal of these local challenges and contradictions. More spe-cifically, the authors highlight how reclaiming the project of planning as a collective social practice could offer openings for migrant justice and local citizenship.

Still, the approach taken by the different chapters reveals more than the normative ambiguity of citizenship. Debates on urban citizenship are often premised on the local presence or emplacement of forced migrants and on

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[115] For a recent discussion, see Bauböck and Orgad, "Cities vs States".
[116] Gebhardt, "Re-Thinking Urban Citizenship for Immigrants from a Policy Perspective".
[117] Blokland et al., "Urban Citizenship and Right to the City".
[118] Bauböck, "In Defence of Multilevel Citizenship".

local or urban challenges to solidarity and sanctuary.[119] These urban citizenship debates are yet to fully address another phenomenon: the increasing subnational mobilization[120] for community sponsorship (see chapter by Nikolas Feith Tan) and refugee admission (Baumgärtel and Pett). The result is a gap in normative theorizing, a challenge that the chapter by Tan takes up, by investigating how protection principles can inform the development of community sponsorship models and by reflecting on the potential of local authorities developing this model of refugee protection.

The second, more general aspect in this part of the volume relates to the challenging question of how the involvement of local actors and especially local authorities ought to be assessed normatively. As mentioned, those advocating for including local government will often (if only implicitly) invoke the 'local pragmatism hypothesis'[121] that presents them as relatively unpolitical problem-solvers, a trope that remains popular also among scholars. While this proposition is true in some cases,[122] it has been found to stand on shaky ground because it is easy to identify localities where local government actors discriminate against migrants for political gains.[123] Moreover, what is considered 'pragmatic' may well differ from one city to the next depending on local norms and identities.[124] Some of the chapters in this book further complicate and challenge this local progressive pragmatism thesis by pointing towards the limits of sanctuary and solidarity in neoliberal post-pandemic urban contexts (see the chapter by Sotomayor and Gilbert). Even where local governments in principally welcoming and politically progressive large cities like Berlin make 'pragmatic' decisions, this does not necessarily result in favourable outcomes for migrants, as the chapter by Baumgärtel and Pett highlights.

To avoid reductionist viewpoints, authors like Filomeno have introduced 'relational' approaches that take into account the interdependencies between local governments and other actors.[125] Our volume follows this suggestion by placing the latter centre stage in this discussion, by zooming

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[119]   Ibid.
[120]   Schwiertz and Schwenken, "Mobilizing for Safe Passages and Escape Aid: Challenging the 'Asylum Paradox' between Active and Activist Citizenship, Humanitarianism and Solidarity".
[121]   Schiller, "Paradigmatic Pragmatism and the Politics of Diversity".
[122]   See also Chapter 4 by Baumgärtel.
[123]   Ambrosini, "We Are Against a Multi-Ethnic Society"; Mourad, "Brothers, Workers or Syrians? The Politics of Naming in Lebanese Municipalities".
[124]   Hoekstra, "Governing Difference in the City".
[125]   Filomeno, *Theories of Local Immigration Policy*, p. 11.

in on the role of urban solidarity movements (Sotomayor and Gilbert), transnational movements (Baumgärtel and Pett) and international and faith-based actors (Tan). How to translate such relational perspectives into normative arguments has been addressed in several other instructive legal works. For example, recent scholarship on sanctuaries has reframed those as 'constitutional cities' whose autonomy 'is critical to a healthy interchange between and among federal, state, and local governments'[126] and can serve as a corrective element that can inject equity into federal immigration law.[127] Likewise, cities may be needed to reinvigorate international law by 'pulling' human rights 'back in' as it pertains to undocumented migrants, who have struggled to obtain recognition in this legal framework.[128]

