The politics of regional citizenship

Explaining variation in the right to health care for undocumented immigrants across Italian regions, Spanish autonomous communities, and Swiss cantons

Lorenzo Piccoli

Thesis submitted for assessment with a view to
obtaining the degree of Doctor of Political and Social Sciences
of the European University Institute

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European University Institute

Department of Political and Social Sciences

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I, Lorenzo Piccoli, certify that I am the author of the work *The Politics of Regional Citizenship* I have presented for examination for the Ph.D. at the European University Institute. I also certify that this is solely my own original work, other than where I have clearly indicated, in this declaration and in the thesis, that it is the work of others.

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I confirm that chapters 1, 4, 5, and 6 draw upon an earlier essay I published for the 'Nccr—on the move Working Paper Series' in November 2016 entitled *Left out by the State, Taken in by the Region? Explaining the Regional Variation of Healthcare Rights for Undocumented Migrants in Italy, Spain, and Switzerland.*

I confirm that chapter 2 draws upon an earlier chapter published in the 'European Yearbook of Minority Issues' in 2016 under the title *Structuring Regional Citizenship: Historical Continuity and Contemporary Salience.*

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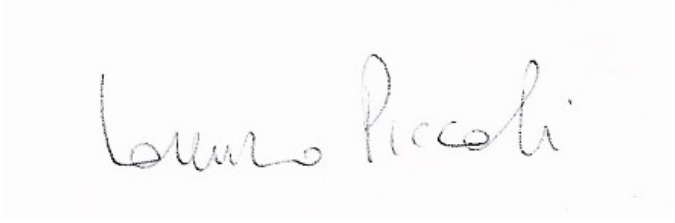

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Abstract

Over the last forty years, regions in Europe have acquired an increasingly important role in the provision of rights that were traditionally used by states to define the boundaries of national citizenship. Despite this trend, there are still few comparative examinations of what citizenship means for subnational actors, how these affect the provision of rights, and what the consequences of this process are for internal solidarity, the democratic process, and ultimately the constitutional integrity of modern states. These are important questions at a time when ideas about membership and rights within multilevel polities are vigorously contested in courts, legislative chambers, and election booths. Instances of these contestations are the Spanish Constitutional Court's decision on the legality of subsequent referendums on Catalan secession in 2014 and 2017; the ongoing standoff between the state of California and the American federal government over who ought to regulate the rights of undocumented immigrants; and the Scottish and UK referendums on independence and exit from the European Union, respectively. This dissertation sets out to explain under what conditions, how, and with what kind of consequences some regions are more inclusionary than others in their approach to what citizenship entails and to whom it applies. This is what I refer to as *the politics of regional citizenship*.

The empirical analysis focuses on subnational variations in the realisation of the right to health care for undocumented immigrants in three multilevel states where regional governments have some control over health care and, within these, on pairs of regions that have been governed by either left- or right-wing parties and coalitions: Lombardy (Italy, conservative government from 1995), Tuscany (Italy, progressive government from 1970), Andalusia (Spain, progressive government from 1980), Madrid (Spain conservative government from 1995), Vaud (Switzerland, progressive government from 2002) and Zürich (Switzerland, conservative government from 1991). Evidence is collected via the analysis of over 31 legislative documents and 62 interviews with policy-makers, health care professionals, and members of NGOs.

The comparison shows that the interaction of political ideologies at different territorial levels leads to the emergence of contested ideas about citizenship through the use that regional governments make of the distinct traditions of regional protection of vulnerable individuals like minor children, the disabled, and the homeless. The comparison also shows that the structure of the territorial

system of the state plays an important role in determining the direction of the politics of regional citizenship. The value assigned to territorial pluralism within a country, in particular, determines whether regional citizenship is developed against the state, as a strategy to manifest dissent and mark the difference—as is the case in Spain and, to some extent, in Italy—or, instead, together with the state, as an expression of multilevel differentiation—as in Switzerland. Importantly, however, regional citizenship does never develop in complete isolation from the state because it always represents an attempt to weaken or reinforce the policies of the central government.

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List of acronyms

CiU	Convergència i Unió
CVS	Christlichdemokratische Volkspartei der Schweiz
FDP	Free Democratic Party
FI	Forza Italia
GDP	Gross Domestic Product
ETA	Euskadi Ta Askatasuna
EU	European Union
INE	Instituto Nacional Estadística
ISTAT	Istituto Nazionale di Statistica
IU	Izquierda Unida
LN	Lega Nord
NGO	Non-governmental organisation
N-Va	Nieuw-Vlaamse Alliantie
NAFTA	North American Free Trade Agreement
OECD	Organization for Economic Cooperation and Development
OFdS	Office fédéral de la statistique
PCI	Partito Comunista Italiano
PD	Partito Democratico
PDL	Popolo delle Libertà
PP	Partido Popular
PS	Parti Socialiste
PSOE	Partido Socialista Obrero Español
SFSP	Système Federal de la Santé Publique

SNS	Sistema Nacional de Salud
SSN	Sistema Sanitario Nazionale
STP	Straniero Temporaneamente Presente
SVP	Schweizerische Volkspartei
UPD	Union Progreso y Democracia
UK	United Kingdom
US	United States of America

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During my four years at the European University Institute I received an incredible support from a number of individuals. The 2013 cohort was a constant source of encouragement, advice, and good food. Jelena Dzankic, Monika Rzemieniecka, Mariana Spratley, Gabriella Unger, Guia, Antonella, Cinzia, Natasha, and all the persons working at the library made my work a lot easier and more fun than it is normally supposed to be. Simon Watmough endured my Italian delays when proofreading this text and still managed to do a fantastic job.

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While writing the thesis, I have benefited from extensive periods of research in six prestigious academic institutions. These stays were made possible by the support I received from a number of scholars. In particular, I would like to thank Nicola McEwen, Eve Hepburn and Daniel Cetrà in the Scottish Centre for Constitutional Change at the University of Edinburgh; Chris Chhim in the Department of Political Science at McGill University in Montreal; Gianni D'Amato, Anita Manatschal and Jean Thomas Arrighi in the Swiss Forum for Migration and Population Studies at the University of Neuchâtel; Tiziana Caponio at the *Collegio Carlo Alberto* in Torino; Ferruccio Pastore and Irene Ponzo at the *Forum Internazionale ed Europeo di Ricerche sull'Immigrazione* in Torino;

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Introduction

When his father started to feel sick, Alpha Pam quit school and started to work. It was 1999 and although he was only 14 at the time, he worked multiple jobs in Thiaroye sur Mer, the small town in Senegal where he was born. However, the money he earned was not enough to sustain his family. When he turned 21, Alpha and his best friend Kalidou decided to move to a place where they could find a better-paid job. It was the summer of 2006 that they set sail towards Europe.

Their destination was the Canary Islands. Just 1,500 kilometres off the coast of Senegal, these seven Spanish islands constitute the entry point to Europe for those coming from western Africa. A recurring phrase heard by visitors in Thiaroye sur Mer is "Barça mba Barsakh' ('Barcelona or death'). According to a report of the European Parliament, more than 400 of the young male inhabitants of the town have gone missing at sea in the course of their journey towards Europe (Committee on Civil Liberties Justice and Home Affairs, 2009). Alpha and Kalidou reached the Canary Islands alive, but debilitated. After spending a few weeks under the custody of the Red Cross, Alpha Pam recovered and moved to Madrid. He remained in Spain even though he did not have the regular permit and he started working as a peddler in Mallorca, selling bracelets and necklaces to tourists on the beach. Every three or four weeks he would send home some money: 50, 80, 100 euro. This was enough to support his family in Senegal.

Alpha went on for over ten years, until December 2012, when he started to have abdominal pain, cold, nausea, and extreme tiredness. He reduced his working hours but continued to feel sick. A few months before, the Spanish government had changed the conditions for access to health care through a law that the autonomous community of Mallorca was implementing restrictively. As an undocumented immigrant living in that region, Alpha could only access the emergency department. The doctor there prescribed him some medications that, however, had no effect. Alpha returned to the hospital several times. Ventolin, Primperan, Effelgaran, Sueroral, Enantyum, Nolotil, Espidifen, Paracetamol; the boxes of drugs were accumulating in his room, but the disease persisted.

On the first day of 2013 Alpha's girlfriend, Alaina, found him in an alarming state. He had lost weight and had a high fever. She tried to persuade him to return to the hospital, but Alpha refused. By the end of February, the disease was getting worse. At that point, it was clear that he was not going to heal without help, so he tried again. On that occasion, the doctor who attended him at the emergency department of the hospital suspected it was tuberculosis, so he did the Manteaux test that detects the disease through the reaction on the skin of a superficial puncture. After three days, on 28 February, Alpha returned to the hospital for the results, which were negative. Yet, suspicion persisted: the definitive test would be an x-ray that the doctor could not arrange in his hospital. Instead, he sent Alpha to the Hospital de Inca, about 20 kilometres away. Alpha visited the hospital on the 4 April and then again on the 13 April. Each time, he was refused assistance by the administrative desk that, observing that he had no documents, decided not to admit him in observance to the national law. Alpha returned to the hospital one more time, after the insistence of his friend Kalidou, and this time he was allowed to see a doctor for five minutes. He was also required to sign a *compromiso de pago*, a document committing him to pay for any service he received. But he did not receive any service. He was found dead in his house eight days later, on 21 April.

The ensuing investigation demonstrated that Alpha Pam had died of tuberculosis (Govern de les Illes Balears, 2013). He could not be assisted because of the legislation that had been approved by the Spanish government in 2012, which the regional authorities of Mallorca had implemented restrictively. Many NGOs criticised this law and praised the activity of other autonomous communities where undocumented immigrants were still allowed access to all hospital services because of legislative or administrative actions undertaken by the regional authorities (Alabao, 2013; Médicos del Mundo, 2014). One can only speculate, but in all likelihood Alpha Pam's story would have had a different ending had he been living in a different autonomous community. In Andalusia or Asturias, for example, the regional authorities had established that all individuals should receive medical care without having to prove their legal status and condition of residence.

How is it possible that access to a right like health care varies so much within the territory of the same state? What are the reasons? Under what conditions does this occur? Is the story of Alpha Pam just an isolated episode or does this case shed light on a larger issue of how the interpretation of what citizenship entails (and to whom it applies) varies within a state. If this is the case, what

remains of the ideas of equality of citizenship and internal solidarity within a democratic state? These are the central questions that motivate this dissertation.

Focusing on the realisation of the right to health care for undocumented immigrants, the empirical analysis of my study sheds light on the mechanisms behind subnational variation in the approach to citizenship and the rights it entails. To put the results most simply, I find that distinct traditions of regional protection towards vulnerable individuals like minor children, the disabled, and the homeless feed contemporary policies of social commitment towards new vulnerable groups, including undocumented immigrants. These traditions are activated by regional governments led by progressive parties or coalitions of progressive parties when the ideology of the government of the region is incongruent with the ideology of the government of the state. Regional citizenship traditions thus provide the working material that progressive regional governments use to enable more inclusionary approaches. By relying on narratives of the past and using the window of opportunity provided by ideological incongruence with a national government, these actors define who is a deserving member of the community, therefore influencing the debate on cohesion and solidarity.

Hence, the politics of regional citizenship represent a source for parties to influence the national agenda, shape policy results, and encourage political compromise. It does not necessarily provide an alternative basis to national forms of membership, but it rather transforms national statuses from below and from within. My argument is that it may be better for central governments to harness the approaches of regional governments rather than to rule them out *a priori* as unwelcomed intrusions into the state's monopoly over the interpretation of what citizenship entails (and to whom it applies). This point can be further generalised by arguing that in multilevel systems rights can be more coherently protected not through their confining to different territorial levels of government, but instead via the promotion of mechanisms that encourage cooperative interactions among governments operating at different territorial levels.

I have presented the story of Alpha Pam as an introduction for my research in the hope to do justice to the complexity of his biography. Unfortunately, this is the only exception that I can allow myself. The categorisation of subjects into groups leads inevitably to a certain degree of abstraction. During this process, I have sometimes lost sight of the experiences, expectations, and motivations

of the subjects I was studying. At the same time, I also felt that I could not have explained the social realities that I was investigating without recurring to a degree of simplification. This is a necessary acknowledgment before proceeding with the presentation of the structure of the dissertation.

In Chapter 1 of the dissertation I outline the research puzzle and propose a conceptual analysis of regional citizenship based on the three dimensions of recognition, representation and legislation. These, I subsequently adopt in order to classify the universe of cases in which my investigation has relevance. The purpose of this chapter is to emphasise the influence that regions can have on the rights of citizenship as part of a multilevel system within a state, thus breaking with state-centric views. My contention is that regional decentralisation is not automatically salient for the development of territorial approaches to citizenship. Instead, those cases where regional authorities are constitutionally recognised, politically represented, and have the power to legislate in civil, political and social matters should be studied as institutional arrangements that can affect citizenship; namely, what rights it entails, and to whom these apply. The governments of these regions can, at least theoretically, develop their own policies affecting citizenship in this context.

In Chapter 2, I situate regions in the existing research on citizenship. From the early *poleis* of ancient Greece to the Italian renaissance cities, and the late-medieval feudal domains, many forms of membership were established within the boundaries of clearly circumscribed urban and regional territories that were often parts of larger political communities. These relatively small territorial jurisdictions represent an important aspect of the history of citizenship before the advent of the modern state. Nonetheless, the local and regional origins of citizenship have been partially forgotten due to the process of state-building, with its strongly unitary connotation.

Recently, however, various fields of research have demonstrated that citizenship in the contemporary world has developed again a variable geometry, with individuals having different rights depending on the territory of the state where they live. The literature on multicultural citizenship, for instance, has explored the possibility that alternative forms of territorial membership and political representation might substitute homogeneous conceptions of national citizenship. The literature on nested citizenships in federal systems has analysed how federalism enables diversity in the rights that individuals can access across the territory of the state. The

literature on the re-scaling of the state has shown how global and European processes have encouraged regional devolution, affecting several aspects of citizenship. Finally, the literature on regionalism has shown that autonomist parties elected in the regions compete over the rights of citizenship in a variety of states, and not only federal ones. This body of research suggests that there are several ways in which regions, and regional governments in particular, interpret what citizenship entails (and to whom it applies) within a state. In the chapter I suggest that it is important to study regional citizenship as a political fact even in places that are not characterised by the presence of minority groups, federal arrangements, or autonomist movements. In this sense, a focus on ordinary regions in multilevel states can broaden the findings of existing fields of literature.

In Chapter 3 I introduce an explanatory framework for the differences in regional approaches to social citizenship, using the paradigmatic case of access to health care rights for undocumented immigrants. I focus on this empirical case because regions can, at least theoretically, recognise undocumented immigrants as *de facto* members of the polity, providing them with full health care rights that are usually reserved to national citizens only. The comparison includes pairs of regions in three states where subnational governments have some control over health care policies. The selection of countries serves to test the impact of different constitutional relations between central and regional governments; while the subnational units are chosen primarily to test the impact of left-wing vs right-wing parties in regional government.

The cases analysed have been led by governments of either left- or right-wing political ideology for a period of over ten years. These are: Lombardy (conservative government from 1995) and Tuscany (progressive government from 1970) in Italy, Andalusia (progressive government from 1980) and Madrid (conservative government from 1995) in Spain, Vaud (progressive government from 2002) and Zürich (conservative government from 1991) in Switzerland. Overall, then, the selection of cases aims at explaining the effects of the historical *left–right* political cleavage within European multilevel states characterised by different territorial systems. Evidence from the cases is collected via the analysis of over thirty legislative documents and 62 interviews with policy-makers, health care professionals, and members of NGOs.

In Chapter 4, I present the case of Spain, where the historical process of nation-building has produced strong competition across the autonomous communities. Regional citizenship in this country has been built against the state, in an attempt to recover historical forms of autonomy. Today, autonomous communities compete over the control of legislative powers in the field of citizenship. This attitude is reflected in the activism of regional governments in regulating access to health-care rights for undocumented immigrants. In particular, after the national government restricted the conditions for access to public health care in 2012, several regional governments reacted by passing a more inclusionary legislation. In Andalusia, for example, the regional government circulated guidelines providing unconditional access to health care services regardless of the legal status of a person, *de facto* hollowing out the state legislation. This stands in sharp contrast with the decision of other regional governments, including that of Madrid, which applied the national legislation restrictively and, in so doing, excluded undocumented immigrants from most services beyond emergency care. This debate highlights the crucial role of regional governments in preserving access to basic social rights for vulnerable groups in a context of general welfare retrenchment, but also the uncertainty that is produced in a territorial setting where the scope of legislative competences constitutes a permanent source of conflict.

In Chapter 5, I outline the Italian case, where the historical process of state-building produced politics of regional citizenship that were developed both against and with the state, sometimes recovering historical forms of autonomy, sometimes inventing new individual rights. This has resulted in a competitive territorial structure of institutions, mediated by a strong centre. A paradigmatic example concerns health care legislation for undocumented immigrants. While the national framework mandates the access to urgent, essential and continuous health care for all undocumented immigrants, the regional interpretation varies broadly and results in an uneven geography of rights. Some regional governments, such as the Tuscan one, have passed legislation and administrative rules providing broad access to health care for all residents, regardless of status, thereby surpassing the standards that have been established at the national level. By contrast, other regional governments, including that of Lombardy, have sought to restrict access to health care through legal, administrative and practical barriers. The existence of different approaches developed across regions sheds light on the enduring territorial differences in the interpretation of citizenship rights across the country.

Chapter 6 discusses the case of Switzerland, where the historical process of nation-building has proceeded by integrating cantonal forms of citizenship into a plural state. Already the 1848 Constitution recognised the differences among Swiss peoples: the twenty-five cantons were recognised as the constituent units of the Confederation; they were guaranteed equal political autonomy and retained their constitutions. Today, the legislation regulating access to health care for undocumented immigrants reflects this plurality. Important differences exist across the cantons; however, these differences are not due to competition over policy competences, but rather to the role of cantonal governments and the recognition of different traditions of assistance to vulnerable populations. The government of Vaud, in line with its traditional laws and institutions, continues to provide financial support to the integrated services in hospitals that assist immigrants without regard for their legal status. These patients are assisted because they are poor, not because they are undocumented. In addition to this service, the cantonal authorities also provide refunding for the indigent who want to insure themselves and supports the activity of dedicated centres run by NGOs for specific groups of socially marginalised persons. In the canton of Zürich, by contrast, the health care of those who are not insured is provided by the voluntary activity of charities and NGOs that, unlike in the canton of Vaud, do not receive public funding. These differences show that variation in the provision of certain rights across the country remains very significant even today.

In Chapter 7, I summarise the main findings that apply to all the multilevel states analysed. Descriptively, I find that even in countries that are not constitutionally federal, regional authorities have developed distinct approaches to citizenship and modelled access to rights depending on their diverse preferences. While contestation between regional and central governments is present in all cases, it is structured differently depending on institutional traditions and constitutional frameworks. Overall, the mechanisms I identify are based upon three factors: (1) the multilevel structure (i.e. regional autonomy and competences) and state-building dynamics (competitive vs. cooperative multilevel governance); (2) incongruence between the ideology of regional and national governments, and; (3) distinct regional citizenship traditions.

The structure of the territorial system of a state plays a role in determining the direction of regional citizenship. The value assigned to territorial pluralism determines whether regional citizenship rights are created against the state, as a strategy to manifest dissent (as in Spain) or together with

the state, as a way of articulating social complexity (as in Switzerland). In particular, the methods used to resolve constitutional disputes create incentives for the different levels of government to promote or inhibit regional citizenship rights. Veto points allow political decisions to be overturned at different stages in the policy process: in Italy and Spain this is a power reserved to the courts, in Switzerland to popular referendums.

The interaction of political ideologies at different territorial levels leads to the emergence of contested ideas about what citizenship entails and to whom it applies. Regional governments led by progressive parties are more likely to adopt an inclusive approach, especially when the ideology of the government of the region is incongruent with the ideology of the government of the state. In particular, distinct traditions of regional protection of vulnerable individuals like minor children, the disabled, and the homeless spill over into contemporary policies of social commitment towards new vulnerable groups.

The finding is that regional citizenship traditions provide the working material that is necessary to enable these more inclusionary approaches. By relying on narratives of the past and using the window of opportunity provided by ideological incongruence with a national government, regional governments can shape the rights granted to undocumented immigrants. At the same time and more generally, they can promote policies that define who is a deserving member of the region, therefore influencing the debate on rights, cohesion, and solidarity.

Chapter 8 concludes the dissertation, with a sketch of some principles for a normative study of regional citizenship. The main message is that determining the status and rights of citizenship should no longer be conceptualised as the monopoly of central governments. Regions are battlegrounds over contentious issues of membership and rights. Given regional governments perceive themselves to be engaged in an interpretive activity over the meaning of citizenship they can weaken or reinforce the citizenship legislation enacted by central governments. The general lesson, then, is that regional citizenship never develops in complete isolation from the state. Instead, it always represents an attempt to shape the policies of the central government. Ultimately, the politics of regional citizenship is a resource that allows all parties to influence the national agenda, shape policy results, and encourage political compromise. For this reason, I conclude by arguing that political systems are more stable and the beneficiaries of citizenship are better off

where dialogue between central and regional government is first encouraged (and the insulation of national and regional institutions within their respective levels of government avoided) and then channelled through shared rules that define clear obligations in cases where conflicts arise.

Puzzle and conceptual framework

Humans have traditionally organised themselves in political communities, excluding those not considered legitimate members. In the modern international system, this exclusion works mainly by means of national citizenship, which has been used by states as a powerful tool to select the population. Yet, several scholars, including geographers (Painter, 2008; Paasi, 2009; Staeheli, 2010), social scientists (Keating, 2009b; Hepburn, 2011b; Arrighi, 2012; Maas, 2013b), historians (Gordon and Stack, 2007; Fahrmeir and Jones, 2008) and political as well as legal theorists (Sassen, 2002; Bauböck, 2003b, 2017; Blank, 2007) have suggested that subnational communities—like regions and municipalities—can redefine the boundaries and the content of citizenship. They do so by intervening in the regulation of some crucial facets of democratic life that, according to the traditional view of Thomas H. Marshall (1950), are the essence of citizenship within modern states: civil liberties, voting, and a modicum of welfare.

How, exactly, and under what conditions are subnational authorities involved in the regulation of rights that were traditionally used by states to define the boundaries of national citizenship? Who gets to realise the rights of citizenship, deciding which individuals should be entitled and have access to them? What typologies can be used? What can be gained from comparing across countries and regions? What are the explanatory variables for more or less inclusionary politics of regional citizenship? What are the consequences for national citizenship? And for the internal solidarity, the democratic process, and ultimately the constitutional integrity of the state? In this dissertation I set out to answer these questions with the purpose of stimulating theory-building and prompting some kind of categorisation of the different forms of shaping citizenship at the subnational level.

I focus on regional, rather than local, approaches to citizenship for two reasons. The first reason is that regional governments generally have more extensive competences than municipal ones. Often, they are responsible for the provision of rights that have long been controlled by states. Some examples of the areas that are affected by regional governments include political participation (Painter, 2002; Swenden and Bolleyer, 2014; Keating, 2016; Arrighi and Lafleur, 2017), education

(Andrews and Mycock 2007; Laubenthal 2011), health care (Mcewen, 2005; Wincott, 2006; Béland and Lecours, 2007, 2010; Keating, 2009a; McEwen, 2010; Greer and Costa-i-Font, 2013; Greer, 2016), and cultural integration (Barker, 2010; Hepburn, 2011b; Henderson, Brown and Pancer, 2012; Jeram, van der Zwet and Wisthaler, 2015; Campomori and Caponio, 2016; Wisthaler, 2016). Regions are increasingly important spaces for political negotiation and delivery of public policies that were traditionally used by states to define the boundaries of national citizenship.

The second reason I focus on regional, rather than local, approaches to citizenship has to do with the fact that there is an enormous variation in the strength of regional government across European states. This is a relatively new phenomenon, resulting from the rising importance of the regional level of government in many countries during the final few decades of the twentieth century. Today, regions like Flanders in Belgium can sign international agreements; South Tyrol in Italy can require all its civil servants to take German-language test; St. Gallen in Switzerland can decide the criteria for naturalising foreign citizens and require that applicants follow 'an orderly personal and financial life';[1] and Mount Athos in Greece can even have a theocratic government. In their analysis of 42 European states between 1970 and 2005, Liesbet Hooghe, Gary Marks and Arjan H. Schakel (2010) find that only two have become more centralised, while 11 have not changed and 29 have had an increase in regional authority. The index used by the authors to measure the strength of regional institutions includes ten dimensions: institutional depth, policy scope, fiscal autonomy, borrowing autonomy, representation, law making, executive control, fiscal control, borrowing control, and constitutional reform. However, the justifications for the existence of regional governments and the capacities with which they are endowed have varied significantly both across and within countries, constituting to a 'mosaic of regional forms . . . differentiated in myriad ways' (Hooghe *et al.*, 2016: 151). This has important consequences for those rights that were traditionally linked to citizenship (Keating, 1997; 2016). Nowadays, federal states like Austria, the US and Switzerland formally acknowledge in their constitutions the existence of subnational entities and a corresponding status of citizenship;[2] at the same time, even highly centralised states like France

[1] Author's own translation. Original text: 'geordnete persönliche und finanzielle Verhältnisse aufweist' (Article 6, Der Grosse Rat des Kantons Schaffhausen 1991).

[2] The constitutions of these countries refer to '*Landesbürgerschaft*' (Article 6), 'State citizenship' (Article 4) and *Kantonsbürgerschaft*' (Article 37), respectively. Only in Switzerland is this still linked to self-determination

have introduced directly elected assemblies that function as representative institutions for individuals living in the region. Depending on their variable strength, regions have different ways of impacting on the meaning and on the boundaries of citizenship.

In spite of the existence of a large and growing literature on multilevel of governance (Scharpf, 1997; Hooghe and Marks, 2003, 2012; Piattoni, 2009), the question of how vertical and horizontal political processes within contemporary states affect the way in which regional governments understand, interpret, and give strength to the rights of citizenship has remained largely unanswered. In this dissertation I shift the focus from multilevel systems of governance to the corresponding multi-layered architectures of citizenship rights and statuses that exist within national communities. According to Maas (2017b:. 663), 'virtually all contemporary states—and it must be remembered that most nation-states are quite recent creations—are characterised by often wide variation in the levels of rights and protections that they offer their citizens'. This can be observed, for instance, in the variety of voting rights across the regions of a state, in the territorially differentiated social programs, and in the diverse incentives and disincentives regarding freedom of movement within states. Despite the ideal of equal citizenship, the place where one lives or works often matters as much as the citizenship status of an individual due to the way in which subnational institutions interpret and give meaning to citizenship.

This thesis aims to shed light on the mechanisms that drive the territorial contestation over national citizenship. My objective is to explain: (1) *the conditions under which* regional institutions affect the rights and duties that are traditionally linked to a status of national citizenship; (2) *how* regional institutions affect the rights and duties that are traditionally linked to a status of national citizenship and; (3) *the consequences* of these processes for internal solidarity, the democratic process, and ultimately the constitutional integrity of the state.

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powers at the cantonal level. In the US and Austria, regional citizenship is linked exclusively to certain legislative competences that subnational units have in the determination of rights. Yet, until 1938 the *Landesbürgerschaft*—then known as *Heimatrecht*—was a necessary condition for acquiring Austrian citizenship (Stern and Valchars, 2013). And in the US, it was the state level that determined citizenship status until 1790, when the national institutions hammered out the first common rules regarding the political status and options of the foreign born. Regional level citizenship was a legal status also in the Socialist Federations of the USSR, Czechoslovakia and Yugoslavia.

These are broad questions. Hence, in this chapter I introduce a conceptual and analytical framework for the analysis. I proceed as follows. First, I present the research questions and define the two most important concepts used in the dissertation—'citizenship' and 'region'. Then I explain the reasons why I take contemporary Western Europe as the frame of reference; and I subsequently narrow the list of cases to those where it can be seen that the interaction of different territorial levels most clearly leads to the emergence of contested ideas about citizenship. At the end of this preliminary discussion I outline the theoretical and conceptual bases of the dissertation.

Research questions

In this dissertation I set out to explain the mechanisms how regional governments grant or deny access to rights that were traditionally used by states to define the boundaries of national citizenship. The first question I seek to answer is the following.

Research question 1.
Do regional governments develop different approaches to what citizenship entails and to whom it applies? If so, under what conditions and how?

My first line of enquiry calls into question the idea that a single political unit can monopolise the allocation of membership and of the rights that are linked to it. This empirical question takes its moves from the observation that today many regions have the competence to shape rights that were historically linked to national citizenship. The idea is that the membership of individuals who are subject to multiple levels of government can be studied in terms of multiple levels of citizenship. Indeed, while the determination of the status of citizenship that is 'not just rhetorical and metaphorical' remains an exclusive prerogative of central governments in virtually all European states (Joppke, 2010b: 3), several rights that were traditionally used to define the boundaries of national citizenship are nowadays affected by municipal, regional, and supranational governments. In his work on multilevel citizenship (2013b), Willem Maas argues that a large number of citizenship statuses and rights in the twenty-first century are the product of ongoing interactions between states and other political institutions. Regional governments, in particular, have an

important role in this process. It is possible, for instance, to imagine that a national government might want to extend certain social rights for all residents, while a regional government might favour of restricting them. Conversely, a national government might lean towards the restriction of certain social rights as a way of controlling borders more effectively, while a regional authority might be keen to promote greater inclusion into them. The point is that the rights of individuals who are subject to multiple levels of government should be studied in terms of multiple levels of citizenship. The topic speaks directly to the contentious role of citizenship in the allocation of rights: this is what, from now on, I shall refer to as *the politics of regional citizenship*.

Surprisingly, the question of how citizenship rights and statuses are politicised within multilevel states has hardly been studied in the context of rapidly decentralising European countries. Outside Europe, the politics of regional citizenship is a core component of US federalism, due to the constitutional division of power enshrined in the American constitution. The balance between the equality of common federal citizenship and the diversity of subnational polities has enabled the existence of 'tiered, nested citizenships' (Schönberger, 2007: 61).

This tradition goes back to the beginning of the republic. A common citizenship supplanted earlier state memberships only with the Fourteenth Amendment, which was approved in 1868 after the Civil War. It provides that 'all persons born and naturalized in the United States . . . are citizens of the United States and of the state wherein they reside'. Federalism in the US evolved without a clear direction as to whether citizenship rights are more likely to be expanded at the national or the subnational level. States, for instance, used the politics of regional citizenship to extend the pool of beneficiaries of certain rights: Wyoming, to mention only one famous example, was the first government in the world to guarantee women the right to vote in 1869 (Greer, 2005: 4). At the same time, Southern states used the politics of regional citizenship as a conservative tool to justify unequal treatment of black minorities and to resist federal attempts to address the legacies of slavery and segregation.[3] Still today, citizenship rights change significantly across the US, as states

[3] Famously, William Riker wrote that 'if in the United States one disapproves of racism, one should disapprove of federalism' (Riker, 1964: 155), suggesting that federalism protected the interests of the privileged minority of Southern white racists. These examples illustrate that the pendulum of history can swing rapidly, an issue that will be discussed in more depth in Chapter 8.

remain the providers of some important entitlements, including the right to vote in state elections, to drive a vehicle, and to study at school. States also have the capacity to shift the boundaries of belonging by including or excluding immigrants from political voting, access to social provisions, and civil protection. The purpose of this thesis is to focus on European cases and explain whether, why and how some regions are more inclusionary than others in their approach to what citizenship entails and to whom it applies.

In answering the main research question, other enquiries will be touched upon: Who determines the scope of citizenship rights and the status of members within European multilevel states? According to what criteria? Freeing citizenship from its exclusive connection with the state, Maas calls for other scholars to explore 'the activities of individuals and groups in the interstices of sovereignty' (2013b: vii). Starting from this research agenda, the purpose of my dissertation is to explain how and under what conditions some regions are more inclusionary than others in their approach to what citizenship entails and to whom it applies. This will be done with a focus on the mechanisms through which regional governments grant or deny access to social rights to different groups.

Research question 2.
Under what conditions can regional citizenship be justified from a political theory perspective?

The second line of enquiry aims at better explaining the different incentives that the structuration of citizenship rights in multilevel states provide to political actors. In principle, it is possible to imagine that regional institutions share a coherent approach to citizenship and therefore integrate well into the constitutional order of the state; but it is also possible to imagine that at times they undermine the constitutional integrity of the state, for instance when they diminish the significance of national citizenship and create potentially disruptive areas of contestation. The point of departure, therefore, is that certain regional approaches to citizenship are expected to make states particularly vulnerable to conflicting tendencies that erode the foundations of democratic processes. This is not an absolutist claim, predicting that the eventual demise of a state is determined exclusively by the politics of regional citizenship. Instead, the argument is that certain ways of structuring citizenship rights can be more conducive to the formation of a polity strong enough to sustain robustly democratic practices.

In general, such an argument can be supported by two kinds of comparative studies. The first longitudinal study would observe the evolution of regional citizenship approaches in a given space over a long span of time. In his book *Nations and Citizens in Yugoslavia and the Post-Yugoslav States* (2015), for instance, Igor Štiks explains that citizenship was used in contrasting ways over the course of Yugoslav history; first as a tool of national integration and cooperation, then as an instrument of fragmentation, dissolution, and even ethnic engineering when the conflict broke out. This is one way of showing how regional and multilevel citizenship in the same territory can lead to dramatically different outcomes over a long period of time. An alternative way of structuring comparative analysis is to look at the different approaches to regional citizenship at a given time over different territories. This is the purpose of my dissertation, which sets out to explain what conditions lead to the creation of different regional approaches to citizenship and under what conditions they play a stabilising role for the multilevel polity.

Concepts

This dissertation revolves around two concepts: (1) citizenship, my object of observation, and; (2) region, my unit of analysis. These concepts are widely used in the social sciences to describe a variety of different situations. Citizenship is one of those successful ideas in the history of political thought the use of which has become so widespread that it risks explaining very little if not used with some conceptual rigour. Similarly, regions have been defined according to a multitude of different criteria so that almost every territory that is not a state can be identified as some kind of region. In this section I define each of these two concepts, thereby establishing a consistent understanding of the parameters used in my analysis.

Citizenship

Citizenship captures the relationship between individuals and their political communities. Historically, this notion has undergone numerous shifts. There are, today, two alternative interpretations of citizenship in its broader sense. Citizenship can either be understood as a set of dispositions and practices of civic engagement and loyalty to a polity (Walzer, 1983; Miller, 2000); or as a set of enforceable rights and obligations that are recognised and granted to individuals vis-à-vis a political community (Bauböck, 1994; Joppke, 2010a). These two approaches highlight different aspects of citizenship. The former is more broadly sociological and draws attention to practices of democratic self-governance, civic virtues, participation and identity. The latter is more political–institutional and emphasises the importance of rights and duties that are associated with a status of membership. This is an important distinction to draw because the explanation of the effects of regional citizenship on the stability of the state largely depends on the approach adopted. The definition used in this dissertation is that of citizenship as a status of membership linked to a bundle of rights in a self-governing political community.

Three clarifications on this definition are in order. First, while I do not deny the relevance of sociological conceptions, my claim is that the political and institutional palette of individual rights and duties provides the background for softer elements of belonging. The reason for this claim is that the dispositions and practices of citizenship can be more easily explained after having identified its institutional basis, rather than the other way around. In other words, it is the establishment of rights and duties associated with the status of membership that furnishes a distinct source of identity open to contestation and engagement. This is the reason this dissertation is more concerned with the political–institutional aspects of citizenship than with its sociological dimension.

Second, usage of the word membership overcomes the rigid distinction between citizens and non-citizens that is generally used in the international state system. Citizenship entails a legally defined status that should guarantee formal equality before the law and the right to equal political participation. In reality, however, there are many citizens who are not full members of a community because of restrictions placed upon their enjoyment of rights: children, immigrants, the disabled

and members of LGBT communities (Cohen, 2009). At the same time, residents, refugees, asylum seekers and even tourists can benefit from basic levels of rights protection.

These examples demonstrate that legally defined notions of citizenship do not fully capture the link between the rights of a person and the political community providing these rights. Instead, membership entails a recognition of those persons who, even without the corresponding legal status of nationality, enjoy certain rights in a self-governing political community. A good illustration is the right to vote in local elections that is granted to all foreign residents in 12 EU member states even if they are not EU nationals (Arrighi *et al.*, 2013). This right makes them *de facto* local citizens, because they can participate in local self-government on equal terms with national and EU citizens. Membership, therefore, is not exclusively related to legal status, but instead to the concrete enjoyment of rights in a self-governing political community. This relates to the third clarification, which is about 'self-governing political community', a notion that refers to the existence of institutions that represent a group of people collectively and are endowed by them with the power to govern a territory (on the concept of 'polity' see, for example, Bauböck 2002). Thus conceived, the definition of citizenship has its foundation in the ideas of membership, rights, and self-governing political community.

The idea that the development of modern citizenship was intimately related to the progressive expansion of rights and the creation of a membership status to strengthen the viability of the self-governing political community of the state was a central tenant of Thomas H. Marshall's famous lecture on *Citizenship and Social Class* (2009), in which he divided citizenship into three types of rights: civil, political and social. These rights correspond to the historical development of the state—the British state, more precisely. In the eighteenth century, citizenship provided civil rights, such as individual freedom, the right to own property and the right to justice. Political rights, including the right to vote and to stand as candidate, started to expand only a century later and the process was completed in the early twentieth century. Social rights connected with the expansion of the welfare state were only achieved by the mid-twentieth century in the attempt to create a more egalitarian society and to limit the disruption caused by the spread of capitalist economy (2009: 10–14). The integrating function of these three bundles of citizenship rights represented a powerful force for nation building. Nascent states developed through the institution of rights that laid the groundwork for imagined communities at a national level: state citizenry and sovereignty

were created together (see also: Wimmer and Glick Schiller 2002a). Importantly, while the definition of citizenship used in this dissertation shall be applied to a variety of different political communities, Marshall's definition was rooted in a specific historical and geographic context characterised by a hegemonic role of the state in the distribution of political authority. Indeed, Marshall (2009: 9) insisted that the 'citizenship whose history' he wished 'to trace' was 'by definition, national' involving a double process, one of geographical fusion of authority in the hands of the state and another one of separation of three kinds of citizenship rights that were managed by different institutions (the judiciary, the parliament and public administration, respectively). By explaining the expansion of rights in Western European states through exclusive reference to the case of England,[4] Marshall linked citizenship to one specific self-governing political community: the state.

Yet, the territorial boundaries of citizenship are hardly congruent with those of states. Historically, large units of governments such as empires and leagues have divided citizenship rights through a series of jurisdictional layers. Even with the advent of the state no single set of units ever managed to monopolise citizenship rights, as uneven patters in the distribution of rights remained. Rainer Bauböck and Virginie Guiraudon (2009: 439) point out that a significant part of contemporary scholarship on citizenship theory focuses on multilevel interactions between polities situated at sub- and supra-state levels. The multilevel perspective on citizenship recognises the applicability of citizenship to a multiplicity of territories, including cities and regions. Of course, municipalities and regions normally have open borders and cannot impose naturalisation requirements.

Despite this limitation, the relative disengagement of citizenship from the exclusive control of states creates a network of increased political interdependency where citizenship is determined and managed across these vertically nested territorial levels. In his volume, Maas provides several examples of citizenship operating in sub-state, supra-state, or non-state political communities,

> to question taken-for-granted assumptions currently embedded in the concept. Although citizenship as an analytical category has come to be narrowly defined as

[4] For a discussion on the distinction between England and the UK in Marshall's work, see Chapter 2.

> legal and political equality within the context of a sovereign state, such equality, has never existed in pure form (Maas, 2013b: 1–2).

Following this approach, it seems possible to apply Marshall's conceptualisation of the constitutive elements of citizenship—that is, the civil, political, and social components—to the territorial level of the region.

Region

Just like citizenship, the idea of the region is multifaceted. Broadly defined, it is a portion of territory that may be of any size (Keating, 2001b). Regions vary enormously not only in their dimensions, but also in the relative economic strength, historical longevity, cultural thickness, forms of political representation, and social traditions. These differences are visible both across and within states. As a matter of fact, while regions can span beyond one state,[5] the units I observe in my dissertation are subnational portions of territory defined by a set of political institutions that put in place strategies of boundary building.

It is important to differentiate these boundaries from alternative ways of constructing a territory. A territory is a complex concept, which has been defined as

> land or space that has had something *done to it*—it has been acted upon. Territory is land that has been identified and claimed by a person or people . . . It is a bounded space to which there is a compulsion to defend and secure—to claim a particular kind of sovereignty—against infringements by others who are perceived to not belong (Cowen and Gilbert 2008: 16; italics in the original).

[5] There are two ways that regions can stretch beyond one state. First, regions can be limited portions of the territory stretching between the border of two or more states, as in the case of the historical Basque regions. Regions can also be geographically defined areas that encompass several states, as in the case of the Andes, Europe, Indochina, or West Africa. Sometimes, these supranational regions can be organised into an entity that has some degree of political integration, as happens in Europe with the EU and in the Andes with the Andean Community.

In fact, there are different ways to produce this process of bounding. According to Stefano Bartolini's typology (2005), a territory can be bounded in four different ways: culturally, economically, coercively, and politically.

Historically it was the modern state that successfully integrated all four boundary-building processes. In the 19th century, crossing the boundary of the state one used to pass at the same time into a different economic market, into a different cultural community, into a different coercive force and into a different set of political jurisdictions.[6] Subnational regions, however, escape this perfect congruence. Most regions are either culturally or economically bounded. Regional cultural boundaries reflect the territorial concentration of language, religious, or ethnic differentiation within otherwise relatively culturally homogeneous states. Contemporary examples of culturally bounded regions include Catalonia, Galicia and the Basque Country in Spain, Flanders and Wallonia in Belgium, Bavaria in Germany, Quebec in Canada, and Tibet in China, to mention just a few. Economically bounded regions are Baden–Württemberg in Germany or Lombardy and Veneto in Italy. While there are no instances of regions that are bounded only coercively, processes of devolution, federalisation, and decentralisation in Europe have contributed to the creation of regionally differentiated political boundaries reflecting various sets of institutions for specific territories. It is on this latter kind of subnational politically bounded territories that I intend to focus my attention.

The objects of my observations are sometimes understood as those territories that are constituted as the first administrative tiers of subnational government. This is the working definition used by the OECD, which in many countries represents the framework for implementing regional policies. Liesbet Hooghe, Gary Marks and Arjan Schakel (2010: 4) have provided a more flexible definition of the region as 'a coherent territorial entity situated between the local and national levels with a

[6] The advent of globalisation flows and the rise of supra-state entities like the EU have partially blurred these boundaries. Notwithstanding the claims that a pure congruence of these four boundaries never truly existed, many contemporary processes mark a significant break from previous periods in which state boundaries were the key organisational building blocks in all the four domains mentioned in the text. Today, for instance, the existence of common economic markets undermines the strength of economic boundaries that used to characterise states in the 19th century.

capacity for authoritative decision making'. These two definitions are useful for distinguishing regions from other units of territorial government. However, due to the heterogeneity of regional arrangements, which is evidenced by the table below, it might be useful to maintain a degree of flexibility in the application of the definition. The objective is to avoid that formal criteria rule out territorial units that, in fact, have many of the substantial features of a region.

Table 1. List of regions in European states

Albania	X
Austria	Bundesländer (9)
Belgium	Régions/Gewests (3) and Communities (2)
Bosnia-Herzegovina	Kantoni/кантони (10)
Bulgaria	X
Croatia	Zupanija/Историко-географски (21)
Cyprus	X
Czech Republic	Kraje (14)
Denmark	Regioner (5)
Estonia	X
Finland	Suuralueet (4) and autonomous Island of Åland (1)
Former Republic of Macedonia	X
France	Régions (18)
Germany	Länder (16)
Greece	Peripheries/περιφέρειες (13)
Hungary	Planning statistical regions/Magyarország régiói (7)
Iceland	X
Ireland	Regions (3)
Italy	Regioni ordinarie (15), Regioni autonome (3), Province autonome (2)
Latvia	X
Lithuania	X
Luxembourg	X
Malta	X
Montenegro	X
Netherlands	Nederlandse provincies (12)
Norway	Fylkeskommune (19)
Poland	Vojewodztwa (16)
Portugal	X (in most of the country) and Regiões Autónomas in Azores and Madeira (2)
Romania	Regiuni de dezvoltare (8)
Serbia	Autonomna Pokrajna (2)
Slovak Republic	Zoskupenia krajov (4)

Slovenia	X
Spain	Comunidades autónomas (17), Ciudades autónomas (2)
Sweden	Riksomraden (8)
Switzerland	Cantons (26)
Turkey	X
United Kingdom	X (in part of the country), Devolved assemblies of Northern Ireland, Scotland, Wales (3) and Greater London Authority (1)

Author's elaboration based on Council of European Municipalities and Regions (2016) and EUDO-Citizenship Eleclaw Explanatory Note (Schmid, Arrighi and Bauböck, 2017).

The broad literature on the regionalisation of state powers illustrates the relevance of subnational entities in contemporary politics and the emergence of new forms of political mobilisation focused on these institutions. In the European context, this topic has been studied from different angles by political scientists (Keating, 1997, 1998a; Loughlin, 2000; Hepburn, 2008; Hooghe, Marks and Schakel, 2010; Henderson *et al.*, 2013; Jeffery and Schakel, 2013), political and legal theorists (Bauböck, 2003a; Blank, 2007; Légaré and Suksi, 2008; Tierney, 2015), and geographers (Painter, 2002; Paasi, 2003; Staeheli, 2008). For political scientists, in particular, the institutionalisation of regions as important political units within the state has proceeded with the adoption of federal solutions, devolution, and autonomy arrangements that in the last few decades have been increasingly used to invest territorially circumscribed entities at the subnational level with the power of making laws.

It must be noted, however, that although federalism, devolution and autonomy have profound implications for the rights of individuals, previous writing on these topics have only seldom been described in terms of citizenship. Although sometimes it is taken for granted that decentralisation fragments rights that were traditionally linked to the status of citizenship of the state, a mere territorial subdivision of powers and responsibilities of states does not automatically imply that the regional level is salient for citizenship rather than just for public administration. The existing literature has remained ambivalent on the citizenship features of regional institutions and their right to give rights to the members of their polities in different European states.

Yet, thinking about regions as relatively autonomous spheres of citizenship within states is an important part of the broader research agenda on the territorial division of power in many other parts of the world. When subnational entities are endowed with institutional authority, they can take part in the process of defining the nature and the allocation of rights; that is, the definition of

what the exact content of those rights shall be and who shall be entitled to them. In the US, for instance, citizenship rights vary enormously depending on the state of residence (Schuck, 2000). This tradition has solid historical roots going back to the beginning of the republic. A common citizenship supplanted earlier state memberships only with the Fourteenth Amendment, which was approved in 1868 after the Civil War and provides that 'all persons born and naturalized in the United States . . . are citizens of the United States and of the state wherein they reside.'[7] Still today citizenship rights vary across the US, as the states remain the providers of some important entitlements—including the right to vote in state elections, to drive a vehicle, to study at school, among others—. Additionally, the states have the capacity to shift the boundaries of belonging through their powers to include or exclude immigrants from political voting, access to social provisions, and civil protection (Kinney and Cohen, 2013; Maas, 2017b).

Yet, the most notable example of regional citizenship in the whole of North America probably lies further north, in Canada's third biggest province. During the last few decades, Quebec's assembly has embarked on an explicit and much-publicised process of constructing a *citoyenneté québécoise* to address past inequalities between French and English Canadians (Barker, 2010; Juteau, 2010). Canada is also home to a notable case of regional innovation in the field of citizenship rights, as Saskatchewan was the birthplace of Canada's universal health care system (Greer, 2005: 5). Furthermore, the Canadian Charter of Rights and Freedoms (1982: Section 6) provides that all citizens and permanent residents have the right to live and work in any province, but it also allows for 'laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services'.

Beyond North America, another case where subnational citizenship has developed a thick status that comes with a precise set of rights and duties is India. This country lacks a formal constitutional concept of citizenship of its 29 states, but, as recalled by Vicky Jackson (2001),

[7] Until 1868, the assemblies of some states had wide margins of discretion. Some of them, for instance, had decided to extended state citizenship to free blacks. In its ruling on the Dred Scott case of 1857, the Supreme Court granted states the power to extend state citizenship to persons not holding national citizenship. The court rejected the capacity of free blacks to hold national citizenship but confirmed state power to extend state citizenship to free blacks.

> several subnational legislatures have enacted laws discriminating in favour of existing or long-time state citizens vis-à-vis other Indians in eligibility for elective state office, in the right to take up residence without a permit, and in the availability of employment preferences.[8]

The cases of the US, Canada, and India have been discussed in different literatures dealing with the fragmentation of citizenship within union-states and federal states more generally.

A less extensive literature covers regional citizenship in Europe. This is surprising, because the role of regional and local polities has traditionally been very important in this continent. Between the sixteenth and the eighteenth century, for instance, the Habsburg monarchy developed institutional ways of dealing with national questions regarding Polish, Hungarian, Bosnian, Moravian, and Serb populations by creating a complex mosaic of differential rights (Judson, 2006); in the eighteenth century, the Kingdoms of Catalonia and Navarre were self-governing polities within a complex confederal arrangement with the Kingdom of Spain (Bartolini, 2004; Balfour and Quiroga, 2007); and in the nineteenth century, several entities, such as Scotland in the UK, preserved distinctively regional institutions that had the power to shape certain rights of citizenship, such as education and civil justice (Keating, 1997). These are just some examples of political entities where regional forms of citizenship historically represented an important feature of government.

This dissertation, however, is concerned with problems of comparative politics rather than history. The analysis will therefore be focused on contemporary regions that are located in Europe, a geographical context that has three common features:

(1) the historical framework of reference, where state-building processes developed within a coherent time frame starting in the sixteenth century;
(2) the re-articulation of external boundaries of membership in a common citizenship regime that allows free movement for EU citizens and those citizens of states that have signed association agreements;

[8] Nagaland, Meghalay and West Bengal, respectively.

(3) shared standards in human rights, liberal democracy, and the protection of minority rights against discrimination.

Taking contemporary Western Europe as the frame of reference, it is possible to study the politics of regional citizenship in a setting with common background conditions that are absent in other parts in the world, as well as in many of the historical examples cited above. These are, for instance, the neglect of constitutional rules the use of political violence by some state-based actors. All states in contemporary Western Europe are generally recognised as polities that have democratic institutions, or 'a system of political rule that provides legitimacy for collectively binding decisions and coercive government under conditions of deep and persistent diversity' (Bauböck, 2018: 8). This historical and geographical context guarantees the presence of some basic conditions for the comparison that should be kept constant if one wants to understand the thick institutional component of regional citizenship within a multilevel system. Restricting the study to regions in this part of the world allows operating within a relatively coherent framework of comparison.

Universe of possible cases

During the last thirty years, in the majority of European states a broad range of public policies has been transferred from the central government to regional institutions (Hooghe, Marks and Schakel, 2010; Hooghe *et al.*, 2016). These processes have had important consequences for the nature and the functions of regions that, in many countries, have taken over the government of many policies that were previously controlled by the national state only. However, the devolution of powers does not automatically involve a corresponding rescaling of citizenship. Regional powers have sometimes been established to serve merely functional needs, allowing technocratic operators to be insulated from social considerations and political pressures. In these cases, regions do not control rights that are contingent on the territory and cannot involve individuals in decision making. Other times, regions are constituted as democratic polities where those being governed also play a role in governing.

My contention, which I will defend in this section, is that there are three criteria that can be used to differentiate between regions that are democratic polities and those that are units of

administration. These criteria are: (1) recognition; (2) representation; and; (3) legislation. Practically, these criteria are translated into: (1) the existence of a constitutionally recognised regional assembly; (2) that is directly elected by the people and; (3) that has the power to take legislative decisions that can affect the rights and the status of individuals. In the following sections I discuss these criteria and I use them to restrict the universe of cases to those entities where it is possible to find the politics of regional citizenship.

Recognition

The first basic criterion is recognition, or the institutionalisation of regions within the framework of the state. Indeed, regions may exist as having historical identities and distinct claims; however, it is only when they are recognised by the state that their political boundaries become relatively stable. Scholars such as James Buchanan (1995) and Alfred Stepan (1999) have identified two distinct processes that lead to the recognition of regions within federal systems: *coming together* and *holding together*. In the process of coming together, pre-existing historical regions that had previously enjoyed political autonomy agree to pool their sovereignty for the sake of certain common goods, such as economic prosperity or international security. In this way, they form a larger community. A classic example of this kind of arrangement in Europe is Switzerland. By contrast, in the process of holding together, regions are granted special powers by central governments that want to diminish the likelihood of unrest or secession by territorially clustered minorities. In this way, the central government transfers powers to regional units. A traditional example of this kind of arrangement in Europe is Spain. In both the coming together and holding together processes, regions are formally recognised as institutions within the constitutional order of the state.

While nowadays regions have been recognised in most European states, and not only in federal ones, not all states have regions, and not all states that have regions recognise them as part of the constitutional structure of the state. Sometimes, regions have been established only for a limited period of time, or with a specific functional purpose. In Ireland, for instance, the Regional Authorities were established by the Local Government Act 1991 to coordinate and to monitor the

delivery of Structural Fund assistance from the EU.[9] In these cases, the state does not recognise regions as part of its constitutional architecture, because their function is so limited that it is the result of delegation rather than being enshrined in the constitution. In other cases, the state does not recognise regions because they do not exist, often times because the state is too small for regions to have any meaning at all. In Luxembourg, for example, regions have never existed.