The interdependence between 'levels' of governance is in fact, so strong that a historical examination lays bare only their ever-changing ideological orientation. In making this point, Matthew Hoye has gone as far as claiming that sanctuary cities in the United States reflect the original republican 'volitional allegiance' that predates even the Declaration of Independence.[129] By contrast, Hidetaka Hirota's work on the origins of immigration policy in the United States points to local and state immigration control existing prior to the introduction of federal immigration law. He traces how local authorities and Atlantic seaboard states built upon colonial poor law to develop laws to restrict the immigration of destitute Europeans.[130] In this book, Radhika Mongia's chapter historicizes[131] scale- and space-making projects over the *longue durée* focusing on migration governance as a constituent part of a wider, uneven and fraught historical transformation from an imperial scale to a national scale and from empire-states to nation-states. Her analysis shows how emblematic artefacts of modern migration law, such as passports, are connected to contingent historical events that positioned migration law and governance at the heart of the production of national scale and of national identity. By showing how scales shift, change, appear and disappear, Mongia responds

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[126] Massaro and Milczarek-Desai, "Constitutional Cities", p. 1.
[127] Cade, "Sanctuaries as Equitable Delegation in an Era of Mass Immigration Enforcement".
[128] Baumgärtel and Oomen, "Pulling Human Rights Back In?".
[129] Hoye, "Sanctuary Cities and Republican Liberty".
[130] Hirota, "Limits of Intolerance: Nativism and Immigration Control in Nineteenth-Century New York".
[131] In her work, Mariana Valverde has written extensively on the risks of excluding temporalization from the analysis of the relationship between political/legal power and territory in impoverishing our understanding of legal–political governance. See, notably, Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance*.

to a lack of a robust historical dimension in normative debates on the 'local turn' in migration governance.

Several contributions to this volume base their normative claims on relational and integrative understandings of what local authorities can(not) and should (not) do in tandem with other local actors. They thus highlight the interrelation between the normative claims made locally and transnationally. Daniel Morales refers to the 'cosmopolitan' visions that emerge from the growing involvement of local authorities and argues that they could accomplish unanticipated yet tangible results when it comes and a more plural immigration policy. Benjamin Perryman posits that international human rights law is an appealing normative guidepost for dealing with questions of migrant inclusion at the municipal level. Interestingly, the human rights framework is hereby presented as enabling rather than constraining, which underscores the co-constitutive nature of local and transnational frames of references – an insight that resonates also with the previous understanding of 'scaling' as an ongoing process. Another perspective is offered by Tan's chapter, which argues that connecting local governments with transnational and international actors, such as the Global Refugee Sponsorship Initiative (GRSI) and UNHCR, will increase the prospects of the emergence of a principled approach to the community sponsorship of refugees.

Part III of the volume also contributes to recent debates on how growing disparities between rural and urban localities can inform efforts to theorize local migration law and governance. Even though migration is still primarily seen as an 'urban' phenomenon,[132] migration scholars are increasingly examining local-level opportunities and challenges of migration in rural and marginalized areas.[133] This scholarship has brought up interesting questions for normative discussions on the local turn, such as about the capacity of rural and small town localities, particularly those without longstanding history of migrant settlement, to respond to the arrival of larger numbers of migrants. Research on transnational municipal networks and migration policy has identified other challenges pertaining to, for instance, the underrepresentation of small towns and rural localities in transnational networks in the domain of migration governance.[134] A 'rural-urban divide' is visible also in scholarship

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[132] Natale et al., "Migration in EU Rural Areas".
[133] Woods, "Precarious Rural Cosmopolitanism".
[134] Oomen, Baumgärtel and Durmus, "Transnational City Networks and Migration Policy".

as local approaches to migration governance in small towns[135] and rural localities[136] remain relatively under-theorized. Recently, however, efforts have been made to bridge this schism,[137] with the tendency to conflate cities with local authorities in research on local governance being called out by migration and legal scholars alike.[138] Mariana Valverde, in her concluding chapter, picks up this theme to break down in more detail the theoretical and normative implications of such a conflation.

Within Part III of this volume, the chapter by Daniel Morales explores head on how these growing discrepancies between urban and rural localities bear on the efforts to theorize the local turn in migration governance. Morales argues that centralized migration powers give pride-of-place to the views of rural residents in the United States and thus shuns perspectives of urbanites, who are more likely to encounter migrants in their locality. He therefore asks us to rethink the allocation of migration powers against this backdrop of the urban–rural divide in an effort to promote pluralization and policy polyphony.