The granting of some kind of formal recognition to regions is the first step towards their constitution as a political space with relatively stable boundaries. Recognition protects regions against intervention by the central government and empowers them to develop their own public identities. However, there are different ways of recognising regions as part of the multilevel architecture of the state. Regions can, for instance, be singled out in the constitution of the state or in a law with a constitutional status, or they can be indirectly recognised by the introduction of a general guarantee of regional self-government among the main organising principles of the state. While in some states neither of these forms of recognition exists, the majority of European countries nowadays formally recognise regions in their constitutions.

Federal states like Austria, Bosnia, Belgium, Germany and Switzerland represent the most evident mode of recognising regions, because in these countries' constitutions subnational units are individually listed. In these cases, the constitution provides for a precise list of the competences under which regions have full self-governing powers. Hence, both the existence and the competences of regions are constitutionally recognised. In other countries in Europe, the existence of regional units is entrenched in the constitution without explicitly mentioning the single units. This is, for instance, the case of Italy, France and Spain—whose constitutions enshrine the existence of regions but do not list them individually—with the exception of autonomous regions in Italy and France and regions with special competences in Spain. In other European countries like Norway and Hungary regions are not explicitly mentioned in the constitution, but they are recognised in the multilevel architecture of the state via the constitutional principle of territorial self-government.

[9] In 2014, the Regional Authorities were replaced by Regional Assemblies.

Finally, there are some countries—like Ireland, Cyprus, Luxembourg, Latvia, and Malta—where regions are not recognised, neither directly, by listing or mentioning their existence, nor indirectly, by citing a general right to regional self-government in the constitution. This does not automatically mean that in these countries regions cannot be established. Sometimes purely administrative regions are activated via *ad hoc* national laws, but only with very limited purpose and duration in time. Recognition, in this sense, captures the fundamental difference between constitutionally entrenched regions and those that are 'at the mercy of central decisions' (Elazar, 1987: 228). Formal recognition is important because it represents the very first step for a region to constitute a democratic polity where citizenship rights can be, at least theoretically, created and modified.

Representation

The second criterion is democratic representation, that is to say the existence of an assembly providing a regional constituency with the capacity to symbolically represent 'the people' or 'the citizens of the region' (Hepburn, 2011b: 504). Representation constitutes citizenship because it creates a direct tie between the institutions and their subjects. It does so by means of an assembly, which can be defined as 'a self-standing institution with a fixed membership using parliamentary procedures to speak in the name of the people it represents' (Hooghe, Marks and Schakel, 2010: 31). An assembly serves the important function of attributing meaning to the region as a democratic polity: representation, thus established, constitutes a crucial part of the process of community formation as 'a highly productive symbolic force' (Lacey, 2013: 63). The procedural devices to open up—through the vote—the institutions of political decision-making to the preferences and opinions of individual citizens are, therefore, a crucial part of citizenship.

Concern with representation figures prominently in the study of citizenship. The ideal of citizenship in ancient Greece, in which citizens were persons charged with representing the interests of the *polis*, was based on the practice of representing citizens and their private interests for the common good of the entire polity. Since the eighteenth century, the tension between citizens as representatives of the interests of the polity and the polity as representative of the interests of its citizens has found practical elaborations in the French Revolution, which is sometimes credited as the inaugural force of modern politics and state-based citizenship (Brubaker, 1992; Fahrmeir and Jones, 2008). The revolution established new forms of representation for France as a unique whole. This was part of a new conception of citizenship, which was born from

the debate over the composition of the Estates General (*États généraux*): 'Those interests by which citizens resemble one another' wrote Emmanuel Joseph Sieyès, one of the most influential political theorists of the French revolution, 'are therefore the only ones that they can treat in common, the only ones by which and in whose name they can demand political right or an active part in the formation of the social law. They are therefore the only ones that make a citizen someone who can be represented' (Fahrmeir and Jones, 2008) Importantly, in post-revolutionary France this form of representation did not include the representation of subnational territories like regions and municipalities.

Nowadays, regions are represented in a variety of different ways within European states. Representation, however, requires democratic procedures and corresponding institutions. It can be argued that representative regional institutions perform the same function that state parliaments do; that is, to reproduce 'a politically organized society or community with its own institutions for making collectively binding decisions for a specified group of persons and/or within a bounded territory' (Bauböck, 2003b: 1). Not all existing regional arrangements serve to represent a distinct territory or population. The process of democratic representation necessitates that the referent is involved in all representative claims as an audience of some kind and thereby capable of affirming and contesting the claims made in their name (Lacey, 2017). Electoral districts do not fit in this category, because while they are territorial constituencies created for the purpose of representation of citizens, they are not distinct polities as they lack any governmental institutions of their own. Conversely, cross-border regions like the *Euregio* between the Netherlands and Germany have functional structures of administration, but they lack an elective institution of government.

Representation at the regional level usually corresponds to legislative assemblies that confer both symbolical strength and a coherent democratic space to the region. There are two main reasons for the existence of directly elected regional assemblies. The first reason has to do with the devolved competencies assigned to them by central governments. The creation of these assemblies itself contributes to strengthening the representation of the region as a crucial component of its constitution as a democratic polity. As noted by Enric Martínez-Herrera (2002), the autonomous communities in Spain have built identification with the political communities they govern through their own assemblies. Similarly, Hepburn (2011a; 2011b) has argued that regional citizenship has been consolidated in Scotland, Catalonia and Quebec through the creation of devolved institutions

for the political inclusion and representation of individuals. These institutions are the vehicles that allow the regional ruling class to engage in a regionally bound public discourse and to re-configure the structures of expectation of the people in a closer relation to the territory of the region rather than to the state as a whole.

The second reason for the existence of directly elected regional assemblies stems from constitutional federalism, which is not based on devolution of powers by a central government, but on a constitution that assigns power to both federal and constitutive polities. Regional assemblies in these states are generally called 'senate' or 'upper house'; they exist to represent regional constituencies and co-determine national legislation. However, not all the senates in the world directly represent the citizens of the region. This is an arrangement that can usually be found in federal and confederal states like Argentina, Brazil, Mexico, the US and Switzerland, where one of the two chambers of parliament represents the territorial interests of the constituent units of the state. In some countries, the senate consists partly of regionally elected and partly of centrally appointed or indirectly elected representatives (Chile, Spain); entirely of centrally appointed representatives (Canada, the UK); or entirely of members who are indirectly elected by regional legislatures (Austria, Germany, France). The different methods to select regional representatives in the national parliaments have implications for what these representatives actually represent: for instance, a directly elected senator for Vermont in the US does not represent regional governments in a way the representative of Saxony in the German Bundesrat does. In general, the powers, functions and procedures that determine the representation of regions in national parliaments vary widely across different states.

The distinction between territorially based regional assemblies and regional bodies co-determining national legislation reflects the combination of self-rule and shared rule that characterises federalism as a 'the genus of political organization' (Watts 1998: 120; see also Elazar 1987). The first form of representation is a regionally elected assembly that operates at the level of the region as a self-standing institution with the ability to elaborate policies autonomously from the state. The second form, which is characteristic of federal and confederal states, is a regionally elected chamber that complements the activity of the national parliament and contributes to its working by participating in the national policy-making process.

It is important to maintain this distinction when trying to understand how regional citizenship is part of a multilevel system. In states where both types of assemblies exist there is a strong representation of the region. In the majority of the empirical cases, only a regionally elected assembly that operates at the level of the region exists. However, in some countries regions exist without having a directly elected assembly. In Europe, the only empirical case today is the regions of Hungary, where a majority of the members of the regional councils are appointed by the central government of the state. Outside Europe, there are a few instances of regional elections that serve to elect a governor and her/his board of advisors, while lacking the corresponding institution of a representative assembly, e.g. in Honduras and El Salvador (Piccoli *et al.*, 2016). In all these cases, the territorial units exist without representing the peoples of the region.

Legislation

The third criterion for a region to constitute a democratic polity is about the capacity of its elected institutions to legislate in matters of citizenship. The extent and content of regional legislative competences is a matter of variation within a broader conception of regional citizenship, with regional citizenship in some cases resembling local citizenship, while it is more like national citizenship in other cases. In this section I will try to explain how to distinguish between the two and then narrow the universe of cases to those in which legislation in matters of citizenship is most clearly apparent, resembling existing forms of national citizenship.

Many of the regions that are constitutionally recognised and have a directly elected assembly still lack legislative powers in matters of citizenship. This is the case of the regions of the Nordic states and states of Eastern Europe: all the regions of Sweden and most of the regions of Finland, for instance, have powers to adopt their own budgets and can monitor the implementation of specific programs related to welfare, employment, and youth. In these cases, the role of regions could be described as more than administrative and indeed legislative, but without legislative powers in matters of citizenship. This description will often fit also for local level polities (Bauböck, 2003b), which are also distinct political entities with their own citizenship.

Regional citizenship is more like national citizenship in cases when regional institutions have legislative competences in matters of citizenship, therefore affecting rights that pertain to the areas

of civil, political and social citizenship (see: Marshall 1950), or—in exceptional cases—also in the definition of the national or regional citizenship status. I will discuss these instances in reverse order.

The potential for the contestation of citizenship is likely to come to the fore most strongly when regions have some kind of authority over the national or regional citizenship status, i.e. the capacity to control the boundaries of membership to the polity. There are three distinct ways in which regions can affect the boundaries of the *demos*. First, regions can be endowed with powers to determine or co-determine citizenship status at the national level. The only example in Europe is that of Switzerland, where cantons can pass autonomous legislation on naturalisation procedures by virtue of Article 37 of the Constitution.[10]

Second, regions can have powers to influence national legislation on citizenship. This happens in federal power-sharing arrangements such as in Belgium, where subnational regions can exert a degree of influence on the central government by co-legislating on issues of national interest, including the definition of state citizenship. Concretely, the regions are fully responsible for creating integration course exams and as a result only in Flanders have integration tests been established at all (Joppke and Eule, 2017: 352).

Third, regions can have powers to implement naturalisation autonomously, at least to a certain extent. A classic example is Germany, where the *Länder* have a significant bearing on the naturalisation process through their discretion in applying national regulations. In 2017, for example, German *Länder* contributed ten questions each to a federal pool of 300 (Joppke and Eule, 2017: 353). In Austria, as well, one-third of the questions are *Land*-specific, covering rather different topics (Stern and Valchars, 2013: 23). Under these three conditions, regions can shape

[10] The article reads as follows: 'Any person who is a citizen of a commune and of the Canton to which that commune belongs is a Swiss citizen' (translation: https://www.admin.ch/opc/en/classified-compilation/19995395/201702120000/101.pdf, last accessed 17 August 2017). The original text in the French version of the Swiss Constitution reads as follows: 'A la citoyenneté suisse toute personne qui possède un droit de cité communal et le droit de cité du canton.'

the boundaries of national citizenship in significant ways and, indirectly, shape also the boundaries of what constitutes regional membership.

Generally, however, regions do not have self-determination powers in matters of citizenship status. More often, they possess legislative competences in matters of citizenship rights, which allow their representative institutions to shape the contents of citizenship and modify existing categories of membership. Giving such powers to regions in a state whose citizens enjoy free internal movement indirectly impacts on mobility patterns.[11] In general, mobility patterns are primarily determined by things regions cannot control, such as employment opportunities and marriage patterns; however, decisions of regional governments in matters related to citizenship create incentives and disincentives for individual decisions concerning mobility.

Regional governments, for instance, can discourage internal migration into the region by introducing duration of residency requirements for access to certain social rights, such as housing or unemployment benefits. This constitutes an effective instrument for deterring immigration of non-citizens, but also citizens of the state coming from other regions. On the other hand, the establishment of new rights and the facilitation of access into already existing ones could contribute to widening the channels of entry and encouraging people to move to a specific region. This is the case, for instance, when regions within generally restrictive states decide to facilitate access to health care to all undocumented immigrants, thus creating an incentive for a specific category of non-citizens to move to the region. Territorial variations provide individuals with incentives to relocate depending on the availability and accessibility of rights. These strategies depend upon the capacity of a region to legislate in matters of social, political or civil rights.

Numerous scholars have demonstrated that regions have developed different standards of welfare, thus giving rise to uneven geographies of social rights within the state (Ferrera, 2005; Greer, 2005; McEwen and Moreno, 2005; Obinger, Leibfried and Castles, 2005; Jeffery, 2006; Subirats, 2006;

[11] Regional governments normally do not possess the capacity to directly regulate the inter-state mobility of people. To my knowledge, only the Canadian province of Quebec has the powers to directly affect the inter-state mobility of people. In Quebec, control over immigration has been a major concern since the 1960s and today the provincial government enjoys partial autonomy with regard to the criteria for selecting international immigrants moving to the province (Juteau, 2010; Dupré, 2012).

Béland and Lecours, 2007; Bifulco, 2016; Vampa, 2016). The case of social rights in Scotland discussed by Michael Keating (2009b) provides a telling example. In 2004, the Scottish parliament approved a series of initiatives aimed at encouraging people to settle in Scotland by allowing foreign graduates from Scottish universities to remain in the country for two years following graduation. The Scottish Parliament approved also a fee waiver that would apply to all those individuals pursuing first degree education in Scottish universities under the condition they had resided in the region for at least four years prior to application. Another example is the mandatory health insurance scheme developed by the Flemish region in Belgium (Popelier and Cantillon, 2013). The scheme in question applies to all the residents of Flanders aged 25 years or older and is funded with lump-sum contributions. These are only two of many examples that show how regions have acquired an increasingly important position in the provision and implementation of social rights, emerging as distinct and relatively autonomous sites of social welfare.

Regions are also increasingly often understood as semi-autonomous spaces for the provision of political rights. This is more marked in federal states. In Switzerland, for instance, cantons can adopt different residence requirements for the enfranchisement of non-citizen residents that are otherwise excluded from voting in federal elections (Helbling, 2010). This results in important variations. Foreign citizens who have a certain period of residence enjoy electoral rights in two of Switzerland's 26 cantons: Jura and Neuchâtel. Cantonal parliaments can therefore expand and restrict the electoral franchise on the cantonal and, in some cases, also the municipal level.[12] As a result, there exist different opportunities for participation depending on the canton where non-citizen residents have the place of residence.

Yet, the differentiation of political rights within the territory of a country is not a characteristic of federal states only. Again, the case of the UK is instructive in this respect. Citizens living in Scotland, Wales, Northern Ireland and Greater London enjoy regional representation that those living in any other part of the UK do not. Only these four have devolved institutions that are directly elected and can enact legislation (Painter, 2008; Hepburn, 2011b). Furthermore, an agreement signed in 2012 entitled the Scottish government to design a region-tailored franchise for

[12] For a detailed discussion on the right of foreign residents to vote across Swiss cantons, refer to the Chapter on Switzerland, in particular the section: Political rights.

the independence referendum that was held in 2014. The Scottish referendum franchise included long-term EU residents and Commonwealth citizens residing in Scotland, while excluding British citizens who were born in the region but resided abroad or in other regions of the UK (Ziegler, 2015).[13] Uneven access to political rights due to asymmetric regional arrangements is more frequent than one might think. In Italy, for instance, the autonomous provinces of South Tyrol and Trentino have introduced a period of continuous residence of four and one year, respectively, as a requirement for voting and standing as candidate in provincial elections. These examples show that regions often have significant room for manoeuvre to expand or restrict the boundaries of access to the political arena.

The one area where regions are not yet understood as spaces for citizenship is civil rights. In practice, there is only limited evidence of regions as autonomous actors in the legislation and enactment of rights concerning individual freedom. Even in this field, however, there are examples of regions, mostly those dominated by historic national minorities, that are relevant spaces for the definition of civil rights and duties. In the Finnish autonomous islands of Åland, the regionally elected parliament has widely used its competence on civil right provisions. Regional citizens in Åland are exempted from military service and have the right to start their own business, own land, and use their language. Access to these rights is, however, conditional on long-term residence and the capacity to speak Swedish. In other countries like Spain, Belgium, Italy and the UK, there are signs of differentiation of some specific civil rights for the sake of protecting the distinctness of a regional culture or political institutions. In Catalonia, for instance, the national police (*Policia Nacional)* and the civil guard (*Guardia Civil*) have been joined by an autonomous regional police body, the *Mossos d'Esquadra*, who have some limited responsibilities regarding civil rights, including freedom of speech and of assembly.[14] In Scotland and Northern Ireland a mixed common and civil law system has survived until today, making access to justice in these territories distinct from

[13] The franchise for the Scottish referendum was identical to the franchise for the election of the Scottish Assembly, which in turn is based on the franchise in local elections.

[14] The *Mossos d'Esquadra* were founded in 1951, but they take their name from the informal force of the *Escuadras de Paisanos*, which were formed in 1721 (http://mossos.gencat.cat/en/els_mossos_desquadra/historia_de_la_pg-me/ last accessed on 16 October 2017).

England and Wales. For other cases where civil rights are clearly dependent upon regional or provincial assemblies, one has to look outside Europe.[15]

The examples listed above refer to regions that differ on a wide range of dimensions. However, no matter how different they are, they show that recognised regions with a directly elected assembly and legislative powers have the capacity to modify social, political and sometimes also civil rights that were traditionally provided by the state. In practice, regions such as the Åland Islands in Finland have the capacity to create and modify civil, social and political rights, while others—such as Flanders in Belgium and the ordinary regions of Italy and Spain—have very limited room for manoeuvre on civil rights, but possess extensive powers to legislate on social and political rights, for instance to decide on unemployment entitlements, social housing and even modify the boundaries of the political franchise. By using these legislative powers, regions can, at least in theory, substantively differentiate rights from those normally provided for by the state.

Interestingly, most studies continue to have a blinkered focus on specific aspects of regional citizenship rather than treating it as a conceptual unit on its own. Nonetheless, the rescaling of civil, political, and social components of citizenship to the territorial level of the region can be observed from a holistic point of view, distinguishing how regional governments include *different groups* into *different kinds of citizenship rights*. Reflecting on the variety of citizenship rights and groups, the two tables below present a typology of illustrative cases to organise the descriptive findings of the literature presented so far.

[15] In Quebec, for instance, the provincial assembly has legislated on some crucial civil liberties since 1980, restricting the use of specific languages or religions in public places and fostering specific minority language-learning and education curricula at schools (Dupré, 2012). Across the United States civil liberties are still different depending on the ideological orientation and the history of the state where one resides.

Table 2. Regional legislation on inclusionary citizenship rights for different groups: illustrative examples

Inclusion of whom / **Inclusion into what**	**Citizen–residents**	**Non-resident citizens**	**Non-citizen residents**
Civil rights	Abolition of death penalty or recognition of same-sex marriages—e.g. several US states	No empirical cases of extension of civil rights for citizens living abroad	Special provisions for the protection and promotion of religious minorities—e.g. Islamic burials in several regions of Spain
Social rights	Extension of free health care and access to medicines to the elderly—e.g. Scotland (UK)	Extension of scholarships and grants to residents abroad who maintain ties with the region—e.g. Trentino (Italy)	Expansion of access to public health care regardless of citizenship status—e.g. several regions in Spain, Switzerland and Italy
Political rights	Extension of the range of political rights through the addition of regional-level elections and referendums—e.g. all regions with their own legislative assembly	Extension of voting rights in regional elections and regional referendums—e.g. Lower Austria, Tyrol and Vorarlberg (Austria), South Tyrol (Italy), Åland Islands (Finland)	Extension of voting rights in regional elections and regional referendums—e.g. Jura, Neuchâtel (Switzerland), non-binding referendums on independence 2014 in Catalonia (Spain) and Scotland (UK)

Author's elaboration.

Table 3. Regional legislation on exclusionary citizenship rights for different groups: illustrative examples

Inclusion of whom / **Inclusion into what**	**Citizen-residents**	**Non-resident citizens**	**Non-citizen residents**
Civil rights	Restriction of the recognition of same-sex marriages—e.g. several US states until 2015	No empirical cases of restriction of civil rights for citizens living abroad	Restriction of driver's licences as valid identity documents for otherwise undocumented immigrants—e.g. several US states
Social rights	Restriction to the access of health care based on duration of residence requirement in the region—e.g. several US and Canadian states	Restriction of unemployment benefits for citizens outside the region—e.g. Quebec citizens after seven consecutive days outside the province	Restriction of access to health care based on a duration of residence requirement in the region—e.g. several regions in Spain
Political rights	Restriction of voting rights in regional elections for citizens who do not have long-term residence in the region—e.g. South Tyrol, Aosta, Trentino (Italy)	Restriction of voting rights in regional elections for citizens who no longer reside in the region—e.g. Scottish Parliament elections and referendum on independence, 2014	No empirical cases of restriction of political rights for non-citizen residents

Author's elaboration.

When these cases are taken together, they present strong evidence of how regional institutions are creating forms of regional citizenship *de facto* if not always *de jure*. There are three ways in which this can happen. First, in many of the regions that have been studied, foreign nationals residing in the

region are provided with core citizenship rights such as social housing, voting, and civil protection. In other words, the decisions of regional institutions can also provide core rights to those who are not citizens of the state. EU immigrants and Commonwealth and Irish citizens residing in Scotland, for instance, can vote in regional elections and elect the members of the Scottish Parliament.

Second, the decisions of regional institutions can also extend or restrict the range of rights available to those who live in the territory, fundamentally modifying the basic bundle of rights that comes with state citizenship. Finnish citizens with continuous residence in the region for a period of five years in the Åland Islands, for instance, have additional benefits insofar as they are excluded from mandatory military service, have a special right to vote in the region and have access to a broad range of rights related to property and trade/profession which are denied to other Finnish, EU or third country citizens residing there.

Third, the decisions of regional institutions can also extend to those who have links to the territory of the region, but live outside its boundaries, either abroad or in other parts of the state. In the three Austrian *Länder* of Lower Austria, Tyrol and Vorarlberg, for instance, individuals who leave the *Land* remain included in the franchise as external voters voting in regional elections and regional referendums for a maximum of ten years.

Indeed, these examples do not show a single direction of either inclusion or exclusion compared to national citizenship: neither do regions always seek to upgrade citizenship rights while state governments aim to restrict them, nor the other way around. Rather, the cases listed above show that different territorial levels of government can lead to divergent rights of citizenship *vis-à-vis* the legislation of the state they are part of. In this sense, regions and their representative institutions can be conceived as creating a room for manoeuvre in fleshing out a citizenship that is differentiated from that of the encompassing state.

Summary

'Citizenship' and 'region' have seldom been studied together. When they have, research has usually focused either on specific components of regional citizenship rather than treating it as a conceptual

unit on its own. The literature on territorial rescaling, in particular, is largely dedicated to a few very specific cases of regions with asymmetric powers, in which regional movements for more autonomy or secession have drawn attention to political struggles about the location of authority. Building on the existing research, I have widened the focus to include ordinary regions and spelled out the conditions under which they can shape citizenship in its different dimensions.

This chapter has sought to highlight the multiple purposes of regional citizenship as a constitutive element of multilevel systems within contemporary democratic states in Europe. In general, I have shown that we can think of regional citizenship as based on the co-existence of distinct polities within the same territory. This entails more than simple administrative decentralisation, which is not stable and does not create a corresponding sense of peoplehood. By contrast, regional citizenship presupposes the existence of subnational polities that have relatively stable boundaries and are equipped with the means of involving individuals in decision making. Thus characterised, regional citizenship can be distinguished from other sources of rights beyond the state, including human rights regimes like the Council of Europe and trade regimes like NAFTA. Unlike these regimes, regions in multi-level states are polities equipped with their own means of involving members in decision making. More specifically, the criteria I have discussed allow categorising regions depending on their recognition, representation, and legislation. These criteria reflect different functions of the regional level of government within multilevel systems. The connection between these criteria, their operationalisation, and the function they exercise is summarised in the table below.

Table 4. The three conditions for the existence of a regional polity

Criteria	**Operationalisation**	**Function**
Recognition	Constitutional entrenchment of the region	Stable boundaries
Representation	Directly elected regional assembly	Democratic input
Legislation	Capacity to produce legislation	Democratic output

Author's elaboration.

This analytical framework blurs the traditional watertight distinction between federal and non-federal states, illustrating the variation of states when it comes to the different role of regions in the multilevel architecture. It also breaks with a state-centric view of regional architectures and recognises existing asymmetries within multilevel systems because it captures situations where only some regions of the state are recognised and directly elected (e.g. Azores and Madeira in Portugal) or, unlike the other regions of the state, have legislative powers (e.g. Åland Islands in Finland; the four devolved assemblies in the UK). The table below sorts European multilevel states according to the three criteria identified.

Table 5. List of regions in European states organised per criteria

Country	**Recognition**	**Representation**	**Legislation**
Albania	No	No	No
Bulgaria	No	No	No
Cyprus	No	No	No
Estonia	No	No	No
Former Republic of Macedonia	No	No	No
Iceland	No	No	No
Ireland	No	No	No
Latvia	No	No	No
Lithuania	No	No	No
Luxembourg	No	No	No
Malta	No	No	No
Montenegro	No	No	No
Poland	No	No	No
Portugal *	No	No	No
Romania	No	No	No
Slovenia	No	No	No
Turkey	No	No	No
Hungary: Planning statistical regions/Magyarország régiói (7)	YES	No	No
Croatia: Zupanija/Историко-географски (21)	YES	YES	No
Czech Republic: Kraje (14)	YES	YES	No
Finland *: Suuralueet (4)	YES	YES	No
France *: Régions (17)	YES	YES	No
Greece: Peripheries/περιφέρειες (13)	YES	YES	No
Netherlands: Nederlandse provincies (12)	YES	YES	No
Portugal: Azores and Madeira	YES	YES	No
Slovak Republic: Zoskupenia krajov (4)	YES	YES	No

Sweden: Riksomraden (8)	YES	YES	No
UK*: Greater London Authority	YES	YES	No
Austria: Bundesländer (9)	YES	YES	YES
Belgium: Régions/Gewests (3) and Communities (2)	YES	YES	YES
Finland: Åland Islands	YES	YES	YES
France: Corsica	YES	YES	YES
Germany: Länder (16)	YES	YES	YES
Italy: Regioni ordinarie (15), Regioni autonome (3), Province autonome (2)	YES	YES	YES
Serbia: Autonomne pokrajine/аутономне регије: Vojvodina, Kosovo and Metohija (2)	YES	YES	YES
Spain: 17 Comunidades autónomas (17)	YES	YES	YES
Switzerland: Cantons (26)	YES	YES	YES
UK: Northern Ireland, Scotland, Wales	YES	YES	YES

Author's elaboration.

* Countries where the majority of regions fall in one category, but not all (e.g. in Portugal there are no regions that are recognised, represented and that legislate, except for Azores and Madeira that are duly reported in another category as having recognition and representation).

My contention is that the regions whose authorities are constitutionally recognised, politically represented, and that have the powers to legislate in civil, political and social matters are constituted as polities and can, therefore, develop their own approaches to citizenship. A regional polity of this kind combines stable boundaries, democratic input and democratic output, the essential conditions for a territory to be understood as a polity and not merely as an administrative unit of government. Only few cases in Europe clearly fit these criteria cumulatively: the *Bundesländer* in Austria; the *régions/gewests* and Communities in Belgium; Åland Islands in Finland; Corsica in France; the *Länder* in Germany; the *regioni ordinarie, regioni autonome,* and *province autonome* in Italy; the *autonomne pokrajine* in Serbia; the *comunidades autónomas* in Spain; the cantons in Switzerland, and; the devolved assemblies in the UK. In these cases, the interaction of different territorial levels can lead to the emergence of contested ideas about citizenship, what it entails and to whom it applies. This makes them ideal candidates for a comparative study on the politics of regional citizenship.

History and Contemporary Analysis

In the vast body of literature on citizenship, there are few references to specific forms of membership in local and regional polities. This is puzzling, for at least two reasons. First, polities smaller than most contemporary states have traditionally been the spaces within which citizenship has been constructed, from the early *polis* of ancient Greece to the Italian renaissance cities. Second, the connection between subnational polities and citizenship rights becomes particularly relevant in the context of the processes of decentralisation that have characterised many states in the last few decades of European integration. Despite these two considerations, relatively few contributions have presented regions as spaces of citizenship.

My purpose in this chapter is to situate the connection between regions and citizenship in the academic debate. To this end, the chapter is structured as follows. In the first section I examine the historical roots of citizenship in local and regional territories and I show that many of these territories have maintained their specificities, despite the fact that modern states have progressively appropriated the idea of citizenship for themselves. Reflecting on these legacies, I analyse how regional citizenship has been presented in the literature, bringing together the different contributions that come from the research on multiculturalism, federalism, territorial re-scaling and regionalism. These works suggest ways of thinking about the reasons why citizenship was conceived in relatively small territories and put forward the reasons why those territories have continued to affect its meaning up to today.

A history of regions and citizenship

Some of the most important studies on membership in the twentieth century have treated the state as the natural container of citizenship (Marshall, 1950; Brubaker, 1992; Favell, 1998; Zolberg, 2006). This privileged association has had a powerful normative legacy in explaining how political communities are made and un-made. It was only recently that scholarly research started disputing

the assumption that the state is the exclusive conferrer of rights and duties as part of a broader literature on the weakening of state sovereignty (MacCormick, 1998; Walker, 1998; Keating, 2001a; Wimmer and Glick Schiller, 2002). Globalisation, new forms of transnational migration, the consolidation of supranational entities, the development of human rights regimes, and the resurgence of regions as functional spaces for political governance provided new ways of decoupling citizenship from the institution of the state. In the 1990s, a quickly burgeoning literature on the spheres of citizenship demonstrated the relevance of the concept in contexts transcending state borders, including transnational (Bauböck, 1994), post-national (Soysal, 1994) and supranational citizenship regimes (Delanty, 1997). Today, an important part of contemporary citizenship theory can be understood as an ongoing debate how to explain the reconfiguration of the boundaries of membership and the distribution of rights across multiple levels (Kymlicka and Norman, 2000; Bauböck, 2007; Maas, 2013b). Yet, while scholars have explored the emergence of citizenship regimes above the level of the state, there have been very limited attempts to understand and explain whether and how citizenship has been similarly disaggregated beneath the state.

Citizenship before the state

Since the nineteenth century, the modern state has progressively appropriated the idea of citizenship for itself. In his landmark lectures on membership rights and social class, Thomas H. Marshall showed that citizenship has been one of the most effective tools for state-building by providing the ideal ground for making claims on behalf of the nation (Marshall, 1950). Marshall's definition was deeply rooted in a specific historical and geographic context characterised by a hegemonic role of the state in the distribution of political authority. Indeed, Marshall insisted that the 'citizenship whose history' he wished 'to trace' was 'by definition, national' (1950: 12) involving a double process, one of geographical fusion of authority in the hands of the state and another one of functional separation of the kind of citizenship rights to be managed.[16] While today the territorial

[16] More specifically, Marshall referred to the integrating function of citizenship in post-war England: here civil, political, and social rights, which came about in this specific order, represented as powerful integrative forces for nation-building. It has been observed that by focusing his theory on England rather than on Great Britain, Marshall overlooked the complexities created by state citizenship in Scotland, Wales and Northern

boundaries of citizenship are hardly congruent with those of states, the semantic link between citizenship and national identity remains very powerful. At the same time, there are also many examples of citizenship that were constructed before the state, in local and regional territorial units.

In fact, the historical and etymological origins of citizenship can be found in political aggregations that were constructed within relatively small territorial boundaries (Bauböck, 2003b). The etymology of the word itself reveals its urban origins. From the early *polis* of ancient Greece to the Roman city-states, the Italian renaissance cities and the late-medieval Swiss *Bürgergemeinde*, the first forms of political membership were born within the boundaries of cities and regions. Localised and regionalised forms of citizenship survived over centuries, representing a crucial part of how citizenship came into being before the advent of the modern state.

Pre-modern Europe was organised as a system of multiple and overlapping memberships embedded within feudal empires. Between the eleventh and the nineteenth century, self-governing principalities in the Holy Roman Empire, such as the Bishopric of Trento (1027–1803), were established as self-standing political communities with their own customary laws and autonomous privileges. Similarly, in the Ottoman Empire, *eyalets* like Bosnia (1580–1867) were created as governorates provided with a separate administrative system. And in the Habsburg Empire, vast territories such as the *Lands* of the Bohemian crown retained their sovereignty to legislate in the areas of justice, education, and religious matters. Meanwhile, several cities of the Hanseatic League (1358–1862) maintained their own legal system while benefiting from an overarching diplomatic system and mutual recognition of rights and privileges. In the eighteenth century, the Kingdoms of Spain, Catalonia and Navarre were self-governing within a complex confederal arrangement. Scotland, Wales, and Ireland also retained some distinct rights as part of the Kingdom of Great Britain and Ireland. These historical examples show how a person's citizenship status could in fact depend on the interaction between many levels of government. Membership of these communities was nested in a complex architecture of multiple jurisdictions, as part of a system in which not a single institution had exclusive sovereignty over a given segment of the population. Some of these confections of territories and autonomies not only survived, but even thrived for several centuries

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Ireland (Mitchell, 2006; Keating, 2009b). It is therefore unsurprising that Marshall's conceptualisation of citizenship is embedded in the idea of a homogeneous state.

(Spruyt, 1996). Historical multi-layered forms of membership and institutional practices that existed before the advent of modernity suggest possible ways of rethinking citizenship by decoupling it from the state.

Yet, in practice Europe's patchwork of feudal principalities and multi-ethnic empires has been obscured as a consequence of the major shift in citizenship that took place in modern times with the rise of sovereign statehood and the market economy. These two processes, which developed across the whole of Europe from the second half of the eighteenth century, led to the subordination of local and regional forms of membership to establish the state as the absolute sovereign political community. The social sciences embraced this vision of modernisation as a process of territorial integration and elimination of territorial differences. The argument famously advanced by John Stuart Mill (Mill, 1972: 392) was that 'free institutions are next to impossible in a country made up of different nationalities'. On a similar note, Emile Durkheim (1964: 187) pointed out 'that a people is as much advanced as territorial divisions are more superficial'. These influential perspectives were put forward in the context of increasingly unified markets, cultural standardisation, and the integration of diverse territories: the rise of sovereign statehood had a profound effect on the institution of citizenship.

However, this new system was not born overnight. There are many theories of political development that seek to make sense of such long historical trends in Europe. The theory of Stein Rokkan, in particular, casts light on the internal sources of political development through which the modern states of Europe were established (Flora, Kuhnle and Urwin, 1999). Rokkan suggested that state-building required the neutralisation of the options of free-riding and defection. A crucial component of this process therefore included overcoming territorial particularism in order for the unitary modern state to become the main, perhaps the only space of collective political life. Public education, health and voting rights contributed to provide a tangible experience of the state for many people, who found themselves included in relatively novel political entities whose boundaries were not familiar for them. In short, citizenship was used by states as an instrument to shape nations.

By the mid-twentieth century, Thomas H. Marshall, whose seminal lecture on citizenship published in 1950 influenced most of the contemporary literature, had no doubt about the state's central role

in organising citizenship. In post-World War II Europe, it was no longer local or regional communities, but the state that administered citizenship. The crucial difference is that, while earlier polities recognised multiple and often nested statuses of membership, the modern nation is constructed as a self-contained unit within which the state is 'the sole collective spokesman' (Parekh, 2000: 181). In the modern state, citizens are treated like equals by virtue of their common national bond. With the process of nation-building, the rights that had been previously produced by nested interactions between membership of the village community, the town, the guild, and the empire were fused into modern state institutions. Indeed, the existence of strong cities and regions with a tradition of distinct culture, political autonomy, and economic independence hindered centralised unification. Some of these are cases of what were then bound to become national minorities. Others—such as the Italian city-states and the German city-leagues— were territorial communities that long competed with the state to maintain an alternative form of political rule. Eventually, most of these political communities gave way to modern states, where citizenries and communities sharing nationhood had to be congruent. The construction of national citizenship involved a slow and fragile process of fusion of different institutional frameworks for social protection, which were centralised in the hands of unitary states.

Yet, the dream of complete uniformity was never fully attained. Elements of the early modern traditions of localised citizenship survived in many regional contexts. In Spain, the *fueros*—charters of rights of certain regions (Navarre) and provinces (Gipuzkoa, Vizcaya, and Álava)—never completely disappeared. In the UK, after the 1797 Act of Union, Scotland preserved distinct regional institutions in the fields of education and civil justice. In Central Eastern Europe, free cities, such as the semi-autonomous Free City of Danzig, were still recognised after World War I under the protection of the League of Nations and put into a binding customs union with different states. In the Swiss Confederation, the cantons retained far-reaching sovereignty over the rights and duties of their citizens. Nearly everywhere in Europe, the removal of subnational boundaries and the standardisation of legal frameworks encountered numerous difficulties. The consolidation of the administrative territory of the state, based on the principle of uniform citizenship, could proceed only very slowly.

Sub-state nationalist movements have occasionally used these historical examples in their pursuit of legitimacy. It is common for national minorities to evoke a myth of ancient independence

betrayed by external repression exercised by the modern state. For instance, however profoundly different these regions are in terms of cohesion, historical traditions, territorial size, and artificiality, political leaders in both Spain's Euskal Herria and Italy's Padania long tried to present these territories as former states with full sovereignty broken only by the Spanish and the Italian states (Bartolini, 2004; Keating, 2004). Historically, these regions have always co-existed as partners with or as parts (or partitions) of larger political units.

The resilience of pre-modern rights and institutional infrastructures shows that in Europe centralised state citizenship was only sometimes a reality. Instead, many nations have long been nested communities in which individuals are citizens of national and subnational polities at the same time: it is from the interplay between these two levels of government that rights and duties are derived (Diener, 2017). These historical institutional practices should be taken seriously as building blocks of the contemporary political order. As Dejan Stjepanovic put it, 'there is ample evidence that sub-state polities are not just messy relics of the pre-national European past but omnipresent expressions of modern democratic citizenship' (Stjepanovic, 2015). Along the same line, Michael Keating argues that: 'If we see historic rights as a living principle rather than a strictly reactionary one, then it is normal that the depository of these rights should evolve and change without losing the central idea' (Keating, 2001b: 54). These highly differentiated traditions might have something to offer the contemporary world at a moment when the borders of states are transcended through multiple forms of participation and transnational processes shape increasingly complex architectures of membership.

Citizenship below the state

In the last few decades the concept of citizenship has been profoundly challenged by the parallel upsurge of international mobility, the international human rights regime, and territorial rescaling, commonly characterized as the 'new regionalism' (Keating, 1998b). These processes have posed an array of problems for states, including normative questions about rights, governance, and the role of different units of government, from local to regional and federal levels. Complex multilevel citizenships have resulted. Regional forms of membership have taken on a new significance in the face of these transformations. Different strands of literature have accounted for these changes.

The first important process indirectly affecting regional polities was the rise of international human rights regimes. Post-war treaties including the Universal Declaration of Human Rights (1948), the Convention for the Protection of Human Rights and Fundamental Freedoms (1953), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social and Cultural Rights (1966) provided a new vocabulary to disconnect the protection of rights from states. Although regional polities were affected only indirectly—state governments remained in charge of protecting the individual against arbitrary violations of citizenship rights—there are examples of how the new international regime laid the foundations for a novel understanding of citizenship. In South Tyrol, for instance, international law provided the umbrella under which the protection of minorities has been strengthened, while also creating a special relation between regional and central state institutions (Medda-Windischer, 2008; Woelk, 2008). The emergence of an international regime of norms in which rights could be discussed outside the domestic political arena of a state helped sub-state territories to re-appropriate the rights discourse and to link it to the specific needs of the regional polity as part of boundary-building processes.

Together with the emergence of international human rights regimes, the transformation of migration flows has blurred the distinction between citizens and non-citizens, breaking down the isomorphism between citizenship and the nation (Joppke, 2010a). This is partially because immigration, as has been duly noted, is often a problem for sovereign states that strive for homogeneity and territorial closure (Wimmer and Schiller, 2002). In fact, some states have recently sought to re-nationalise citizenship by adding stricter procedures for territorial admission and civic tests, by strengthening symbols such as citizenship ceremonies, and, in some cases, by excluding temporary residents from social assistance (Joppke, 2005; Goodman, 2010, 2012). However, these developments take place at a moment when the changing nature of international immigrants has already forced states to adapt to an increasingly blurred line between aliens and citizens (Kostakopoulou, 2006; Goodman, 2010).

In particular, the tendency of guest workers to become settled immigrants and yet maintain strong ties with their country of origin brought two important changes to traditional conceptions of national citizenship. First, dual citizenship is increasingly becoming accepted as an expression of

migrants' multiple loyalties (Spiro, 2010). Second, and perhaps more important for regional citizenship, it has become a common practice among states to grant some limited rights generally linked to residence independently of a formal status of citizenship (Hammar, 1990). The transformation of international migration has led to acceptance of the idea that there are persons who have access to citizenship entitlements although they are not formally recognised as citizens or they might be recognised in more than one state. As a result of these processes, formal citizenship is today less necessary than it used to be for access to substantive rights. And often, the task to provide these rights to groups of individuals who are not full citizens of the state where they live falls upon subnational institutions, like municipalities or regions.

Third, the emergence of regions as functional spaces for government provided new room for regional institutions to affect some core citizenship rights. In Europe, starting from the 1970s, the regional–national question was revived in the UK's historical countries, in Spain's post-Francoist democracy, in France's peripheral regions, and in Belgium's federal regions. While such movements were initially dismissed as evidence of retarded modernity, the literature on new regionalism has shown how traditional regions were empowered as functional units of government as a consequence of state transformation and transnational integration (Keating, 2001a). At the same time, functional pressures have led central governments to organise the provision of public goods on diverse territorial scales. Since 1970, the territorial structure of the state has undergone a 'quiet revolution' (Hooghe *et al.*, 2016: 152) with subnational governments growing more powerful and more differentiated from each other. Until the late 1960s the Federal Republic of Germany, Austria, Italy, Switzerland and the UK were the only West European countries with elected subnational governments beyond local municipal institutions (Newman, 1996).[17] In the 1970s, through a series far-reaching constitutional reforms, the government of Belgium established the three regions of Flanders, Wallonia, and Brussels. Between 1979 and 1986 newly democratic states like Greece, Spain and Portugal recognised subnational institutions. In 1986 even France, which was traditionally considered the epitome of Jacobin centralism, held its first direct election for regional representatives. The establishment of directly elected subnational institutions reflected different interests: the strengthening of democratic participation, the absorption of centrifugal pressures, the

[17] In the case of the UK, the only directly elected subnational government until 1999 was that of Northern Ireland.

response to regional inequalities in economic development. Moving beyond the heyday of the centralised nation state, most of Europe's regions have grown more powerful displaying a clear rise in 'regional authority' (Hooghe, Marks and Schakel, 2010; Hooghe *et al.*, 2016). Today, regional governance has become the norm in virtually all countries, with only very few exceptions that can be found mostly in very small states.

These three parallel phenomena—the emergence of human rights regimes, the transformation of international migration, the rise of regional authority—changed the way citizenship is constituted. In a world characterised by increased mobility, the existence of supranational regimes protecting certain basic rights, and a demise of essentialist conceptions of the state, national citizenship is complemented by new forms of transnational (Bauböck, 1994), post-national (Soysal, 1994), and supranational (Shaw and More, 1995) membership. The recognition that citizenship can exist beyond the setting of a state is 'not about recognition, identity, or difference, but about the freedom of the members of an open society to change the constitutional rules of mutual recognition and association from time to time as their identities change' (Tully, 2001: 5). It is in this context that the role of regions in shaping the meaning of citizenship has become the subject of academic research.

Citizenship and the region in the literature

In this section I critically review the literature that deals with the question of how citizenship in multilevel states has developed a variable geometry. Several strands of literature picked up on the empirical observation that individuals in some regions have different bundles of rights from those in others. Taken together, these different fields of research highlight a series of favourable conditions for the flourishing of the politics of regional citizenship in the contemporary world. At the same time, existing studies tend to focus on specific aspects of the politics of regional citizenship. By showing how they relate to the main topic of this thesis, I demonstrate how my own research can originally contribute to these different fields of study.

Multicultural citizenship

The literature on multiculturalism was among the earliest to provide a theoretical justification for the territorial differentiation of rights. Canadian theorists like Charles Taylor (1994), Will Kymlicka (1995) and James Tully (1995) sought to find the sources of unity within states characterised by the existence of multiple sociocultural cleavages. While multiculturalism has been later used as an umbrella to characterise the moral and political claims of a wide range of disadvantaged groups, an important part of this literature has developed by looking at two groups in relative separation from each other: immigrants who are ethnic and religious minorities (for example, Latinos in the US, Muslims in Western Europe) and territorially concentrated minority nations (for example, Catalans and Basques in Spain, Welsh and Scottish minorities in the UK). In Europe, and more generally in Western countries, the claims of both immigrants and national minorities have been perceived as challenges to the traditional model of culturally homogeneous states. Their demands reflect a desire to reconcile diversity within the unity of the state. Yet, these groups are fundamentally different in the means they adopt to realise their claims: while immigrants and disadvantaged groups generally demand special rights for their inclusion, claims of self-government often represent an attempt to loosen ties with the larger political community.

Regional citizenship, although only occasionally addressed as such, has been given a substance by this literature. In particular, multiculturalism defends the idea that national minority groups need to be accommodated through a subnational conception of citizenship, or territorial self-government, which reconciles their collective demands with their integration into the state. In his plea for multicultural citizenship, for instance, Will Kymlicka (1995) discussed the claims of both ethnic immigrants and national minorities within a common normative theory aimed at emphasising the rigidity of the modern state as the default template for citizenship. His conclusion is that immigrants have claims to polyethnic rights that facilitate their integration as citizens in the state, while national and indigenous minorities have claims to special representation rights that protect them against a majority nation-building project. This literature justifies regional approaches to citizenship as linked to the protection of minorities and, more generally, to the promotion of alternative forms of membership and political representation that replace homogeneous conceptions of national citizenship. Its main contribution for the study of regional citizenship lies in the contestation of notions of mono-cultural nation states.

Yet, the research on multicultural citizenship tends to over-emphasise culture and identity as the main drivers behind the production and contestation of regional citizenship. Multiculturalism does not address the question of how subnational conceptions of citizenship serve broader multilevel dynamics of contestation outside the setting of multinational states. This question has been subsequently taken up by different fields of study.

Nested citizenship in federal systems

In relative isolation from the research on multiculturalism, another strand of literature has sought to explain how conceptions of citizenship can exist also outside settings where national minorities need to be protected. The research on comparative federalism has engaged with the regional level by focusing on the constitutional division of power that shapes the balance between the equality of common federal citizenship and the diversity of subnational polities. This work has been undertaken by legal scholars who have focused on the compatibility of 'tiered, nested citizenships in federal systems' (Schönberger, 2007: 61).

This field of research has been triggered by immigration and the wide array of complex questions it poses to a receiving polity in which the units of government are not centralised, with a particular focus on the US (Schuck, 2000; Jackson, 2001; Beaud, 2002; Schönberger, 2007; Kinney and Cohen, 2013). Yet, a federal constitution does not have to officially recognise subnational forms of citizenship in order to have some kind of regional citizenship: other federations that have been studied are Canada, Belgium, and India (see contributions in: Maas 2013a). In these countries, questions about integration and rights are addressed at all levels of government, creating a complicated relationship among them. A general finding is that in most cases, the federal government sets the conditions for entry and naturalisation, whereas the subnational units have the right to decide on matters concerning rights and integration (Seidle and Joppke, 2012; Thränhardt, 2013).

Whilst this body of literature conceptualises the differentiation of the rights of citizens in federal states, the idea that subnational approaches to citizenship can be developed also in countries with regional, rather than federal settings has been hardly explored. Some scholars of federal citizenship

have rejected this possibility. Peter H. Schuck, for instance, insisted that 'although long-unitary states like France, Spain, and the United Kingdom often devolve authority to regional or local units of administration, this devolution does not thereby create a sub-national polity, much less sub-national citizenship' (Schuck, 2000). As a result, the literature on nested citizenship remains largely focused on federations and shows that the organisation of rights is strongly context-specific.

Rescaling citizenship in global and European processes

Since the 1970s, processes of spatial rescaling have transformed many states. In particular, economic, social and political systems that were previously part of rigidly defined hierarchical structures migrated to new levels of government (Brenner, 2009). Rescaling was often driven by functional change organised on a variety of different territorial levels, a phenomenon known as the 'new regionalism' (Keating, 1998b). The outcome was not that of single territorial grids. Instead, rescaling led to the construction of a multiplicity of possible spaces of transformation and governance, including the strengthening of supranational and subnational institutions as part of the inter-connected processes of integration and decentralisation.

This is most notable in Europe, where the process of supranational integration creates avenues to strengthen actors that operate outside—either above or beneath—the nation-state. Yet, while the EU creates new territorial boundaries, state structures have not been replaced. This points to the partial territorial unbounding that affects various social, economic and political systems (Bartolini, 2005; Ferrera, 2005). Just like the processes of state formation and nation building led to the formalisation of rights related to specific statuses, also regions can be seen as sites where the progressive institutionalisation of specific policies can be combined with the closure of the borders in a process of gradual 'region-building' (Ferrera, 2003; McEwen and Moreno, 2005; Keating, 2013; Greer, 2016). Regions can re-interpret their competitive differentiation strategies as profitable strategies of boundary building, or as the creation of new spaces characterized by public policies to favour insiders and attract outsiders that can bring benefits to the community. This literature shows that the creation and empowerment of new levels of government brings greater incentives of the action of those institutions that are situated outside the national setting of the state.

While shedding light on the favourable conditions for the politics of regional citizenship to emerge, this strand of literature has not engaged with the actors who can re-shape patterns of democracy and citizenship. Rescaling is not a natural process and certain territorial entrepreneurs are more likely than others to politicise distinct choices in the field of citizenship.

Regionalism and the politicisation of citizenship rights

The burgeoning literature on regionalism has brought to the fore the fact that decentralisation has encouraged moves towards the politicisation of the regional question. In decentralised systems, the structure of territorial government remains contested and there are great incentives for political players to challenge given division of powers and notions of membership. Scholars working in this field have analysed the politicisation of regional citizenship as both an identity and as a bundle of rights. Several authors have demonstrated that stronger or newly created subnational institutions have a positive impact on the sense of belonging to the regional polity (Guibernau, 1999; Painter, 2008; Syssner, 2011; Henderson *et al.*, 2013). While important, this strand of literature follows a definition of citizenship as identity. A more useful literature for answering the questions of this thesis is that concerned with the role of regional parties in the development of policy areas that challenge the monopoly of the state in the provision rights that are traditionally linked to a status of national citizenship.

The question that scholars working in this field have sought to answer concerns how parties at the subnational level have competed over issues of citizenship. Scholars have looked with particular interest at regions with national minorities, where the issue of immigrant integration intersects with that of minority protection in general: Basque Country (Jeram, 2012), Catalonia (Arrighi, 2012; Jeram, 2013; Franco-Guillén and Zapata-Barrero, 2014), Scotland (Hepburn, 2009; Hepburn and Rosie, 2014), and South Tyrol (Medda-Windischer and Carlá, 2013; Carlà, 2016; Wisthaler, 2016). Outside Europe, similar questions have been asked with reference to the case of Quebec, where the literature has studied the intersection of multiculturalism and minority nationalism (Winter, 2011). These studies have connected the politicisation of regional rights and subnational territoriality to an internal quest for decentralisation and, more generally, to distinct choices at the regional level. The argument made by scholars in this field is that regionalist parties are more likely

to flesh out aspects of citizenship as a strategy to distinguish their claims from those of the political competitors. This literature highlights the fact that specific territorial setups encourage political entrepreneurs to contest existing boundaries of membership.

Scholars interested in the politicisation of citizenship at the subnational level have, however, focused on the motivations and the justifications of subnational actors, while treating the substance of policy-making only in passing. While explaining why policies often diverge across levels of government, these scholars have omitted to show how these policies diverge. Furthermore, while demonstrating that the diversity in the rights that individuals can access across the territory of the state is often a consequence of the struggle between national and subnational state-building projects within federal arrangements, this literature has focused on few cases where regions have a distinct history and a strong sense of common identity, therefore neglecting other cases of ordinary regions.

The broader relevance of the research

This thesis aims to fit into a larger field of studies on regionalism and multi-level governance that challenge dominant conceptions of unitary citizenship within states at a time when disputes over sovereignty are fiercer than ever. One of the motivating purposes of the thesis is to fill a gap in the literature and demonstrate that regional citizenship can be the subject of contestation even within those states and regions that are not characterised by the presence of minority groups, full-blooded federal arrangements, or autonomist movements in government. In this sense, a focus on ordinary regions in multilevel states broadens the findings of existing literature.