Empirical investigations of local migration governance in urban settings often point towards the relevance of transnational diaspora networks, local social movements and civil society. Luisa Sotomayor and Liette Gilbert highlight the important role of local social movements and networks, many of whom have longstanding local urban histories that have underpinned social justice efforts for irregular migrants.[139] By contrast, Moritz Baumgärtel and Franziska Pett, while focused on the city-state of Berlin, point out how the broader transmunicipal 'Safe Harbor' movement also includes smaller towns, hamlets and rural municipalities.

Finally, several mechanisms that the chapters bring into focus are not exclusive to urban contexts, even if they are more readily associated with urban citizenship or with urban challenges, such as neoliberal service competition. Nikolas Feith Tan's normative enquiry, for instance, does not privilege cities, as it investigates the potential of local

135 Bonizzoni and Marzorati, "Local Immigrant Incorporation Pathways in Small-Scale Cities".
136 Glorius, "The Challenge of Diversity in Rural Regions".
137 Schammann et al., "Zwei Welten? Integrationspolitik in Stadt und Land".
138 Goodhart, "Human Rights Cities: Making the Global Local".
139 Unsurprisingly, the emerging scholarship on local migration regimes in rural settings investigates the possibility for local civil society to influence local migrant reception and inclusion in the absence of a clear political clout of civil society actors. See, for instance, Cabral and Swerts, "Governing Precarious Immigrant Workers in Rural Localities: Emerging Local Migration Regimes in Portugal".

authorities generally in developing refugee protection through community sponsorship. Similarly, Sotomayor and Gilbert see some potential for reclaiming the project of planning as a collective social practice that could offer openings for migrant justice. Perryman's examination of the interconnections between subnational service provision (the child welfare system) and deportation practices also bears relevance for non-urban settings. Baumgärtel and Pett, finally, argue that it is more appropriate to assess the actions of local governments with reference to specific 'socio-legal constellations' rather than rural/urban dichotomies. That said, they also find that these constellations are shaped significantly by nationally allotted legal powers, of which a city-state like Berlin holds comparatively more than most other cities and towns.

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The detailed description provided in the previous sections makes an extended overview of the book obsolete. It suffices to repeat that *Theorizing Local Migration Law and Governance* is divided into three parts featuring three contributions each. The first offers empirical insights from Canada (Perryman), South Africa (Handmaker and Nalule) and Germany (Baumgärtel and Pett), all of which show how the analysis of specific legal phenomena and developments sheds light on the competing and often even contradictory rationales of migration governance. The chapters in Part II question the consequences of increases in the legal authority that local authorities enjoy in the field of migration. This includes the sanctuary jurisdiction debate in Canada (Hudson) and the United States (Lasch), as well as a historical account of the mutually constitutive relationship between migration law and the national scale in the British colonial context at the beginning of the twentieth century and more recently, in postcolonial India (Mongia). Part III demonstrates the relevance that a consideration of the law can play in the development of normative perspectives. The contributors discuss the need for decentralizing of admission competencies (Morales) and reflect on subnational and local actors' potential contribution to the development of refugee protection principles in the context of community sponsorship (Tan). They also probe possibilities in purview of municipal authorities that hold social practices with redistributive capacity, such as (urban) planning, to expand and strengthen migrant justice and sanctuary commitments (Sotomayor and Gilbert). Finally, the concluding chapter by Valverde brings together several of the threads developed in all the chapters to unpack – as well as

criticize – some of the most commonly held (mis)conceptions regarding 'the city', the actors that operate at a local scale, and the dynamic and volatile nature of governance at various scales.

We want to remind readers that most contributions broach topics other than the one prioritized in their designated part. Nonetheless, it is our hope that the division of the book into three sections, as discussed in this introduction, will offer the reader a useful roadmap for navigating through the copious and complex theoretical questions that local migration law and governance raise.

Finally, this book follows the example of Darling and Bauder in allowing each contributor to use the terminology that reflects their own scholarly opinions and rationales whilst also maintaining a common ground, namely by denouncing terms such as 'illegal migrants'.[140] This approach also resonates with this volume's objective to contribute to theorizing local migration law and governance by foregrounding a broad range of socio-legal perspectives. 'Local authority', 'local government' and 'local administration' will be used synonymously to designate the lowest tier of government in any national legal setting.

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[140] Darling and Bauder, "Introduction".