Discussing the relevance of regional citizenship in contemporary Europe is important not only for academic research, but also for political processes more generally. In modern societies, citizenship and the determination of membership criteria can be the source of deep territorial conflicts. The context in which this research takes place is that of a profound reconfiguration of political space. While some scholars think that the world should be held in common and that territorially distinct political communities represent an outmoded way of organizing life on this planet (Goodin, 2007), in reality territorial disputes remain at the centre of some of the most intractable controversies. In the Belgian elections of 2010, the separatist N-VA party won a plurality of the votes, triggering a

record-setting political stalemate that left the country without a functioning government for over 530 days and causing many to predict that the Belgian state would soon fall apart. Four years later, in 2014, a majority of Scottish voters rejected independence from the UK, and in 2015, the Spanish Constitutional Court forbade a similar referendum in Catalonia that was subsequently held in 2015 and in 2017 again in defiance of the court. At the moment of writing, the government of Spain has invoked Article 155 of the Spanish constitution to suspend the autonomy of Catalonia and introduce direct rule to stop the 'rebellious, systematic and conscious disobedience [that produced] a serious impact on the model of constitutional coexistence' (Presidencia del Gobierno de España, 2017).[18] These events illustrate how, even in stable democracies, subnational regions may question the integrity of states, reflecting evolving relations between citizenship and territory. Such challenges seem to become more frequent and more difficult to suppress.

One of the consequences of this phenomenon is that variations in the rights provided across and within states are becoming increasingly contested. During the campaign leading to the 2014 Scottish referendum on independence, for instance, social rights played a central role. The parties campaigning for independence defended the idea that Scotland must secede from the rest of the UK to protect its more progressive nation from social policy retrenchment pursued by the central government (Béland and Lecours, 2016). And the constitutional crisis that followed the Catalan referendum of 1 October 2017 was portrayed by the Catalan government as a fight to uphold basic rights. Even beyond these secessionist crises, the issues surrounding the connection between citizenship rights and the government of regions are interesting because they raise a set of questions and possibilities about the co-existence of political communities. These questions relate, for instance, to the implications of territorially uneven access to rights, including for instance gay marriage, voting, and health care. So far, insufficient knowledge about the role that regional governments have in shaping rights has hampered efforts towards steering effective policy change. Concretely, my work improves the state of the art in this field in three distinct ways: conceptually, empirically, and theoretically.

[18] Author's own translation. Original text: 'desobediencia rebelde, sistemática y consciente [que ha producido] una grave afección al modelo de convivencia constitucional.'

The first contribution of this thesis is conceptual, as 'citizenship' and 'region' have seldom been studied together. When they have, research has usually focused either on constitutionally federal states or on those regions and contexts where there is a secessionist threat engineered by parties mobilizing linguistic, ethnic, or cultural differences. In the first two chapters of the thesis I have already discussed the conditions under which regions can shape citizenship in its different dimensions going beyond these traditional studies. My contribution adds to the existing literature, showing that there can be contestation of citizenship rights even if there is no federal arrangement and no regional party threatening secession. I have argued that regions whose authorities are constitutionally recognised, politically represented, and have the powers to legislate can develop their own approaches to citizenship. Regional polities of this kind combine stable boundaries, democratic input, and democratic output.

The second contribution of this thesis concerns the empirical evidence on how regions provide meaning to citizenship, or the processes how regional governments add to, shape, and adapt the content of citizenship that is determined by the state. While there is already a well-established body of literature that is concerned with explaining why these processes take place, few scholars have engaged with the question how this happens in practice. In particular, the thesis sheds some light on how tangible rights are delivered and how regional governments create different instruments and priorities in this field. I demonstrate, for instance, that aside from legislative barriers to entitlements, there are several important kinds of barriers to access that can be set in motion or removed by regional governments. These barriers include forms of discrimination, language obstacles, or bureaucratic hurdles. The analysis thus goes beyond the observation that some countries are characterised by territorial fragmentation of rights and shows what tools are used by regional governments to shape rights through both formal regulations and informal actions.

The third contribution of this thesis concerns the debate on regional citizenship and the stability of states. The debate on the multilevel structure of the polity and stabilising factors should be relevant for those scholars who seek to identify sources of unity in democratic states. This genre of work has been traditionally undertaken by researchers working from a variety of perspectives, including the study of identity, parties, institutions, and intergovernmental relations. Only rarely have scholars looked at this problem from the angle of citizenship. This is a particularly relevant

topic today, as the enduring salience of territorial tensions throughout Europe suggests that the integrity of states can no longer be taken for granted.

More generally, by studying the politics of regional citizenship, the thesis contributes to the understanding of the multilevel dynamics that affect the definition of rights, with reference to both the vertical relationship between national and regional governments and the horizontal relationship between the government of the region and civil society. As subnational entities in multilevel states shape rights and contest the boundaries of membership, they turn static ideas of citizenship into an interaction based on the political contestation of level, the boundaries of territory and its institutional configuration. While the modern understanding of citizenship was focused on one government level, the nation state, and one group holding this status, the citizens, today virtually all political entities wrestle with the need to balance the desire for equal citizenship with legitimate demands for diversity across their territories.

Summary

The local and regional boundaries of citizenship that characterised the ancient *polis*, late medieval cities, and expanding empires have been partially obscured by the hegemonic and exclusive force of unitary citizenship in modern states. In this chapter I have painted with a broad brush, in order to draw attention to the variety of historical and current forms of citizenship below the state. Today, in a context characterised by rising international mobility, the consolidation of an international human rights regime and the rise of new regionalism, individual rights depend less on static national regimes and more on the interaction between institutions situated at different territorial levels of government. As regional polities have taken on a new significance in the face of these transformations, the task of comparative research is to explain how political institutions respond to these multiple citizenships.

Scholars from different fields of research have demonstrated that citizenship in the contemporary world has developed a variable geometry, with individuals in some regions having different bundles of rights from those in others. The literature on multicultural citizenship, in particular, pointed to the possibility that alternative forms of territorial membership and political representation might substitute homogeneous conceptions of national citizenship for particular national minority

groups. At the same time, the literature on nested citizenships in federal systems explored how federalism enables diversity in the rights that individuals can access across the territory of the state. And the literature on the rescaling of citizenship explained how the empowerment of new levels of government ensures that the structure of territorial government remains contested. Finally, the literature on regionalism showed that autonomist political parties at the regional level have constructed and competed over citizenship in a variety of multilevel states. These strands of research suggest ways of thinking about the reasons why actors situated at the regional level continue to affect the meaning of citizenship. Yet, regional citizenship is an important political fact even in places that are not characterised by the presence of minority groups, federal arrangements, or autonomist parties in government. Ordinary regions in multilevel states are promising avenues of research to broaden the findings of existing fields of literature on the nature and the consequences of the politics of regional citizenship.

Explanatory framework

The previous chapters have introduced the conceptual and historical analysis to situate the politics of regional citizenship. Here I propose an explanatory framework to shed light on the question how and the reason regions develop different approaches to citizenship. To do so—fully acknowledging the impossibility of capturing all the dimensions of the phenomenon—I focus on one paradigmatic case: the provision of social rights to non-citizen residents by regional authorities in three European multilevel states. More specifically, the focus of the dissertation is on health care as a specific kind of social rights; on undocumented immigrants as a specific group of non-citizen residents; and, finally, on pairs of regional authorities—the regional governments of Tuscany and Lombardy in Italy, Andalusia and Madrid in Spain, Vaud and Zürich in Switzerland. The broader purpose of looking at regional variance in such social citizenship rights for a specific population group is to highlight the different ideas underpinning citizenship and access to rights. These differences matter for the people concerned, but they are also indicative of changes in how citizenship rights are organised within multilevel states.

The chapter is organised as follows. First, I provide an explanation for the decision to concentrate on access to health care rights for undocumented immigrants, suggesting that it is possible to observe distinct approaches to citizenship in the choice of whether to recognise health care rights that go beyond emergency and urgent measures to undocumented immigrants. Then I explain the selection of the cases, which are pairs of regions in three multilevel states where subnational governments have some power over health care policies. The selection of cases aims to explain the effects of the historical *left–right* political cleavage within European multilevel states. Hence, the regions analysed have been governed by either left- or right-wing parties for a period of over ten years: Lombardy (conservative government from 1995) and Tuscany (progressive government from 1970) in Italy; Andalusia (progressive government from 1980) and Madrid (conservative government from 1995) in Spain, and; Vaud (progressive government from 2002) and Zürich (conservative government from 1991) in Switzerland. In the concluding section I clarify how I gather the data for this comparison, explaining the strategy for the initial desk-research of the legislation and then the sample for the interviews with health care practitioners and policy-makers.

Units of observation

Undocumented immigrants

The organisation of citizenship in Western states is characterised by the opposing forces of universalistic liberalism and particularistic nationalism. While the former envisages equal rights for all members of a community, the latter pushes toward excluding from these privileges all non-members. Several scholars, such as Rogers Brubaker (1992), Christian Joppke (2008) Andreas Wimmer and Nina Glick-Schiller (2002) have exposed the paradox of political modernity, explaining that the universal principle of citizenship has arisen within the particularistic setting of states, therefore excluding all those who do not share certain national markers. Today, the question of what rights should be granted to non-citizen residents, that is to all the individuals who live in the state territory without having the legal status of citizenship, remains a pressing concern for virtually all Western democracies.

The dissertation focuses on one specific group of non-citizen residents, that of undocumented immigrants. I prefer the use of this term to the many possible alternatives ('illegal immigrants', 'irregular immigrants', 'unauthorised immigrants') because it escapes the attribution of legality to a person rather than to an act or a way of living. Undocumented immigrants are people living in a country without the required documents and permits. The Glossary of Migration (International Organization for Migration, 2004: 34) defines an undocumented immigrant as 'someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country'. In the EU, undocumented immigrants are defined as those individuals who lack authorisation to stay in any of the 28 member states (Clandestino Project, 2009; Vito *et al.*, 2015: 4). Throughout the thesis, I refer to 'immigrants' where immigration status is the defining criterion (as it is for undocumented immigrants) and to 'non-citizens' where citizenship status is the defining criterion (as it is with regard, for instance, to electoral rights).

Undocumented immigration is the inevitable result of any policy of tight border controls and strict visa eligibility. Restrictions of these kinds create two streams of immigration: lawful (documented)

and unlawful (undocumented). The idea, which continues to shape debates about immigration, that sovereign states can have only the former kind of immigration is fundamentally flawed. Yet, until recently research on immigration has treated documented and undocumented immigrants as if they pertain to one cohesive whole.

Undocumented immigrants illustrate better than any other group the potentially conflicting ideas of citizenship between different levels of territorial government. For state governments that seek to control their borders, undocumented immigrants represent problematic individuals who 'break the law *by their mere presence*' (Bogusz *et al.* 2004: xiv, italic in the original). Owing to their precarious membership status, undocumented immigrants have no electoral voice and cannot defend themselves through the ballot. Their interests do not count for much in the democratic political process. At the same time, the exclusion of undocumented immigrants might undermine progress towards general objectives and ultimately erode social cohesion. These aspects pose a challenge to regional governments that seek to provide the services they are in charge of. Undocumented immigrants are caught into a complex dynamic. When they are granted health care rights by a regional authority, they are in a clandestine condition in relation to the state, and yet they are treated like members with a corresponding set of rights by the relevant authorities at the subnational level. This dissonance is worth investigating.

An additional reason undocumented immigrants have been chosen as the reference category for this study is due to the fact that undocumented residence has become a fact of life in all EU countries, resulting from the twin effects of continuous inflows and increasingly restrictive immigration policies (Triandafyllidou, 2016). The most recent calculation of the number of undocumented immigrants in Europe was provided by the European Commission-funded 'Clandestino Project: Counting the Uncountable: Data and Trends Across Europe' (2009), which estimated that between 1.9 and 3.8 million undocumented immigrants were living in Europe in 2008. These figures should be updated in the light of the most recent developments, with thousands of asylum seekers travelling to Europe from less developed parts of the world in the last few years.[19]

[19] The Frontex Risk Analysis Report for the EU Member states registers a general increase in most of the indicators of undocumented migration flows in the EU. In 2014, for instance, the number of illegal border-crossings was the highest registered since 2007 (Frontex, 2015). Along with regular migration flows, it is

Many end up remaining in the host country without a permit to stay and sometimes they fall ill or lose their lives there.

According to the reports of non-governmental organisations, several hundred undocumented immigrants die every year in Western Europe (HUMA Network, 2009; PICUM, 2016). This has to do with the fact that living as an undocumented person carries negative consequences for health. Undocumented immigrants are often more vulnerable to communicable diseases than the rest of the population—especially HIV and tuberculosis—and they also suffer more frequently from mental health problems (Wyssmüller and Efionayi-Mäder, 2011: 16; Rechel *et al.*, 2013: 1235). While there are several factors that contribute to their poor physical and mental condition, their living conditions are a strong cause. In most cases, undocumented immigrants are forced to take low-paid jobs, which leads them to live in overcrowded apartments, to eat unhealthy foods, and to experience a constant sense of precariousness. These conditions of socio-economic marginalisation are conducive to a rapid worsening of health. Paradoxically, however, this 'is usually not their main concern, because they are busy using all of their energies to simply survive. At the same time, good health is their main resource for survival' (Cuadra and Cattacin, 2011: 3).

Yet, in spite of the fact that health is such a precious resource in their life, the statistics available show that undocumented immigrants tend to use health care services only when they are severely ill (Vito *et al.*, 2015; PICUM, 2016). The reason they do not access health in the same way as other immigrants and citizens is due to two factors. First, undocumented immigrants often lack information about their entitlement to health care or find it difficult to meet the administrative requirements to get access. Second, undocumented immigrants fear that by using health care structures, they run the risk that the authorities will detect their irregular status. Hence, undocumented immigrants are one of the most vulnerable categories in contemporary Western democracies, as their lives are exposed to cumulative conditions of marginality.[20]

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estimated that over a million undocumented immigrants arrived in Europe in 2015, mostly from Syria, Africa and South Asia (Trummer, Nathalie and Vanbiervliet, 2016).

[20] Within the category of undocumented immigrants, there is one sub-group that is even more at risk of vulnerability: that of undocumented children. In fact, other studies have focused on this specific category (PICUM, 2015). However, the purpose of this research remains more generally concerned with undocumented immigrants at large.

Before proceeding, it is important to acknowledge that undocumented immigrants are not a homogeneous group. They have different backgrounds, ages, motivations, and expectations. Some are unemployed, some have occasional jobs, some are not known to the authorities, some are known but have not been removed for a variety of legal, humanitarian or practical reasons (Gibney, 2008; Sigona, 2012). These differences are also, although not exclusively, due to the fact that there are at least six different ways persons are or become undocumented:

(1) unlawful entrance into the state territory; lawful entrance into the state territory, but over-stay after the expiry of the visa/residence permit;
(2) lawful entrance into the state territory, but change of the position in society, i.e. after the loss of employment or early divorce in the case of family reunion, or after conviction for a serious criminal offence) that brings to an end the regular residence permit;
(3) unsuccessful asylum seeking and lack of alternative protection statuses;
(4) undocumented state of birth, which applies to children born with both parents undocumented in countries where citizenship is not acquired by *jus soli*, i.e. birth on the territory of the respective state;
(5) lawful entrance into the state territory, but clandestine work in spite of a prohibition against doing so under the conditions set by the visa/residence permit.

Undocumented immigrants are such because of a variety of reasons; some of them by choice, others by economic or political necessity, still others because of misinformation or extended delays in the administration of their application to remain. These differences are not considered to be relevant for the scope of this dissertation, as their outcome is ultimately the same: physical presence in a country as an 'undocumented' person. Studying the condition of these individuals is important also for integration policies more generally. As a matter of fact, it is far more likely that an immigrant who entered in Europe without previously obtaining the necessary permits will eventually become a regular migrant than he or she will be expelled and returned to the country of origin (Colombo, 2012).

Health care rights

The dissertation focuses on one set of rights in particular—health care—which constitutes 'the most important source of assistance for immigrants, especially the unauthorized' (Portes, Fernández-Kelly and Light, 2012: 14). The choice of the right to health care as opposed to, for instance, voting rights or civil liberties is motivated by two main considerations.

The first reason is that social rights are 'more demanding political products than civil and political rights' (Ferrera, 2005: 46). All rights have costs (Holmes and Sunstein, 1999), yet social rights generally carry specific costs that are related to the moral commitment of *sharing with others* that is required for them to function. They reflect how much a society invests in solidarity among citizens of the community, towards older generations of pensioners, towards the sick, or towards the unemployed, in the expectation that all individuals may find themselves in such a condition at one point in their life. In contrast with civil liberties and political participation, the purpose of social rights is to explicitly promote reciprocity, mutuality and community. Because they function to protect citizens against risks, social rights serve the purpose of uniting the territorial community around certain dominant values. Social rights, in other words, serve as the glue that holds a diverse and democratic society together. It was with the introduction of redistributive social policies—public health care coverage, old-age pensions, employment insurance, social assistance and the like—that the nation-state became a community of social protection. Today, social rights are often used as the hallmarks of nationhood in multinational countries From Canada (Kymlicka and Banting, 2006) to the UK (Mcewen, 2005), national health systems are depicted as shared symbols of national identity. These implications relate to Marshall's proposition that modern citizenship grew in the first place through the 'struggle to win those rights' and then, once gained, by their 'enjoyment' (Marshall, 1950: 41). For Marshall, full membership in the national community was based on the basic human equality that is entailed by social rights. This is the reason these rights are placed at the pinnacle of Marshall's triad of citizenship rights. This is also the first reason they have been chosen for the empirical comparison of this thesis.

The second reason social rights have been chosen over other rights is that social rights—and the right to health care in particular—directly affect the life chances of individuals. Providing basic poor relief or public care for HIV, cancer, and other diseases might even secure the survival of an individual, something that voting and having the freedom to speak cannot do. Health is an important issue in its own right because it touches every aspect of human experience from the cradle to the grave. It is also a precondition for the pursuit of human happiness and is therefore considered a right that all governments are expected to promote in some way, although there is a debate on what minimum entitlements are included in a right to health care and which institutions are responsible for ensuring it.

Historically, the regulation of the health of populations has been one of the most contentious processes contributing to the formation of polities like the state.[21] Until the nineteenth century, health care was detached from the status of citizenship: the Poor Laws in the UK, for instance, treated the claims of the vulnerable as an alternative to the rights of citizens (Marshall, 1950). Indeed, protection was provided mainly by private organisations, like charities, guilds, and religions institutions. The right to health care was taken under the umbrella of state citizenship with the progressive expansion of welfare and with the general expansion of the economies of post-war industrial societies, when it was assumed that citizenship should include the task of improving the life conditions of the members of the polity. These are the reasons why the field of health care, perhaps more than others, reveals deep tensions revolving around norms of inclusion into rights at different territorial levels of public authority. Yet, health care is usually studied from the perspective of public health or health policy rather than from the point of view of citizenship and immigration politics.

The right to health care took on a special meaning for public policies after the 1920s because of the dramatic rise of medicine's effectiveness helped by the discovery and dissemination of antisepsis and vaccines. As medical care became more effective, many began to argue that to

[21] The heroic function of public health in reducing mortality rates has often been heralded as one of the greatest achievements of modern states (World Health Organization, 1946). Contrasting this emancipatory view of public authorities, Marxist scholars such as Porter (1999) have expounded the role played by public health in opening the doors to authoritarian government and bureaucratic rule.

withhold it was unethical, immoral, and unjust. The further medical care advances, the less can society contemplate its unavailability to people who may need it. In fact, the human right to health has been recognised in a series of international treaties. The preamble of the constitution of the World Health Organization states that 'the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition' and that health is 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity' (World Health Organization 1946: preamble). In the following years, the right to health was recognised in many international charters, including the Universal Declaration of Human Rights (United Nations General Assembly 1948: Article 25) and a series of subsequent conventions, such as the International Convention on Economic, Social and Cultural Rights (United Nations General Assembly 1966: Article 12), the International Convention on the Elimination of All Forms of Racial Discrimination (United Nations General Assembly 1965: Article 5), The International Convention on the Elimination of All Forms of Discrimination Against Women (United Nations General Assembly, 1979, sec. 12), and the Convention on the Rights of the Child (United Nations General Assembly, 1989, sec. 24). In Europe, this right has also been enshrined in the Charter of Fundamental Rights of the EU (European Communities 2000: 35; see also the interpretation by the European Court of Human Rights in the 2002 case of Pretty v. the United Kingdom), as well as in the European Convention on Human Rights and Freedoms (Council of Europe, 1950, sec. 3) and in the European Social Charter (Council of Europe, 1996, sec. 13). These international legal documents acknowledge health as 'a right, not just a service and not a charity, commodity or privilege' (International Federation of Health and Human Rights Organisation, 2016). Hence, their ratification obliges states, at all levels of government, to provide health care services to all without discrimination, regardless of residence status.

However, the idea of a universal human right to health care is at odds with the notion of social citizenship rights, which presuppose a bounded community of recipients. While support for health care was historically provided by charities and private organisations, from the nineteenth century onwards governments gradually recognised that this was a matter of public responsibility rather than charity or largess. Health care was therefore weaved into the fabric of citizenship. In the post-war period, a growing number of European countries extended access to health care for as many citizens as possible, while also setting some minimum standards. Today, national health services

have been established in several European countries, including Italy, Spain, and the UK. Moreover, in countries with health insurance systems, such as Belgium, Germany and Switzerland, coverage has been progressively extended to become nearly universal. While in the contemporary world a basic right to health care in emergency situations has emerged as a human right, the full realisation of this right remains linked to the idea of membership in the polity. By full realisation I mean the provision of services that go beyond emergency treatment. When a polity fully realises the right to health care, it signals who has a claim to be treated as an equal member.[22] The awareness of health care as a right linked to the status of citizenship and daily exercised in the lives of individuals is explained with some concrete examples in the lines below:

> When unemployed people crowded into free clinics, or senior citizens wrote to Congress complaining that they couldn't get health insurance, or parents sued a hospital after their dying child was turned away from the emergency room, they may not have carried signs saying 'Access to health care is a right', but they were expressing something called 'rights consciousness' (Hoffman, 2012: xii).

Presently, few states guarantee the right to health care (HUMA Network, 2009; Rechel *et al.*, 2013; Woodward, Howard and Wolffers, 2014). And today, with many European countries in a situation of recession, welfare and the well-being of the populations are often cast as in conflict with each other. In fact, social rights at a time of crisis are exposed to a paradox: on the one hand, they are more urgently needed; on the other hand, they are among the first victims of financial cuts and austerity measures (Karanikolos *et al.*, 2013; Kondilis *et al.*, 2013). The realisation of the right to health care today is a scarce resource because of three main processes that affect society. The first is demographic, with rapidly rising costs of health care in ageing societies (Marmot, 2005; Rechel *et al.*, 2013). The second is technological, with more demand for expensive medical machineries to treat complex diseases such as cancer. The third is economic, with governments pursuing neoliberal reforms and providers taking over public health care monopolies as a result (Karanikolos *et al.*, 2013).

[22] This does not cover those polities where public health care is treated as residual and relies on strongly privatised provision, such as the in the US or Brazil.

Immigrants are one of the groups that is disproportionately affected by these processes and the related constraints of social rights (Sainsbury, 2012: 281). In many European states, exclusion from welfare support has been used to deter unwanted forms of population movement (Geddes, 2003: 153). Undocumented immigrants, in particular, are often excluded from the right to health care. In 2009, a project run by the NGO Doctors of the World, '*L'accès aux soins un droit non-respecté en Europe*', found that almost three out of four undocumented immigrants face barriers when attempting to access health care in Europe to which they were entitled (Chauvin, Parizot and Simonnot, 2009; HUMA Network, 2009). These findings were confirmed by a report by the Fundamental Rights Agency of the EU entitled 'Fundamental rights of migrants in an irregular situation in the European Union' (2011). In 2012, another project funded by the European Commission's DG-SANTE and run by Danube University's Krems Center for Health and Migration and the Malmö Institute for Studies of Migration, 'Health Care in NowHereLand—Improving Services for Undocumented Migrants in the EU', produced the first compilation of the policies and regulations in force across all the EU countries and found that among the EU Member States in 2012 only Spain, France, Netherlands and Portugal allowed full access to health care for undocumented immigrants; while Belgium, Italy, the UK allowed partial access and all the other twenty countries allowed no access at all (Center for Health and Migration/DUK and Malmo Institute for Studies of Migration, 2012). The project also found that while in many cases the restrictions of access to health care are due to legal barriers, there are also other instances of practical barriers, such as requirements to pay the full cost of the care provided or the duty for public servants to inform the immigration authorities.[23] In 2015, another study published by the University of Oxford's COMPAS Centre under the title 'Outside and In: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe' found that undocumented immigrants are permitted by law to some level of access to primary and secondary care services in ten EU Member States[24] (Spencer and Hughes, 2015). Today, in the majority of countries in Europe undocumented immigrants are only able to access emergency health care in life-threatening situations, while therapy for chronic diseases that

[23] In the Czech Republic, Germany, Ireland and the UK, for instance, the right to health care for undocumented immigrants is undermined by the requirement to pay, or contribute to pay, the cost of the care provided. In Germany, the right to health care is substantially undermined by the requirement for public servants to inform the immigration authorities.

[24] These states are: Belgium, the Czech Republic, France, Germany, Ireland, Italy, Netherlands, Portugal, Sweden and the UK.

require advanced medical treatment, including cancerous or orthopaedic diseases, is often restricted.[25]

From a public health point of view, access to emergency service alone leads to high costs and increased risks connected to the spread of infections (Edward, 2014). Yet, while access to emergency health care is considered a human right, more encompassing services are considered to be citizenship rights, to be provided only to individuals who are considered members of the polity.

And what is the polity in question? There is still a strong tradition of thought that associates health care rights exclusively with the state, in spite of the fact that that the decentralisation of authority in the field of health to regional authorities is a common feature throughout European states (Greer and Costa-i-Font 2013). This is particularly prominent in national health service systems in which the government directly finances and frequently owns health systems: these countries include Australia, Canada, Italy, Spain, the UK, and much of Latin America. By contrast, in social health insurance systems like Austria, Belgium, Germany and Switzerland there is more resistance to formal recognition of the role of regional governments. The German Constitutional Court has gone so far as to say there is no role for territory in social insurance. Yet, Scott Greer demonstrates that even in these countries regional governments have an important role, because they decide how money is spent, in spite of not having much legitimacy as individual actors. Provided the number of countries, in Europe and beyond, where regional governments have substantive policy competences in health care, Joan Costa-i-Font has commented that 'it is surprising how little is known about the effects of decentralisation on health care outcomes and outputs' (2012: 252). Just as emerging states granted their members a basic citizenship right to health care as a way of consolidating allegiance, regional authorities today face the same problem: if basic services are not provided to people in need, insecurity can arise, and the moral legitimacy of public institutions can be weakened.

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[25] In several cases, undocumented immigrants may, in theory, be able to purchase private health insurance without proof of residence status. However, costs make this option virtually inaccessible (Spencer and Hughes, 2015: 9). In her comparative research, Carin Cuadra concluded that a right that is in effect economically inaccessible cannot be deemed a right at all (Cuadra, 2012: 268). This does not include those cases where access to health care is subject to a moderate fee, which is equivalent to the cost that has to be paid by other patients. This latter case cannot be considered to seriously impair accessibility.

The importance of local and regional authorities in controlling access to health care rights for undocumented immigrants was explored by Joanna Parkin and Sergio Carrera in 2011 in their report on 'Protecting and Delivering Fundamental Rights of Irregular Migrants at Local and Regional Levels in the European Union' (2011). Additional evidence of how regional and local authorities are fundamental actors in this context was provided by PICUM with the publication of two reports based on a roundtable discussion held on 12 December 2012 at the Committee of the Regions: 'Guaranteeing Access to Health Care for Undocumented Migrants in Europe: What Role Can Local and Regional Authorities Play?' (PICUM, 2013) and 'Access to Health Care for Undocumented Migrants in Europe: The Key Role of Local and Regional Authorities' (PICUM, 2014). These studies provide some instances of how subnational authorities often adopt proactive policies affecting the implementation of state legislation. They also demonstrate how regions, in particular, can pass legislation to expand or restrict access to health care rights for undocumented immigrants.

The provision of health care rights to undocumented immigrants highlights an unresolved tension in contemporary democratic regimes: on the one hand, the definition of citizenship is set rigidly in national terms; on the other hand, the recognition of certain rights might be provided also by other authorities situated at different territorial levels (Castaneda, 2008). Yet, while there is now a substantial body of literature that investigates the variability of access to health care across different states (Cuadra and Cattacin, 2011; Pasini, 2011; Woodward, Howard and Wolffers, 2014; Flegar, Dalli and Toebes, 2016), no study to date has investigated how access to health care for undocumented immigrants changes within the territory of democratic states.

Expected causal mechanism

The role of parties is a long-standing theme in comparative political analysis, because parties aggregate and represent interests and opinions (see, for instance: Blais et al. 1993; Birch 1971). Competition between conservative and progressive parties, in particular, has long been considered the most important factor affecting the outcome of policy-making processes in democratic states. In the field of social welfare, for instance, party ideology shapes the normative and cognitive

resources used to uphold the representation nexus (Ferrera, 2014). Parties that are located on the left of the political spectrum are normally expected to promote more inclusive rights than other parties positioned on the right, because of the different pressures arising from their electorates.

Over the last few decades, partisan politics has become an important component for subnational units too, as regional governments seek to modify the agenda of policy depending on their political ideology (Swenden and Maddens, 2009; Detterbeck, 2012). In one of the few studies on this topic, Davide Vampa (2016) has shown that there is indeed an effect of party ideology on regional social policy, but this depends upon the political equilibrium between the different levels of government. Building on the existing literature, and particularly on research conducted on regionalism and the politicisation of citizenship rights, this thesis sets out to trace how the historical *left–right* political cleavage within European multilevel states leads to different approaches to what citizenship means for subnational actors. Indeed, it has been already shown that competing visions lead to the politicisation of the regional question:

> Regions . . . are less tightly bounded than states, given the competing territorial imaginations and the ease of functional systems in economy and society to escape their borders. These borders in themselves have little that is natural about them but reflect historical patterns and the balance of political forces. Having been established, however, they show great resilience as parties and leaders use them to establish power bases and institutional resources (Keating, 2016: 7).

In other words, the comparison aims to explain *whether* and *how* the continuity of politics allows for the establishment and the consolidation of the policy choices of the ruling party or coalition of parties in government. This approach emphasises agential factors over structural determinants. In this formulation, the partisanship of a regional government is more than an ideological affiliation; it is also about the membership of regional policy-makers in a national political network.

The few studies conducted to test whether partisanship is a key variable in explanations of variation in immigration and citizenship at the subnational level are generally concerned with local, rather than regional, levels of government. In particular, the discovery of distinct local policies has triggered a vital series of contributions, focusing mostly—but not exclusively—on the way in which

cities regulate the status of immigrants (Caponio and Borkert, 2010; Gebhardt, 2016; Zapata-Barrero, Caponio and Scholten, 2017). These studies found that local governments led by conservative majorities are more likely to have exclusionary policies than local governments led by progressive ones. In a comparative study of three Italian cities—Milan, Bologna and Naples—Tiziana Caponio and Maren Borkert (2010) argue that electoral politics significantly affects the likelihood of adoption of multicultural policies. These findings are consistent with the conclusions of Els De Graauw and Floris Vermeulen (2016) in their study of Berlin, Amsterdam, New York, and San Francisco, where they demonstrate that partisanship matters more than other local conditions for the determination of policies that concern civil, social, and political rights. Yet, other contributions studying this 'local turn' (Emilsson, 2015: 1) of immigrant integration research claim that municipal authorities tend to follow a more pragmatic approach towards issues of citizenship and immigration than the corresponding central governments (Poppelaars and Scholten, 2008; Jørgensen, 2012). The local pragmatism thesis argues that the specificity of local contexts means that municipal governments have a greater capacity to accommodate diversity and solve integration problems than their national counter-parts. So the questions of *whether* and *how* elected parties at the subnational level steer issues of citizenship remains open to debate.

Although migration scholars have called for a local turn, a true 'regional turn' in the study of integration and citizenship policies has yet to be taken. The question is whether parties that govern at the regional level have a genuine concern for social inclusion, or whether they replicate national dynamics of politicisation based on grand narratives of identity and symbolic belonging. Reflecting on the future agenda for research on the impact of territorial politics on democracy and citizenship, Scott Greer (2005: 269) wrote:

> But just what do parties do, and under what conditions do they do it? If we cannot identify ways that parties empirically 'vertebrate' systems then the burgeoning literature built on the assumption of close relations between parties and territorial politics might face a significant challenge. The real role of parties is a major research agenda that . . . requires close, empirical, attention.

The dissertation takes up this research agenda. In particular, it sets out to explain how political parties at the regional level have competed over citizenship and the related set of rights. The

purpose is to explore institutional responses within policies, not the exercise of discretion by individual actors. The focus is thus on how parties or coalition of parties of different political ideologies have shaped citizenship as part of their territorial goals, though attention is also devoted to the broader national setting in which the territorial contestation of rights emerges.

Case selection

Method of selection: comparative multilevel analysis

The universe of cases is restricted to the list presented in Chapter 1, which includes the nine *Bundesländer* in Austria, the three *régions/gewests* and Communities in Belgium, the Åland Islands in Finland, Corsica in France, the sixteen *Länder* in Germany, the twenty *regioni ordinarie, regioni autonome,* and *province autonome* in Italy, the two *autonomne pokrajine* in Serbia, the seventeen *comunidades autónomas* in Spain, the twenty-six cantons in Switzerland, the three devolved assemblies of Northern Ireland, Scotland, and Wales, as well as the Greater London Authority in the UK. All of these regions have in common recognition, representation, and the capacity to pass legislation that concerns matters of citizenship.

Within this universe of possible cases, the thesis involves both a *cross-country* and a *within-country* comparison in order to shed light on mechanisms in different contexts. The selection of the cases is guided by the framework of comparative multilevel analysis (Denk, 2010; Thomann and Manatschal, 2016). By using this method of selection, the comparison aims at systematising the qualitative data both within and across states. The application of comparative multilevel analysis involves two steps. First, the universe of cases is reduced by selecting only cases having some basic characteristics that make the comparison possible at the level of the state, while varying on one important factor. In this instance, the comparison focuses on three multilevel countries with decentralised health care systems that differ in the extent of federalisation of the system: Switzerland, Spain, and Italy. As a second step, the comparison is narrowed within each of the countries selected to pairs of most similar regions that differ on one important factor. My selection of regions aims at explaining the effects of the historical *left–right* political cleavage within European multilevel states on citizenship: hence, the regions analysed have been led by governments of either

left or right-wing political orientation for a period of over ten years: Lombardy (conservative government from 1995) and Tuscany (progressive government from 1970) in Italy; Andalusia (progressive government from 1980) and Madrid (conservative government from 1995) in Spain and; Vaud (progressive government from 2002) and Zürich (conservative government from 1991) in Switzerland. In the following sections I explain in more detail how I proceed with the selection of states and regions.

Three multilevel states

The first step of the comparative multilevel analysis is the selection of states. I aim at explaining whether and how different territorial structures of multilevel states make it more likely for regions of the state to develop different approaches to social citizenship. The criterion of selection revolves around the principle 'one region, one vote'. It has been observed that 'the key difference between a federal and a non-federal country lies not in the capacity of regions to rule themselves, but in their capacity to co-rule the country as a whole' (Hooghe *et al.*, 2016: 152). The difference in this component of the institutional design of the state guides the selection of the countries of reference within the universe of otherwise similarly multilevel polities. The three countries are Italy, Spain, and Switzerland.

Italy has long been considered to be very close to the ideal-type of a unitary state (Lijphart, 1999). Recently, however, the country has been described as 'regionalized' (Bassanini, 2012; Palermo and Wilson, 2014), 'something more than a regional state' (Fabbrini and Brunazzo, 2003), 'a third way between a federal and a unitary state' (Palermo and Valdescalici, 2014) or as 'no longer unitary, but not federal yet' (Roux, 2008). Italian regions have wide-ranging legislative competencies in fields that include civil protection, cultural and environmental resources, education, health, housing, social welfare, and town planning. Yet, they have extremely little room for shared rule, as the distribution of seats in the Senate (*Senato*) is determined chiefly by population and the senators are not expected to represent the territory of their constituency.

The Spanish case has been given a variety of different labels indicating that it the territorial system of this state is something other than a full-blooded federation: 'imperfect federalism' (Moreno,

1997), 'non-institutional federalism' (Colomer, 1998), 'incomplete federalism' (Grau Creus, 2000), or 'quasi-federation' (Bednar, 2009). Only a minority of Spanish scholars regard their country as a regular federal system, or a federal state 'without adjectives' (Linz and Montero, 1999; Aja and Colino, 2014; Sala, 2014). Spanish autonomous communities have the capacity to legislation on issues concerning culture, environmental protection, health, housing, public works, regional planning, and social welfare. Yet, they have only limited power in co-ruling the country as a whole: autonomous communities have 58 members in the 266-seat Senate (*Senado*). The decisions of this institution on normal legislation can be overridden by a majority in the Congress of Deputies (*Congreso de los Diputados*). Furthermore, the Senate cannot initiate legislation. In the end, Spanish autonomous communities have extensive powers of self-rule, but only limited shared rule. This explains the contrasting labels assigned to the country with respect to its federal nature.

On the Swiss case, by contrast, there is a general agreement that the country is 'strongly federally organised' (Manatschal and Stadelmann-Steffen, 2014: 406), although some scholars in the past have contended that Switzerland has 'neither a real centre, nor a real state' (Badie and Birnbaum 1982, quoted in Kriesi and Trechsel 2007: 5). In general, Switzerland can be regarded as the only of these three cases that has a full-blooded federal structure. Cantons combine the capacity to rule themselves with some powers to co-rule the country as a whole. Their governments have wide-ranging competences in matters of citizenship, culture, economic policy, education, environment, health, transport, and local government. Furthermore, cantonal representatives co-determine federal legislation: each canton has two directly elected representatives and each half-canton has one directly elected representative in the Council of States (*Ständerat; Conseil des Etats; Consiglio degli Stati; Cussegl dals Stadis*). This institution has veto powers on all decisions. However, federal laws can be overturned by popular referendums, which require 50,000 signatures or the support of eight cantons. Subnational institutions can also affect federal legislation through the cantonal initiative, which provides each canton the right to put forward formal proposals to parliament.

While differing in the capacity of respective regions to co-rule the territory as a whole, the three countries selected share important similarities for the purposes of the comparison. Importantly, they have decentralised health regimes with a tradition of universal health care. The Spanish SNS, the Italian SSN, and the Swiss SFSP agglomerate public health services whose management is effectively transferred to the autonomous communities, the regions, and the cantons, respectively.

At the same time, it must be stressed that there are important differences in how health care is organised across these countries. The Spanish SNS and the Italian SSN are financed through taxation and are considered to be part of the 'the Southern model of welfare' (Ferrara, 1996) due to the way in which they combine universalism with high levels of economic informality. This is different from Switzerland, where health care is based on a private insurance system whose regulation is the responsibility of the state (Immergut, 1992). The cantons, however, have several ways to affect the organisation of health care: for instance, by providing grant subsidies for the vulnerable population to reduce the cost of the insurance. More generally, even though the system of funding brings with it differing procedural requirements for accessing services, it has been found to be independent from the patterns of access to care across the EU (Cuadra, 2012: 270; Spencer and Hughes, 2015: 9).

Unlike Italy and Spain, which are countries of recent immigration (Arango, 1999, 2013; Sciortino and Colombo, 2004; Zincone, 2006), the history of immigration to Switzerland dates back to the beginning of the twentieth century (Ruedin, Alberti and D'Amato, 2015). However, the three countries have a similar demographic dynamic with respect to the presence of undocumented immigrants on the territory. Indeed, only estimations are available, because it is almost impossible to have accurate information on the numbers undocumented immigrants. However, although imprecise, the figures show that the relative importance of this group has been growing steadily since the 1990s and today it represents a significant portion of the population in each of the three cases. In Italy, for instance, the latest report from *Fondazione Ismu* estimates a number of about 760,000 undocumented immigrants: the majority of them are over-stayers who come from Balkan countries like Albania and Northern African countries like Morocco and Tunisia (Cuadra, 2010a). In Spain, the latest available figures recorded between 280,000 to 354,000 undocumented immigrants: here, too, this is mainly the result of overstaying, primarily by immigrants from Latin American countries like Ecuador and Northern African countries like Morocco (González-Enríquez, 2009). In Switzerland, the most recent estimates set the number of undocumented immigrants in the country at roughly 76,000: about two thirds of them have overstayed a visa, and they mainly come from Central and Latin American countries (Segreteria di Stato della migrazione del Governo Svizzero, 2015). These figures suggest that the relative importance of this group with respect to the rest of the population is roughly the same, with about one undocumented immigrant per one hundred inhabitants.

In the end, the three countries selected share some basic similarities with regard to the basic features of the comparison, such as the regionalisation of the public health care system and the relative numbers of undocumented immigrants vis-à-vis the rest of the population. At the same time, these countries differ in capacity of regions to co-rule the country as a whole. The empirical chapters will provide a closer scrutiny of these factors, in order to assess how they affect the politics of regional citizenship.

Pairs of regions

For each country, two regions have been selected. There are two reasons why pairs of regions have been preferred over single cases. First, paired comparisons allow correcting generalisations that might be suggested by one single case. Political science scholars use paired comparison as an analytical wedge to complement evidence from one case and explain whether this case is unique or exemplifies a broader pattern (Tarrow, 2010; Slater and Ziblatt, 2013). Second, the paired comparison of different cases allows to observe institutional differences as a key variable to demonstrate the sources of cross-countries variation. For instance, institutional contrasts across countries can be the critical factor to explain why regions of one country are more generous than those of the other countries in providing access to public health care to undocumented immigrants. In the end, the choice of paired comparison offers a combination of descriptive depth and analytical challenge that strikes a balance between the two: while single case studies would weaken the analytical wedge of the comparison, a broader range of cases would come at the expense of its descriptive depth.

The selection has been restricted to regions that are most similar in many respects, according to the most recent measurement of regional authority (Hooghe *et al.*, 2016). In terms of fiscal revenues, for instance, all regions selected have some room for manoeuvre. Importantly, their fiscal powers within the respective state are the same vis-à-vis the other ordinary regions. In Switzerland, the Constitution protects the fiscal autonomy of the cantons and, secondarily, of the federation: the central government has control over particular taxes, while subnational units are allowed to decide how to organise their tax system. In Italy, regions are entitled to set the rate of personal

income tax within the limits of a national ceiling; they are also allowed to determine their share of value added taxes. Finally, the Spanish autonomous communities can set taxes on real estate sales, inheritance, property, and gambling; they are also allowed to introduce new taxes and have control over the rate of income tax, as long as this does not exceed certain national limits.

In terms of representation, all the regions selected have institutions that are directly elected. In Switzerland, the cantonal parliaments of Vaud (*Grand Conseil*) and Zürich (*Kantonsrat*) are elected every four years, together with the cantonal collegial executives of seven persons, which are also directly elected in a popular vote. In Italy, the regional assemblies (*consigli regionali*) of the regions of Lombardy and Tuscany have been directly elected every five years starting from 1970. The regional presidents of these regions have been directly elected since 1999. In Spain, Andalusia has held direct elections for its parliament (*parliamento*) since 1982, Madrid since 1983. In both autonomous communities, elections take place every four years and the regional executives are elected by the assemblies. All regions selected are also similar in the sense that they are characterised by the presence of important urban centres (Lausanne in Vaud, Zürich in Zürich, Seville in Andalusia, Madrid in Madrid, Florence in Tuscany and Milan in Lombardy) and by a large share of immigrants living in the territory of the region. Controlling for these variables is important for a comparison aimed at explaining the variation of social rights, because factors like fiscal autonomy and the share of immigrants living in the region may have an effect on the decisions of regional institutions and significantly affect the dynamics of contestation of citizenship.

Since the objective was not to account for all regional differences, certain specific regions have been excluded. Autonomous regions like South Tyrol in Italy and asymmetric regions like the Basque Country in Spain were excluded from the comparison. These regions are distinctive, as they either have special exemptions from the national constitutional framework and receive special treatment (autonomous regions), or they have specific competencies on one or several policy fields (asymmetric regions). For the scope of this thesis, the choice is that of moving beyond the established literature on decentralisation that—as it has already been explained in Chapter 2—is largely dedicated to a few very specific cases of regions that are either autonomous or asymmetric. Indeed, these cases will remain an important topic for research. However, only seven percent of the population represented in the most recent dataset on regional authority lives in regions with special status (Hooghe *et al.*, 2016). Regions with ordinary status should receive greater attention.

The comparison sets out to trace how the historical *left–right* political cleavage within European multilevel states leads to different approaches to what citizenship means for subnational actors. Hence, the regions selected have been governed by either left or right-wing governments for a period of over ten years. In Italy, Tuscany has been governed by the Partito Comunista Italiano (PCI) and then the Partito Democratico (PD) since the first regional election in 1970. By contrast, Lombardy has been governed by right wing parties, notably Forza Italia (FI)/ Popolo delle Libertà (PDL) and the Lega Nord (LN) since 1995.[26] In Spain, Andalusia has been governed by the Partido Socialista Obrero Español (PSOE) since its first regional election in 1982; by contrast, the Autonomous Community of Madrid is considered a stronghold of the Partido Popular (PP), which has won seven consecutive elections since 1995.[27] In Switzerland, where partisan politics are arguably harder to establish, Vaud has historically been one of the cantons where coalitions of left-wing parties have been strongest in contrast with Zürich, where the right-wing Swiss People's Party (SVP) has had a relative majority of seats since the late 1990s.[28] The table below summarises the variables described above.

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[26] In Italy, too, a constitutional amendment introduced in 1999 allows regions to design their electoral system and form of government. However, all the fifteen ordinary regions have thus far opted to maintain the previous procedures. The presidents of the executives are directly elected in first-past-the-post regional competitions, while—on a separate ballot—voters elect the legislative assembly, which gives confidence to the president. The members of the regional assemblies are elected on a proportional basis; however, the party or the coalition of parties that are formally linked to the winning presidential candidate are rewarded with a bonus that guarantees a majority of seats (Tronconi, 2015: 555). In these elections, parties are divided into national parties, operating at both national and regional levels, and regional parties operating only in one or few regions. The latter have hold positions of government especially in the autonomous regions of Aosta Valley, Sardinia, South Tyrol and Trentino.

[27] The electoral law allows the autonomous communities to choose their own electoral systems within the proportional formula. However, all the governments of the autonomous communities have thus far used electoral systems practically identical to the one used for national elections. Parties running for government in the autonomous communities can be either national parties, operating at both national and regional levels, and subnational parties operating only in one of few autonomous communities (Wilson, 2012). The latter have hold positions of government especially in the autonomous communities of Catalonia, the Basque Country and Galicia.

[28] During the twentieth century, Switzerland was characterised as the leading example of a consociational

Table 6. Pairs of regions selected: main features

Country	Region	Federal system	Partisan politics	Important urban centres	Special fiscal revenues	Special autonomy powers	Share of immigrants relative to the rest of the state
Spain	Madrid	Quasi-federal	Since 1995 relative majority: PP	Yes (Madrid)	No	No	High
	Andalusia	Quasi-federal	Since 1978 relative majority: PSOE	Yes (Seville)	No	No	High
Italy	Lombardy	Regional	Since 1994 relative majority: FI/PDL and LN	Yes (Milan)	No	No	High
	Tuscany	Regional	Since 1970 relative majority: PCI/PD	Yes (Florence)	No	No	High
Switzerland	Zürich	Federal	Since 1991 relative majority: SVP	Yes (Zürich)	No	No	High
	Vaud	Federal	Since 2002 relative majority: PS	Yes (Lausanne)	No	No	High

Author's elaboration.

Unlike regional governments, led by relatively stable parties or coalition of parties, the national governments of the three states selected changed majority over time. In Italy, there were grand coalitions including both left and right-wing parties (1995–96), left-wing coalition governments

democracy with strongly proportional electoral systems and high levels of elite consensus (Lijphart, 1999). Nevertheless, while the institutions have not changed, the behaviour of political elites has undergone important changes. With new cleavages emerging in Swiss politics in the past three decades, the Swiss party system has witnessed a sharp increase in polarisation (Afonso and Papadopoulos, 2015). Recently, a special issue of the Swiss Political Science Review entitled 'Consensus lost? Disenchanted Democracy in Switzerland' argued that 'within the basically stable Swiss institutional framework of a consociational and corporatist system, Swiss politics has become more competitive, and as a consequence less predictable regarding both elections and policy-making. Government elections, formerly the key element of the consociational model, are no longer consensual' (Bochsler, Hänggli and Häusermann, 2015: 483). As Simon Bornschier shows (2015), political parties reflect their constituencies on the *left–right* axis much more clearly since the 2000s.

(1996–2001, 2006–08, and 2013–today), right-wing coalition governments (2001–05 and 2008–2011) and technocratic governments (2011–13). In Spain, after a prolonged period with the PSOE in power (1982–96), there were two consecutive right-wing governments (1996–2004), two consecutive left-wing coalition governments (2004–11), another right-wing government (2011–15) and a right-wing minority government (2015–today). Even in the most stable of the three countries selected, Switzerland, there was a change in the composition of the seven-seat government in 2004 when, after the elections of 2003, the right-wing SVP received a second seat in the Federal Council, like the PS and the FDP, while reducing the share of the CVS to one seat. In all the states compared, the composition of the central government changed over time. In the empirical chapters I will try to explain whether and how this had an effect on the politics of regional citizenship pursued by the subnational governments.

In the end, this is not a parsimonious design aimed at providing a universal explanation or testing a theory. Instead, the comparison of these six cases represents an in-depth inductive analysis to identify factors that affect how and under what conditions regional governments realise the right to health care for undocumented immigrants. Indeed, these regions are not necessarily representative for the whole of the variation within a country. It should be emphasised that I am posing general questions and generating a set of variables from a relatively small number of cases. Given the lack of the literature on the topic, my contribution is essentially exploratory. The expectation is that a comparison of how and why the public authorities in these regions have created health care regulations to include or to exclude undocumented immigrants could provide original insights for scholars of citizenship and federalism alike.

Data

I use different sources of information to address the subject of the dissertation, namely: (1) secondary literature; (2) legal texts that concern, either directly or indirectly, the right to health care for undocumented immigrants; and (3) a set of semi-structured interviews with a broad variety of key respondents. In this section I explain why and how I gathered information for each of these dimensions.

Secondary literature

I mainly rely on secondary literature on citizenship, federalism and regionalisation, with an occasional use of primary sources, such as laws and newspaper articles, to corroborate existing interpretations. Secondary sources include primarily documents, databases and reports collected as part of the EU-funded research projects 'Clandestino' (2009) and 'Health Care in Nowhereland' (Center for Health and Migration/DUK and Malmo Institute for Studies of Migration, 2012), as well as spin-offs of the latter project on Italy (Cuadra, 2010a), Spain (Cuadra, 2010b), and Switzerland (Bilger *et al.*, 2011). These documents, complemented with more recent first-hand sources serve to trace the process of how regional and state positions on health care for undocumented immigrants diverged in the three countries.

Legislative and administrative texts

In order to have a broad understanding of the dependent variable, I focused on information concerning the decisions and the actions of regional governments rather than on official declarations and positions.[29] I first did a desktop research of the relevant legal and administrative texts at the national and regional level. The documents I have collected refer, either directly or indirectly, to the regulation of health care for undocumented immigrants. In the end, I analysed 31 legal documents, including national and regional legislation as well as directives and regulations. A full list of the documents analysed is detailed in Appendix 1.

Semi-structured interviews

Contestation of citizenship does not stop with the establishment of rules: sometimes, informal practices are very different from what we would expect by looking exclusively at how formal norms

[29] For this reason, the data I collected do not include parliamentary debates, party manifestos, and newspaper articles.

are defined in constitutions, legislation, and in the jurisprudence. In order to control for correct interpretation of the law, trace its genealogy, and its realisation in practice, as well as the motivations of the actors, I conducted 62 semi-structured interviews. This method of gathering data in the social sciences offers valuable flexibility, but also risks to exacerbate problems of transparency and validity (Berry, 2002; Lynch, 2013). In order to reduce these limitations, I clarify in this section the key interviewing techniques that I used. The purpose is to be explicit about the way in which I organised and used the interviews in my research.

The population of interest for my interviews were elite actors that are particularly influential in the processes observed. My key respondents had been directly involved in the processes analysed—public officials, doctors, nurses, and members of NGOs—or had privileged knowledge about them for their work—researchers, professors. While other scholars have researched the topic of access to health care for undocumented immigrants resorting to interviews with the subjects themselves (Wolff *et al.*, 2008; Biswas *et al.*, 2011; Wyssmüller and Efionayi-Mäder, 2011; Straßmayr *et al.*, 2012), I did not adopt this strategy. This was a choice made both for theoretical and practical reasons. Theoretically, as I explained in Chapter 1, I had decided that the main focus of my research was on the macro-level of administrations and levels of government rather than on the consequences for individuals. Practically, the creation of a representative sample of undocumented immigrants that I could interview in each of the six regions analysed would have been extremely time-absorbing. Accessing undocumented immigrants is difficult, because little official information exists. An interview strategy of this kind should first engage in the construction of channels of access with undocumented immigrants. Furthermore, even when contacts are established, interviewing undocumented immigrants is complicated because they are generally reluctant to provide sensitive information, fearing denunciation to the authorities and deportation. Finally, researching the experiences of undocumented immigrants should aim at covering a broad diversity of situations in terms of age, background, migration trajectory, levels of integration, and social networks. For all these reasons, engaging in systematic interviews with undocumented immigrants did not appear as a plausible solution. Instead, I decided to focus on elite interviews.

A first set of interviewees was identified through secondary literature attempting to give equal representation to the different groups of professionals. Hence, for each region I accessed interviewees through separate channels. In this way, I avoided getting trapped within a network of

respondents who belong to the same group and therefore are likely to share the same view on the processes observed. A second set of interviewees was added through snowballing, that is by using the small pool of initial contacts to nominate, through their social networks, other interviewees who meet the eligibility criteria. In this way, after interviewing a set of actors that the research objectives suggest would have been highly relevant, I opened my research to the inclusion of other influential players who had not been selected *ex ante*—that is, actors who were identified by their peers through a process of sampling based on reputational criteria. This strategy of selecting interviews is therefore based on a combination of purposive sampling with subsequent snowball selection.

In the end, I collected 62 interviews with experts, policy-makers, health care professionals (doctors and nurses), members of NGOs working with immigrants, in health care, or both, and some other actors, such as members of trade unions, lawyers working with regional governments, and cultural mediators. A full list of the interviews carried out is detailed in Appendix 2.

The questions I asked were open-ended, therefore allowing the interviewees to tell what is relevant in their opinion, rather than being limited by a strict sequence of questions. The interviews examined five specific issues:

(1) social, political and legal context of the state;
(2) social, political and legal context of the region;
(3) legal norms related to the entitlement to health care and health care delivery for undocumented immigrants in the region;
(4) quality of health care services for undocumented immigrants in terms of accessibility, efficacy, appropriateness, equity and linguistic and cultural barriers to access;
(5) policies and communication strategies related to the provision of health care to undocumented immigrants and their linkages within a broader set of policies in the region.

The interviews were carried out in person in the period between March 2016 and May 2017 in a series of field work missions. Interviews always began with a standardised list of questions for all

interviewees. After those initial questions, the interviews were tailored specifically to the interviewee to inquire about particular initiatives, situations, practices, or experience that they or their institution had been a part of. This approach facilitated a partial restructuring of the research design at the beginning of fieldwork, selecting those questions that were more relevant and correcting those that turned out to be useless or misleading.

Interviews lasted from 25 minutes to over an hour. I always asked the interviewees whether I could record the discussions and in the majority of cases I was either asked not to do so or I decided not to do so in order to avoid self-restraint by the interviewee in answering my questions. In four cases, the interview was conducted over the phone; in all the other cases, interviews were conducted in person. Interviewees were offered anonymity. Some interviews were recorded; most interviewees, however, preferred that detailed notes were taken. During every interview I took hand-written notes, and then wrote out narrative notes later in the evening after I returned to my office or to my home. The interview material was analysed using the software NVivo.

Methods

The methods chosen for this research serve the function of producing the reconstruction of 'a full storyline with density and depth and an authentic and fine-grained picture of events within their contexts' (Blatter and Blume, 2008: 319). Hence, the technique that is used in this comparison relies on qualitative narratives with deep insights into the context and the interactions between relevant actors.

The primary function of this method is to uncover causal gateways or mechanisms, which are defined as 'ultimately unobservable physical, social, or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information, or matter to other entities' (George and Bennett, 2005: 137). The simplest application of this method involves the analysis of how social action unfolds over time in a manner sensitive to the order in which events occur. This methodology is therefore concerned with *sequences* of actions that constitute the *mechanisms* leading to a certain end state. While there are a variety of process tracing techniques (for a review see: Trampusch and Palier 2016), this thesis uses a broad

understanding of process tracing as a theoretically informed qualitative and comparative approach that takes social and political processes to trace how the historical *left–right* political cleavage within European multilevel states leads to different approaches to what citizenship means for subnational actors, illustrate the unfolding of events and generate theory.

The use of this approach implies a probabilistic view on the subject researched: 'because mechanisms interact with the context in which they operate, the outcomes of the process cannot be determined a priori by knowing the type of mechanism that is at work' (Trampusch and Palier, 2016). Indeed, the choice of what is narrated is, to a certain extent, based on the subjective choices of the researcher. In this thesis, I attempt to make the theories that underpin the narratives explicit. Descriptive, causal, and theoretical claims advanced in this thesis are made on the basis of thick description concerning the structuring of multilevel citizenship historically and contemporary narratives on the regional regulation of the right to health care for undocumented immigrants. In order to observe causal connections, the following rule of logic that was adapted from Mahoney and Goertz (2006: 232) will be followed:

> If some event A is argued to have been the cause of a particular historical event B, there seems to be no alternative but to imply that a counterfactual claim is true—if A had not occurred, the event B would not have occurred.

Each empirical chapter is dedicated to one of the cases and is divided into three parts. First, more descriptively, I provide a historical analysis on the structuring of citizenship and the competences controlled by regions in the fields of civil, social, and political rights. This analysis always starts from the framework of multilevel citizenship, which is used as the conceptual tool that guides the selection of facts. Second, I present an overview of recent cases of contestation of civil, social, and political rights between regional governments and the state. This part of the chapter includes an illustration of what rights are modified by regional governments and how the contestation of these rights unfolds. Finally, the third part of each chapter is a detailed reconstruction of regional politics concerning the right to health care for undocumented immigrants in the period between 2005 and 2015. This timeframe allows me to trace the actions of political actors without going back too far in time, since one of the main method of gathering information was interviews with actors who are directly involved in the processes analysed.

I follow a rigorous method for organising the data related to the dependent variable of health care rights for undocumented immigrants, which I draw from the MIPEX policy indicators on immigrant integration designed to benchmark current laws and policies (Huddleston *et al.*, 2015). Within these, I have selected the two dimensions from the field of health (eligibility and access) and I have used the indicators that are specifically related to undocumented immigrants (entitlement and coverage for eligibility; registration mode and availability of cultural and language services for access). The two dimensions of eligibility and access are often used to measure different aspects of inclusiveness of rights, such as the right to vote in elections. GLOBALCIT, for instance, has developed a large dataset on the right to vote with reference to both eligibility restrictions, which determine who has the right to vote or stand as candidate in principle, and access restrictions, which determine how those eligible can exercise their right to vote by means of voter registration and through various voting methods (Schmid *et al.* 2015). Similarly, the underlying nature of the right to health care can be considered on an imaginary continuum with categorical empirical manifestations that can be organised through the indicators that are detailed below.

Table 7. Indicators on the right to health care for undocumented immigrants

		Weak: explicit exclusion	**Medium**: no explicit inclusion	**Strong**: explicit inclusion
Eligibility Are undocumented immigrants recognised as holders of the right to health care in the regional health system's legislation?	**Entitlement** Are there legislative documents recognising the right to health care for undocumented immigrants?	No	Limited Minor children, pregnant women, infectious diseases	Yes Regional law or regional instructions
	Scope of coverage What is the extent of health care coverage?	Minimum Emergency care	Limited Emergency, minor children, infectious diseases and continuous care	Equal Same coverage as other patients in the system
Access Do policies assist or prevent undocumented immigrants' access to health care?	**Registration mode** Are there administrative demands for documents which may be difficult for immigrants to produce - e.g.; identity documents; proof of address from local authority records	Proof of low income, medical certificate	Proof of low income	None
	Availability of cultural and language services Provision of cultural and language mediators	No	Limited availability	General availability

Author's elaboration freely adapted from the MIPEX indicators.

This information is treated qualitatively, because a quantitative measurement of the realisation of the right to health for undocumented immigrants is both unfeasible (due to the lack of official data) and misleading (due to the complexity of the legislation and practices adopted). However, the qualitative treatment of these dimensions and the respective indicators constitutes a common rubric against which it is possible to systematically compare the decisions of different regions in terms of the realisation of the right to health for undocumented immigrants.

The resulting work is a study that belongs to the field of comparative politics.[30] This is not to deny the importance of an analysis of the political economy and public health behind the impact of health care assistance to undocumented immigrants and the cost on the services. However, it should be remembered that this is a dissertation on the content and the contestation of rights and citizenship, not on public finances.

Summary

Thinking beyond state-centred citizenship, in this chapter I have introduced a framework to explain variations in the regional approaches to citizenship in one specific domain: that of health care rights for undocumented immigrants. The right to health care is an essential component of the integration process for undocumented immigrants, who rely on good physical conditions to be able to work and to survive. Much of what we know about the variance of this right across territories comes from cross-national comparisons. Yet, variance occurs also within countries, especially in those multi-level states where the right to health care depends on the decisions of both central and regional governments.

I have explained that this area of enquiry touches upon the potentially conflicting ideas of citizenship between different levels of territorial government: when undocumented immigrants are granted health care rights by a regional authority they are in a clandestine condition for the state, and yet at the same time they are treated like regional citizens with social rights by the relevant authorities at the sub-state level. The right to health care was selected over civil liberties, political rights and different kinds of social rights because public medical assistance: (1) is a primary need; (2) has tangible effects, and; (3) is financially expensive. The comparison focuses on the realisation of the right to health care, rather than the existence of minimal rules for emergency treatment, since the latter would reflect principles of basic morality and human rights rather than a consideration of the person as a deserving member of the community. Because of these

[30] Some other disciplines have been indirectly involved. Firstly, the collection and interpretation of national and regional legislation required some background in law. However, as I soon discovered in my field work, how these laws come about and are actually interpreted, internalised, and ultimately applied by the relevant actors is an entirely different matter. This is where sociology was needed.

characteristics, the regulation of the right to health care was taken as the clearest indicator of the conception of social solidarity that exists within a political community. This right is particularly important for undocumented immigrants, whose administrative status is shaped by potentially conflicting ideas of citizenship between different levels of territorial government. The expectation is that subnational variations of the right to health care for undocumented immigrants can show how inclusive different approaches to regional citizenship are.

The comparison includes pairs of regions in three multilevel states where subnational governments have some control over health care policies. The selection of cases aims at explaining the effects on citizenship of the historical *left–right* political cleavage within European multilevel states: hence, the regions analysed have been led by either left or right-wing governments for a period of over ten years: Lombardy (conservative government from 1995) and Tuscany (progressive government from 1970) in Italy; Andalusia (progressive government from 1980) and Madrid (conservative government from 1995) in Spain; Vaud (progressive government from 2002) and Zürich (conservative government from 1991) in Switzerland. Evidence from these cases is collected via the analysis of over thirty legislative documents and 62 interviews with policy-makers, health care professionals, and members of NGOs.

Spain: the dissonant politics of regional citizenship

In Spain the creation of a unified state proceeded with only partial recognition granted to several pre-existing territorial rights, therefore setting the conditions for strong resistance in the form of a competitive rather than cooperative relation between regions and the central government. This is one important reason, as I argue in this chapter, regional citizenship in Spain has been pursued against the state, with regions historically attempting to maintain and develop territorially-specific rights as a rejection of the centralising process started under the Castilian monarchy in the nineteenth century and of the authoritarian repression by the Franco dictatorship in the twentieth century. I then proceed to show how today this competition is reflected in the legislation produced in all realms of civil, political, and social citizenship by regional governments. This legislation provokes recurring clashes with the central government, with the Constitutional Court acting as a key veto player. Finally, I focus on the case of health care rights for undocumented immigrants in the autonomous communities of Madrid and Andalusia. Regional variations in this field remain strong and can be explained by the existence of different regional approaches to citizenship that have their roots far back in the past and have survived to this date because of their instrumental use by the political parties elected in these regions.

Structuring citizenship: the regions against the state

The roots of the contemporary Spanish state and its multilevel territorial structure extend back several centuries. However, this story begins with the first attempt to declare a unified Spanish state in 1812. That date marks the beginning of a long process to build a unitary state with a centralised architecture of citizenship, comprising universal male suffrage and the repeal of various local governmental structures and privileges.

It was 1810 and the Napoleonic wars raged across Europe. With the French invasion of Spain, local and regional *juntas* established an underground opposition to the foreign-imposed government. While these assemblies had different goals, attempts to unite efforts against the French invader provided common ground. Liberal elites, in particular, inspired the resistance against Napoleon from the surrounded city of Cádiz and established the Spanish parliament (*Cortes Generales*), which in 1812 proclaimed the Spanish nation and approved the first Spanish Constitution. The representatives who gathered at Cádiz produced a document far more liberal than might have been produced in Spain had it not been for the war. he conservative forces were mostly absent and there was very little communication with King Ferdinand, who was a virtual prisoner in France (Millán and Romeo, 2004). Three basic principles were ratified by the 1812 Constitution: sovereignty resides in the Spanish Nation; Ferdinand VII is the legitimate King of Spain; and citizens enjoy freedom of thought and universal male suffrage. The former was accomplished by banning the inquisition and allowing for a free press and the latter was extended to all those with ancestry in Spain or the Spanish Empire (Cortes Generales, 1812). The Constitution created the basis for a unitary and centralised structure of citizenship in Spain.

The Spanish state's attempts to centralise citizenship long antedate the modern era (see, for instance: Conversi 2002). Yet, from the nineteenth century onwards, the centralising forces turned into something more durable and institutionally recognised. The parliament was effectively dissolved in 1814 with the return of the royal family of Ferdinand VII, but the constitution was maintained. In fact, the legacy of Cádiz survived, as the government enfranchised the entire male population and attempted to eliminate regional privileges and seigniorial estates (Lecours, 2001). The Spanish nation was effectively understood by the liberal elite to be the source of all individual rights. This provoked a sharp reaction by a coalition of anti-liberal forces. Among these, the group with the staunchest position was that of the Carlist traditionalists, who had their strongholds in the territory of Navarre and in several Basque provinces. The conflict between liberal forces and Carlist groups triggered a chronic political crisis. Turmoil and civil wars made it impossible for subsequent national governments to reform Spanish society.

In this context, the rights of citizenship remained only loosely national. In the field of education, for instance, the church maintained its virtual monopoly and kept teaching at a very elementary level, providing, when necessary, education in the Catalan or Basque languages as opposed to Castilian (Alvarez Junco, 2002: 25). National service in the army was not mandatory and its use varied depending on the territory in the state. Even more importantly from the citizenship point of view, the national government allowed for the existence of territorially-based customary laws and legal codes (Nunez, 2001). In some cases, regions retained governing assemblies and collective territorial privileges: there were the *fueros* in the Basque provinces and Navarre, and the historical Kingdom in Galicia. In Catalonia, although the traditionally autonomous self-governing institutions had been abolished already in 1714, a strong sense of community persisted after that date among the Catalan population and its elite. Freedom of speech and voting rights were granted unevenly across the territory of the state. Nineteenth century Spain was a patchwork of different legal systems, political assemblies, local rights, and traditions.

Some of these customs were forcefully eliminated at the end of the century when the sequence of civil wars that opposed Carlists and Liberal–Centralists ended with the defeat of the three Basque provinces in the late 1880s. The subsequent the abolition of the Basque *fueros* led the traditional elites of Vizcaya to dismiss national strategies and to start a new regionalist movement, with political objectives revolving around the Basque provinces only as opposed to the Spanish territory as a whole. At the same time, other regional elites also became more inward looking, frustrated by the stalemate caused by internal conflicts (Conversi, 1997). In Catalonia, in particular, political feelings started to be directed towards the region as the locus of social and economic development. While the struggle against centralisation did not directly affect the provision of citizenship rights at the level of the region, it did contribute to the creation of symbols such as flags and anthems that would later be used to attach subjective meaning to regional identities.

At the same time, the emergence of regional movements provided the Spanish crown with a unifying cause to unite all those opposed to Catalan and Basque autonomy. In the 1910s and 1920s, the association of the monarchy with a reactionary unification of the country grew in the context of the dictatorship of Miguel Primo de Rivera, who was initially backed by King Alfonso XIII. Several scholars link this authoritarian regime to the centralising process that had evolved almost uninterruptedly since the approval of the first Spanish constitution in 1812 (Payne, 1991; Millán

and Romeo, 2004). However, after a few years of centralising rule, the king withdrew his support and in 1930 Primo de Rivera resigned.

Spain fell into economic and political chaos. Social revolution fermented in Catalonia and in many other regions. In 1931, Alfonso XIII suspended the monarchy. This act paved the way for the Second Republic, which recognised that a democratic regime could not be built without satisfying several territorial demands for rights. In particular, the Second Republic was based on a democratic constitution that extended suffrage to all women and granted full citizenship rights to Latin American and Portuguese individuals residing in Spain who wished to claim them (*Cortes Constituyentes* 1931: Article 24). The resulting *Estado Integral* rejected federalism, but provided the means for transferring relative autonomy to the regions, which could individually negotiate statutes of autonomy with the Spanish parliament and then adopt them via referendum (Keating and Wilson, 2009). These mechanisms were meant to confine the process of recognition to the three historic nationalities of Catalonia, the Basque Country and Galicia, which immediately entered into negotiations with the state for the creation of regional autonomy statutes.

However, the reaction of Spanish nationalist forces and the civil war disrupted the process. Only the Catalan Autonomy Statute was approved, while the Basque Country and Galicia fell into the hands of the insurgents before they could approve their statutes or even start negotiating them, as was the case in Andalusia. By 1936 Spain was dragged into another civil war by the rise of nationalist forces led by General Franco. The nationalist coalition responded to a variety of institutional reforms initiated by the new Constitution: ultimately, however, its *raison d'être* lays 'in the eradication of the twin "evils" of communism and separatism' (Lecours, 2001: 219). This coalition blended theories of authoritarian monarchism with cultural and religious values, which largely represented a more radical extension of monarchical values and Carlism. These were the forces that General Franco brought together under the umbrella of his military regime, which won the Civil War in 1939.

The victory of the Francoist forces paved the way for a 35-year dictatorship, which imposed the model of an indivisible state 'united by a single Castilian language, culture, and spirit' (Lecours 2001: 219; see also: Moreno 1995; Moreno 1997). Like fascism in Italy, the Franco regime pursued violent assimilation to suppress regional rights. In the years following 1939 the national

government, writes Linz (1973: 242), 'embarked on a deliberate policy of imposing the Castilian language and banning or ostracising the local language, outlawing all its uses in the administration, education, mass media, translations as well as making impossible any association that directly or indirectly would foster the national sentiment'. The authoritarian state facilitated the diffusion of regional movements beyond the Basque Country and Catalonia, as subnational resistance was associated with popular mobilisation against the Franco regime (Balfour and Quiroga, 2007).

The re-discovery of the region: Spain 1978 until today

After the death of Franco in 1975, Spain initiated a negotiated transition to democracy. One of the most difficult parts of this process concerned the reconciliation of territorial unity and liberal-democratic politics or, put it differently, the solution to the country's longstanding national question. The *proceso constituyente* began in June 1977 with the first democratic legislative elections and ended with the approval of the constitution by the parliament in a plenary meeting held in October 1978. A general cross-party political consensus facilitated a relatively peaceful transition to democracy. The drafting of the new constitution in 1978 was a process of 'crystallization' (Colino and Pino, 2010: 358): transition to democracy was ensured by the transformation of existing institutions in such a way as to guarantee the protection of the different languages, political traditions, distinct civil law traditions, and in some cases even special fiscal arrangements. In this sense, paradoxically, the nascent Spanish democracy opened the door to regional differences while also reproducing old patterns of centralisation.

Territorial diversity was established as a reaction to the centralising forces that characterised the system under the Franco dictatorship. The regionalist movements that had been included in the Second Republic and then prosecuted under the regime found recognition in the new constitution. Democratisation and decentralisation in Spain can therefore be regarded as 'the two intertwined sides of the transition after the death of General Franco' (Moreno and Obydenkova, 2013: 158). The Spanish constitution of 1978, however, does not define Spain as a federal system. Instead of establishing equal powers for all regions, it gives power to the parliament to authorise them to form autonomous communities (*Cortes Generales* 1978, Article 144). In this sense, the constitution is 'a masterpiece in ambiguity' (Keating and Wilson, 2009: 539): Article 1, for instance, declares the

indissoluble unity of the Spanish nation, but it also recognises the existence of nationalities and regions, without specifying or defining either category. The right to self-government (*autonomía*) of the Spanish 'nationalities and regions' is recognised by Article 2 of the constitution, setting the conditions and procedures regarding the rules for the reallocation of legislative and executive competences and creating the conditions for an asymmetric system (Cortes Constituyentes, 1931). Navarre, for instance, was entitled to keep some of its traditional prerogatives and four communities were granted a fast track to autonomy under Article 151: the Basque Country and Catalonia gained autonomy in 1979, Galicia and Andalusia in 1981. The remaining twelve communities gained autonomy under Article 143 in the late 1980s and 1990s. Eventually, seventeen regional parliaments and governments were established. Some of these represented historic regions, such as Catalonia, the Basque Country, Galicia; some others were entirely new creations, such as Cantabria, an area whose ancient name was La Montana, and La Rioja, previously part of the province of Logroño. This asymmetrically organised multilevel political system has since become known as 'the State of Autonomies' (*Estado de las Autonomías*).

In an attempt to escape the rigid approach of the previous period, the form of territorial institutions was delegated to a series of post-constitutional agreements. These agreements worked according to the old Spanish pattern of pacts with territorial local elites (Colino and Pino, 2010). A pact, for instance, was agreed upon with the territorial elites of the Basque Country to recognise pre-constitutional historical rights and special fiscal capacities in return for their acceptance of the constitution and the relinquishing of political violence. This system is usually known as principle of application (*principio dispositivo*): each autonomous community can define its own powers and competences within the limits established by the Spanish constitution. The instruments used for bargaining new powers were mainly bilateral agreements between the central and the subnational governments (Aja and Colino, 2014). The constitution also set up the appointment of a quarter of senators by regional parliaments: the number today is 58 (Senado de España, 2017). However, the parliament remains numerically dominated by the other senators and by the political parties that sit in the Congress of the Deputies. Unlike Switzerland, where regional approval is necessary to approve constitutional changes, in Spain the autonomous communities can propose reforms, but they are not involved in the ratification. The allocation of powers was therefore left to bilateral pacts between individual regions and the state governments (Keating and Wilson, 2009: 555). Most Basque and Catalan parties adopted this system of pactism, which allowed for credit-claiming

attitudes. At the same time, this system suited the Spanish government well, allowing it to pit regions against each other and to prevent them from creating large coalitions that could challenge Madrid.

This combination of asymmetry and post-constitutional agreements created the perception that the process could be undone at any moment. This situation pushed regions to compete for the preservation of their competences, a phenomenon that has been particularly evident in the cases of the Basque Country, Catalonia and, to a lesser degree, Galicia and the Canary Islands. In these regions, pro-autonomy movements claimed the differential factor—or *echo diferencial*—to indicate that they have distinct cultural, social, economic or political features that make them different from the other autonomous communities. Nationalist parties in these regions channelled requests for maintaining a political differential in the degree of autonomy vis-à-vis the rest of the Spanish regions. This created a vicious circle, as other regional parties or federated branches of Spain-wide parties also sought not to lose ground (Moreno and Obydenkova, 2013). Valencia, the Asturias, Andalusia and many other regions claimed the same competences and have denounced the privileges that the Basque Country, Catalonia and Galicia have been granted by the central state institutions. This competitive political pattern is mutually reinforcing.

The establishment of structures that foster competition rather than cooperation has proved hard to reverse. By 1983, when political autonomy was extended to all autonomous communities, the Spanish government laid down an institutional framework meant to reduce competition among regions and integrate all the regional governments into a more cooperative setting. It was the first attempt to create a framework of permanent relations between the regions and the state. In the constitution, the only references to intergovernmental relations were in the principle of coordination between all the public administrations and the strict conditions required to establish control over the horizontal cooperation agreements between regions (Cuesta López, 2004; Aja and Colino, 2014). To try and correct the institutional arrangements through some kind of power-sharing, sectoral conferences including all the regional officers were established in the 1980s. However, the scarce rules governing their composition and functioning undermined their relevance. Scholars point out that 'most of the time the conferences serve as a forum in which the central government informs the autonomous communities about its programmes and activities, while the autonomous communities can only protest without any substantial impact' (Bolleyer,

2006: 400). As a result, most of the intergovernmental meetings continued to take place on a bilateral and ad hoc basis. Today the agreements, or *convenios*, that are signed vertically between the central government and individual regional governments remain the most utilised instrument: about 1,000 are made each year (Aja and Colino, 2014). This institutional setting encourages the regions to assert themselves via bilateral meetings that give regional elites more visible benefits than cooperation. Elected rulers in the regions aim at maintaining a political differential in the degree of autonomy vis-à-vis the rest of the regions.

All policies created at the regional level are the result of this competitive pattern. This includes also legislation affecting rights traditionally linked to the definition of citizenship. In the early 2000s, for instance, several regional assemblies approved new statutes of autonomy, fleshing out the main aspects of autonomy including special territorial rights. This reinforced the asymmetry across the regions. Unlike the other autonomous communities, the reformed Catalan and Andalusian statutes comprise a detailed catalogue of competences, including the incorporation of political, civil, and social rights.[31] While these provisions are not necessarily in contrast with Spanish legislation,[32] they are used to express conceptions of regional citizenship.

Also in the field of political rights, the revision of the statutes of autonomy that was conducted by many regional governments in the early 2000s provided a symbolic field of contestation. Whereas some autonomous communities defined themselves as 'historical nationalities' (Balearic Islands, Andalusia and Aragon) or 'historical and cultural communities' (Castile and León), Catalonia defined itself as 'a nation' (*Parlament de Catalunya* 2005, Preamble: 29). Eventually, however, this word was removed from the statute in order to avoid a contradiction with the 1978 constitution which defines Spain as 'a nation of nationalities and regions' (*Cortes Generales* 1978: Article 2). Importantly, for many of these denominations the regional governments referred to previous historical texts. For instance, the government of Andalusia used the *Manifiesto Andalucista de Cordoba* in 1919 that described Andalusia as a 'national reality' (Directorio Andaluz de Córdoba, 1919: 5).

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[31] Examples of these rights will be discussed in the following sections.

[32] In the field of same-sex marriages, the Spanish civil code (*Código Civil*) had been already amended by Law 13/2005 to include within the definition that marriage may be a union between two people of the same sex or gender by the time this provision was inserted in the regional statute of Andalusia.

In the absence of other institutional settings, the Constitutional Court was called upon to solve the political conflict that followed the definition attributed to each autonomous community in the statute. The central government has frequently resorted to the Constitutional Court to invalidate regional initiatives that threatened the unitary character of the system, turning legal adjudication into the key instrument to deal with competitive structures and, ultimately, safeguard the unity of Spain (see, for instance: Conversi 2002: 234). Nevertheless, delegation to the court has provoked harsh controversies for three different reasons: first because some of the judges had been appointed during the preceding dictatorship; second, because the political parties were effectively able to influence its composition by occasionally forcing the retirement of magistrates; and, third, because the constitution that the court shall protect is, as has been explained, the product of a very particular historical constellation resulting in an ambiguous and rather open compromise. As a result of these factors, the rulings of the court are often perceived as unfair by the regional governments (Sala, 2014).

In the early 2000s attempts were made to solve this problem by institutionalising an alternative arena where conflicts would be solved by multilateral negotiations with all the presidents of the autonomous communities rather than by judicial adjudication. The Conference of the Presidents (*Conferencia de Presidentes*) was thereby established. It was decided that this institution would not have a periodic schedule but would be summoned upon proposal of the national government instead. The first conference was held in 2004; it did not produce any substantial decision, and yet it was generally regarded as an event of historical relevance (Muro, 2009). In spite of its symbolic success, in the following years the conference progressively fell out of fashion. Bilateral meetings between individual regions and the state government continued to shape an asymmetric and highly competitive system.

The politics of regional citizenship in Spain mirrors the idiosyncrasies of this system. On the one hand, after 1978, regions developed their own rights as a rejection of the centralising experience of the country under the Franco dictatorship. Regional governments have been granted asymmetric competences primarily via bilateral negotiation with the central government: the institutionalisation of this course of action has given impetus to a competition among regions. At the same time, the central government claims to be the ultimate source of political power. Disputes are adjudicated

through the Constitutional Court, which has the task of preserving the unity of the state. As Daniele Conversi explains, situations of 'conflicting definitions of the demos . . . give rise to a legitimacy vacuum which can only be resolved by a 're-legitimation' drive on the part of the state' (2002: 234). This highly idiosyncratic system overstretches the legitimacy not only of the judicial institutions, but of the Spanish state itself. The next section will provide some examples referring to civil, political, and social rights as part of the dissonant politics of regional citizenship in contemporary Spain.

The contestation of regional rights

In this section I provide a descriptive overview of the politics of regional citizenship across the autonomous communities over the last fifteen years. The purpose is to show how territorial competition and a strong central veto over the development of territorial rights affect the politics of regional citizenship in each of the different realms considered by Thomas H. Marshall: civil, political, and social rights. The legislation passed by the autonomous communities in these fields demonstrates that there is a strong push for competition and innovation, but that many of these attempts are resisted by the state government.

Civil rights

Civil rights were used by regional governments to gain symbolic status starting from the early 2000s. The freedom to use or to promote certain minority languages, in particular, was an important objective for the governments of autonomous communities like Catalonia, the Balearic Islands, Valencia, Aragon, and Castile and León (Keating and Wilson, 2009: 549). In these regions, language was presented as a matter of rights and special provisions were inserted in the new statutes of autonomy. This created an area of contention with the Spanish state, which ultimately resulted in cases in front of the Constitutional Court.

The Catalan reform, in particular, included several references to the right to use the minority language in the region. In Article 6 of the statute drafted in 2005, the government referred to

Catalan as the 'normal and preferable language of use in public administration, public communication, and teaching' (Parlament de Catalunya, 2005: 32). The text also requires judges and magistrates to be able to speak in Catalan and it includes the right for consumers to be answered in Catalan and for citizens to receive their education in Catalan as the principal language. The statute was subject to an objection of unconstitutionality filed by the Partido Popular (PP) in parliament and submitted to the Constitutional Court. In judgement no. 31 of 2010 the court struck down many of these provisions, especially those that mandated for preferential use of Catalan in public administration, communication and education. The opinion of Judge Jorge Rodríguez-Zapata Pérez sets the tones of the conflict:

> The *Estatut* takes the place of the constituent legislator and modifies the Constitution without conforming to the [constitutional] procedures; it incurs in a colossal flaw of incompetency overthrowing the division of power between the state and the Autonomous Communities in every domain; it harms the human dignity of all Spaniards affecting their rights, above all their right . . . to use in Spain the Spanish official language of the state; lastly, it upsets the constitutional system of sources of law and, at the same time, the operation of the state itself (Boletin Oficial del Estado 2010: 458; quoted and translated in Delledonne 2011: 11).

After the judgment, the Catalan government spokeswoman and interim Deputy First Minister Neus Munté deemed 'the legitimacy of the Constitutional Court equal to zero', saying that the state government had given new powers to the Constitutional Court rather than 'deal with the situation in Catalonia', and added that the declaration had a 'predictable, political intent' (EFE Barcelona, 2015).

The governments of other autonomous communities used the regional statutes to assert certain civil rights. The statute of Andalusia, for instance, includes several references to the right to sexual orientation, equal rights for cohabiting couples, and the right to a public and secular education. In particular, Article 35 of the new statute approved in 2007 states that 'all the persons have the right

to be respected for their sexual orientation and their gender identity. Public authorities will promote policies to guarantee the exercise of this right' (Parliamento de Andalucía, 2007: 21).[33]

Other civil rights also became the subject of politicisation across regions. In 2013, for instance, a municipal ordinance banning the wearing of Islamic burqas in public spaces of the Catalan city of Lerida was brought in front of the Supreme Court and was deemed unconstitutional. In its ruling, the court said the ban on the burqa, a traditional Islamic costume that covers women, would constitute a limitation to the fundamental right of the freedom of religion that is protected by the constitution. The court argued that the limitation of such fundamental rights can only be pursued through laws at the national level, not through local or regional ordinances. While this has thus far remained a case regarding municipal governments, autonomous communities have recently mobilised resources to legislate on related religious issues, including the burial places of Muslims and the food given to Muslim children in primary school canteens.

Political rights

The franchise for active and passing voting rights in regional elections does not vary across Spanish autonomous communities, with citizens residing abroad enfranchised in all regional elections and non-citizen residents disenfranchised in all regional elections. Yet, there have been several attempts by regions to modify the scope of the suffrage. In Catalonia, for instance, there has been a long debate about the possibility to grant immigrant non-citizens voting rights in regional elections. In spite of the rhetoric, a law has never been passed because the Spanish constitution generally gives foreign residents the same civil rights (*libertades públicas*) as those of Spanish citizens, but explicitly excludes foreign nationals' right to vote and to be elected (*Cortes Generales* 1978: Article 13).[34] The

[33] Author's own translation. The original text reads as follows: 'Toda persona tiene derecho a que se respete su orientación sexual y su identidad de género. Los poderes públicos promoverán políticas para garantizar el ejercicio de este derecho.'
(http://www.juntadeandalucia.es/html/especiales/NuevoGobiernoVIII/images/17estatuto.pdf, last accessed on 16 October 2017).

[34] However, this exclusion has not prevented resident nationals of Member states of the EU from being enfranchised in municipal and European Parliament elections, following the approval of the Treaty of

only attempt to grant non-citizen residents the right to vote took place with the consultation on the independence of Catalonia, which was held in 2014 after the refusal of the Spanish state to allow a referendum on the question. The consultation used the popular initiative as a legislative instrument, which in Catalonia includes also non-citizen residents. It was carried out outside the realm of legality recognised by the Spanish state: a few days before its date the Spanish government referred the case to the Constitutional Court, which judged the consultation to be unconstitutional (Tribunal Constitucional, 2010). Though constitutionally void, this was the only political circumstance when non-citizen residents have been enfranchised as part of the regional body of voters.

Another example of frustrated plans to change the boundaries of the regional franchise is provided by the proposal of the regional branch of the PP in the Basque Country, which in 2011 formally put forward a proposal aimed at enfranchising all those individuals who have had to move to places outside the Basque Country because of a direct threat or pressure from ETA, an armed Basque nationalist and separatist organisation. The idea was part of a broader plan of the national Department for the Care of Victims of Terrorism, which had historically focused on finding work, access to housing or the possibility of obtaining social benefits. The PP opined that specific voting procedures should also be explored as a matter of justice (El Mundo, 'El PP pide que puedan votar en Euskadi los amenazados por ETA que se fueron', 17 February 2011). The plan met strong opposition in the regional assembly of the Basque Country: the PNV deemed it as 'non-sensical', whilst the PSOE argued it would have been too complex to prove that the abandonment of the Basque Country was due to the presence of ETA (La Vanguardia, 'El Gobierno vasco rechaza el voto en Euskadi de los 'exiliados' por ETA', 16 April 2014). The PP proposed that new voters could access this right if they had lived in the Basque Country between 1977 and 2011 for a period of at least five years. However, in 2014 the regional assembly finally scrapped the plan.

Maastricht and the subsequent reform of the Spanish Constitution. Apart from EU citizens, foreign residents with citizenship of Norway, Bolivia, Cape Verde, Chile, Colombia, Ecuador, Iceland, New Zealand, Paraguay and Peru are enfranchised after five years of lawful residence (three years for Norwegian citizens) on the basis of reciprocity agreements, on condition they can document five years of lawful residence in Spain (Rodriguez, 2013: 5).

The Basque Country provides evidence of other disputes related to political rights that threatened to jeopardise the stability of the state. On 27 September 2002, the Basque government brought an action before the Constitutional Court challenging the constitutionality of Organic Law 6/2002 *de Partidos Políticos*, which had been approved in the same year by the Spanish parliament and included provisions on the banishment of parties financing terrorist organisations. As a consequence of the law, the Basque party Batasuna was banned because the Constitutional Court had proven in a previous judgement that the party was financing ETA that was itself recognised as a terrorist organisation by the court. The representatives of Batasuna were therefore prevented from contesting elections, holding public demonstrations or rallying; and the court froze their assets. As a consequence of the decision, several Basque politicians decided to stop recognising the Constitutional Court as a legitimate actor and refrained from referring to it.

Social rights

In the field of social rights, the progressive decentralisation of competencies has provided autonomous communities with more room for developing distinct schemes of welfare. This has led to the institutionalisation of different levels of protection, as demonstrated by a variety of scholars working in the field of welfare (Subirats, 2006; Del Pino and Pavolini, 2015; Gallego, Barbieri and González, 2017). However, these studies refer to the structure of welfare, the levels of financing and the quality of the services provided rather than answering questions related to who has certain rights and what the content of these rights is. In other words, the literature has not yet covered the territorial differences that emerge as a result of distinct territorial politics towards certain vulnerable groups. This is the topic of the following section.

The right to health care across autonomous communities

The case of health care for undocumented immigrants serves as a clear example of the territorial variation of rights that continues up to today, in spite of the fact that access to health care is, in principle, protected by the Spanish constitution. Since 2012, this Article has become the subject of intense dispute, as the national government approved new legislation excluding undocumented

immigrants from a range of services and several regional governments decided to continue to provide care to all the individuals residing within their territory, regardless of their citizenship status.

National health care legislation for undocumented immigrants

Article 43 establishes the right to health protection and health care. The article reads as follows:

> The right to health protection is recognised. It is incumbent upon the public authorities to organise and safeguard public health by means of preventive measures and the necessary benefits and services. The law shall establish the rights and duties of all concerned in this respect. The public authorities shall promote health education, physical education and sports. Likewise, they shall encourage the proper use of leisure time.[35]

Until the mid-1980s only Spanish citizens and those registered with the social security system were entitled to coverage. After the approval of the General Health Law 14/1986 immigrants were included in the system; in particular, the text of the legislation states that 'every Spanish citizen, as well as foreign nationals who have established their residence in the country, are entitled to the protection of their health and to health care'. Law 4/2000 provided full access to health care for all those registered in the local civil registry, the *Padrón Municial de Habitantes*, regardless of their legal status. Finally, with Law 16/2003, Spain opened access to care for all people residing in the country whatever their financial resources or legal status.

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[35] Translation by the Agencia Estatal Boletín Oficial del Estado at https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf (last accessed: 16 August 2017). The original text reads as follows: 'Se reconoce el derecho a la protección de la salud. Compete a los poderes públicos organizar y tutelar la salud pública a través de medidas preventivas y de las prestaciones y servicios necesarios. La ley establecerá los derechos y deberes de todos al respecto. Los poderes públicos fomentarán la educación sanitaria, la educación física y el deporte. Asimismo facilitarán la adecuada utilización del ocio'.

Since 2012, the issue of who is entitled to this right has become the subject of intense dispute, as the government led by the PP approved Real Decreto 16 (RDL 16/2012), justified by the necessity of guaranteeing the sustainability of the SNS and improving the quality and safety of its services. The new legislation linked coverage more explicitly to social security entitlements. Article 1, in particular, modifies Article 3 of Law 16/2003 and Article 12 of Organic Law 4/2000. According to the new provisions, only certain categories of individuals who are regularly resident in Spain have the right to be covered by the SNS.[36]

Undocumented immigrants were left with access to protection only in special cases such as emergency care, maternal care, and basic child-care for those under 18 years; while in all other situations, health care could be provided only through the payment of the cost of the service, or through the payment of a subscription fee within the framework of any of the special agreements set up by the RDL 16/2012, which nonetheless are linked to a one-year inscription on the local registry (Cimas *et al.*, 2016). In practice, while undocumented immigrants may be able to purchase private health insurance without proof of residence status, the costs involved make it virtually inaccessible.

Only few regional governments applied the RDL 16/2012 as it was originally intended. Castilla-La Mancha led the way in implementing the health ministry's new rules exactly as they stand; but a majority of regional governments adopted legislative and administrative actions to limit or even to void its effects. Already in the first three months after the approval of the RDL 16/2012, twelve autonomous communities approved measures in order to regulate entitlement to health-care in a way that would allow them to continue providing care to undocumented immigrants.

[36] The list of persons contained in the RDL 16/2012 includes workers, retired people and beneficiaries of social security services, people who have exhausted their right to unemployment benefits and do not benefit from any other allowances, spouses, dependent ex- spouses, descendants or dependents under 26 years (or older in the case of people with disabilities categorized as equal to or over 65%) of an insured person.

Andalusia: restoring old bridges

Andalusia was one of the first autonomous communities to take action against the RDL 16/2012. In September 2012, shortly after the approval of the national law, the regional government filed an appeal against it with the Constitutional Court claiming that the RDL 16/2012 represented an intrusion of the state in competences of the region.[37] The minister for health of Andalusia also declared that the autonomous community was against applying the new state regulations and would continue to provide health care to all citizens and non-citizens residing in the region alike.

However, in the months following these declarations a network of civil society organisations documented several cases of exclusion from health care in the region. These situations involved undocumented immigrants who had been asked to pay for the treatment they received: one example concerned a person who had been asked to pay €170 after being assisted in the emergency department of an hospital in Puerta del Mar (interview with a respondent, Cordoba, 27 March 2017). The government of the autonomous community, through the local delegation in Cádiz, stated that the health care of immigrants should be provided universally and free of charge to all residents, regardless of their status; and promised further investigation in these cases (interview with a respondent, Cádiz, 17 March 2017).

Following these developments, in August 2013 the Direction General of Health Care Assistance of the autonomous community passed an order ('*Instrucciones sobre el reconocimiento del derecho a la asistencia sanitaria en centros del Sistema Sanitario Público de Andalucía a personas extranjeras en situación administrativa irregular y sin recursos*') detailing instructions to continue assisting undocumented immigrants in all the municipalities of the region. The order states that:

> The right to health care in the Public Health System of Andalusia (SSPA) is maintained and recognised for foreigners who reside irregularly and without their

[37] Five other autonomous communities filed appeals against RDL 16/2012: the Basque Country, the Canary Islands, Catalonia, Navarre and the Asturias. The cases raised by Navarre and Canary Islands referred to the national government's violation of the constitutional right to health; while those of Catalonia and Andalusia were based on the interference of the national government in regional competences.

> own sources in Andalusia and do not fall within the scope of coverage established in Article 3 of Law 16/2003 of 28 May, Cohesion and Quality of the National Health System. Coverage will be extended to the entire portfolio of service of the SSPA, that is to say the same as that of any resident in Andalusia with public coverage.[38]

With the order, the autonomous government of Andalusia established the procedures to issue temporary documents for those persons residing in the territory of the region without a sufficient source of income. The instructions are justified in the text with reference to regional law 2/1998, recognising the idea of universality and equality in the field of health care. They also refer to a special agreement stipulated in 1999 with NGOs to include foreign residents as part of a special program of health care coverage for immigrants. In that context, the NGOs that had traditionally worked with women, indigents, and children were asked to become 'bridges' to bring immigrants into the health care system. In 2013, building on the pre-existence of these traditions, the regional government established that documents to access the Andalusian health system could be released immediately by the public health care structures of the region and by recognised civil society organisations to all individuals without any constraint with respect to the length of the stay and the legal status. These documents ('*Documento de reconocimiento temporal del derecho a la Asistencia Sanitaria*') give access to all services without any additional cost and allow tracking the medical records of the individual.[39] This has been possible also because of the previous involvement of the civil society organisations that in the past had already worked with the regional government to include immigrants and other categories of vulnerable individuals in the health care system.[40]

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[38] Author's own translation. The original text reads as follows: 'Se mantiene y reconoce el derecho a la asistencia sanitaria en el Sistema Sanitario Público de Andalucía (SSPA) a las personas extranjeras que residen irregularmente y sin recursos en Andalucía y no entran en el ámbito de cobertura establecido en el artículo 3 de la Ley 16/2003 de 28 de Mayo de Cohesión y Calidad del Sistema Nacional de Salud. La extensión de la cobertura será la de la totalidad de la cartera de servicio del SSPA, es decir la misma que la de cualquier residente en Andalucía con cobertura pública.'

[39] They are, however, valid only within the territory of Andalusia and cannot be used in any other autonomous community of the state.

[40] In a period of gradual withdrawal of government agencies from domains of social politics, these NGOs have become crucial allies of the regional authorities in the execution of their projects (Nunez *et al.*, 2010).

Today, undocumented immigrants in Andalusia can access health care both in integrated services at public hospitals and in co-financed services run in cooperation with NGOs. The regional authorities also instituted a communication channel to provide assistance for those requiring it: this is called *Salud Responde* and can be contacted by anybody. The regional government has estimated that the right to health care has been guaranteed for more than 110,000 immigrants who did not have national insurance between 2012 and 2015 (Servicio Andaluz de Salud de la Junta de Andalucia, 2015). In general terms, the government of the autonomous community of Andalusia, in collaboration with the civil societies that are active in this field, provides access to both primary and specialised health care, as well to pharmaceutical services, covering care also for people with infectious diseases.

The PSOE in government in the region justifies this decision by reference to the fact that Andalusia is traditionally a land of hospitality, a claim that mirrors the declaration of the regional statute describing Andalusia as 'a space of encounter and dialogue among diverse civilisations' (interview with a respondent, Seville, 30 March 2016). In a press release of 2015, the autonomous government stated:

> The Government of Andalusia will continue to guarantee health care to foreigners who have not regularised their residence in the community and who lack economic resources and insurance. The Government of Andalusia has always defended the universality of public health without making distinctions in terms of economic resources. As Health Minister Aquilino Alonso has said, 'it is a solidarity decision that seeks to protect the most vulnerable without resources' (Servicio Andaluz de Salud de la Junta de Andalucia, 2015).[41]

Through the instructions approved in 2013, these NGOs became active part of the health system again, assisting public institutions in the provision of documents and monitoring progresses.

[41] Author's own translation. The original text reads as follows: 'La Junta de Andalucía continuará garantizando asistencia sanitaria a las personas extranjeras que no tienen regularizada su residencia en la comunidad y que carecen de recursos económicos y aseguramiento. Desde la Junta de Andalucía, siempre se ha defendido la universalidad de la sanidad pública sin hacer distinciones en función de los recursos económicos. Tal y como ha afirmado el consejero de Salud, Aquilino Alonso, 'es una decisión solidaria que

The regional policy-makers note that Andalusia was 'the first autonomous region which in 1999 started providing health care services to every person living in the Community' (Josefa Ruiz Fernandez, Secretary General of Public Health, Social Inclusion and Quality of Life of the autonomous region of Andalusia, quoted in PICUM 2013: 14). Other regional officers working for the government told me that 'we cannot close the eyes . . . Andalusia has traditionally been the south of the south, or the north of Africa . . . and has always protected the rights of vulnerable individuals, be they women, immigrants, or indigents' (interview with an respondent, Seville, 22 March 2017).

In September 2015, following the action of recalcitrant autonomous communities and the impact they were having on public opinion, the central government brought draft new law to the Sectoral Conference of the Spanish Healthcare System. The new plan included a proposal to grant primary care to undocumented immigrants with no economic resources, living in the country for more than six months. Yet, the proposal was that the right to health care would be limited to the autonomous community where they reside, without granting them a SNS card that would entitle them to access all health care services provided by the system. In the end, the draft was never turned into a law and at the moment of writing RDL 16/2012 remains the reference document for the organisation of health care rights in the state.

Madrid: passing through the backdoor

The autonomous community of Madrid has a long tradition of medical assistance for vulnerable subjects, derived from the charity organisations that were created to assist the vulnerable population until the universalisation of the system in the 1980s. However, in contrast with the decision of Andalusia, following the RDL 16/2012 the conservative government of the autonomous community of Madrid instructed health services to comply with the legislation. The government of Madrid required that all services beyond urgent care shall be given only to subjects who are registered with the local authorities through the procedure of *empadronamiento*. Several civil

intenta proteger a la población más vulnerable y sin recursos'.'

society organisations jointly mobilised forming a variety of groups, the most important of which were *Marea Blanca*, which was an alliance of collectives organised to protest against financial cuts and privatisation plans in the field of health; and *Yo Sì, Sanidad Universal*, a movement of civil disobedience against the health reform included in RDL 16/2012. Both movements spread to other autonomous communities, but they were born in Madrid in the Spring of 2012 and targeted both the national and the regional government.

Following these movements, in August 2012 the government circulated instructions ('Instrucciones sobre la asistencia sanitaria a prestar por el servicio madrileño de salud a todas aquellas personas que no tengan la condición de asegurado o beneficiario') that redefined conditions of access, conceding exceptional coverage of contagious diseases, chronic diseases already under treatment, and mental health diseases. Yet, the majority of undocumented immigrants remained outside the public health care system; and in practice even those individuals who were theoretically included in the public system by virtue of the legislation, such as pregnant women and the children of undocumented immigrants, were still being denied care in many public health care centres, mainly because doctors were misinformed about the proper regional regulations to follow (Heras-Mosteiro et al. 2016; Médicos del Mundo 2014; Pérez-molina et al. 2016).

In the elections of 2015 the conservative government of the autonomous community was re-elected; however, the PP lost the elections in the municipality of Madrid to a coalition of left-wing parties. While the municipality does not have competence in the field of health care, it is responsible for the *Centros Madrid Salud*, which are the remnants of charity organisations that were created to assist the vulnerable population until the universalisation of the system in the 1980s. After the election of 2015, these centres, together with the civil society organisations in the municipality, started running a large campaign called '*Madrid sí cuida*'. This is an information campaign and its purpose is to find ways for undocumented immigrants to access health care services in spite of the strict approach pursued by both the national and the regional governments. The process has been described as 'finding tools and tricks' (interview with a respondent, Madrid 27 March 2017), or an attempt to find ways to do what could not be done by recurring to the tools available. This shows how in Madrid the task of assisting undocumented immigrants has been performed by civil society organisations that, in cooperation with the newly elected progressive government of the

municipality, have attempted to provide a *supplementary* function to the lack of initiative from the regional government.

Summary

The first attempt to proclaim the Spanish nation was made in 1812 with the Constitution of Cádiz. From that moment, the history of Spain was characterised by a long and tumultuous process of centralisation of citizenship rights that involved the elimination of regional privileges. This proceeded very slowly, as nineteenth century Spain was constantly dragged into civil wars. Local and regional rights in the field of education, welfare, political participation, and even civil freedoms survived and were recognised by the second constitution of 1931. However, the advent to power of General Franco marked the beginning of a more radical centralisation process, which led to the abolition of all the rights created at the level of the regions. After his death, with the realisation that the centralist-repressive territorial setting had caused profound disunity within the country, the transition to democracy in 1978 recognised the autonomous communities as an essential part of democracy and triggered a process of asymmetric development.

This dynamic produced strong competition across the regions. Autonomist movements claimed the differential factor, or *echo diferencial,* to indicate that they have distinct cultural, social, economic or political features that make them different from the other autonomous communities; and other regional parties or federated branches of Spain-wide parties sought not to lose ground. Today, the prominence of parties in territorial politics is largely attributable to the absence of a political institution in charge of handling intergovernmental cooperation. Instead, territorial negotiation largely revolves around bilateral meetings between individual regions and the national government Because of the absence of mechanisms for regional participation through the Senate or the Conference of Presidents, the current institutional mechanism for solving citizenship disputes turns the Constitutional Court into a *deus ex machina*. The competitive allocation of competences, which cannot be resolved in a definitive manner, is characterised by a tendency for the regions to go against the state.

A paradigmatic example the development of legislation related to access to health care for undocumented immigrants. In this field, after the national government restricted the conditions for access to public health care in 2012, several regions reacted by passing more inclusionary legislation. In Andalusia, for example, the regional authorities circulated guidelines providing unconditional access to health care services regardless of the legal status of a person, *de facto* hollowing the state legislation. This stands in sharp contrast with the choices made by other regional governments, and especially that of Madrid, which applied the national legislation restrictively, hence excluding undocumented immigrants from most services beyond emergency care. This debate highlights the role of regional governments in preserving access to important social rights for vulnerable groups in a context of general welfare retrenchment, but also the instability that derives from a territorial setting where the scope of legislative competences constitutes a permanent source of conflict. This is what I call 'dissonant politics of regional citizenship'. Their main feature is the lack of harmony, due to the fact that the actions of the central government and the regional governments often clash, and conflicts are not mitigated by an institutionalised system of coordination.

Italy: the homophonic politics of regional citizenship

In Italy the creation of the state proceeded without the recognition of pre-existing territorial rights, but with some room for manoeuvre for regions to maintain local privileges. This is the reason, as I argue in the following section, regional citizenship in Italy has been created by the state, due to the weakness of pre-existing institutions at the regional level. Regional governments have undertaken important competences in the last few decades, but their actions in the field of citizenship are usually mediated through the interpretations of Constitutional Court, which interpreted and mediating among diverging territorial interests and conflicting visions of the polity. I then proceed to show how this hybrid system is reflected in the regional legislation produced in all realms of civil, political, and social citizenship. Finally, I focus on the case of health care rights for undocumented immigrants in the regions of Tuscany and Lombardy to demonstrate that regional variations can be explained by the way in which different parties in government in the regions shape the conception of citizenship using and referring to territorial traditions of inclusion.

Structuring citizenship: the state without the regions

This story begins in the 1850s, when the Kingdom of Sardinia–Piedmont undertook the task of uniting the different sovereign territories of the Italian peninsula. In spite of the cultural, and political fragmentation of these territories, the substance of citizenship in the new state largely reflected the pre-existing rights established in the Kingdom of Sardinia–Piedmont. However, this initial repeal of the varied local governmental structures and privileges led to a subsequent recovery of them by the regions.

The unification of the Kingdom of Italy in the 1850s and 1860s established a strong coercive centre over the regions of the newly created state. Under the impetus coming from the Kingdom of Sardinia, the other six formerly independent states of the peninsula—the Sicilies, Modena, Parma, Tuscany, Lombardy, and the Papal states—were stripped of their legislative authority and historic rights. In 1861, the Kingdom of Italy was born as a unitary state.

As a consequence, different traditions of rights and customs were levelled under the central influence of the national elite in Turin. This was the case, for example, of women's inclusion in the electoral franchise. Before 1861, in Lombardy, which was under Austrian rule, wealthy women and administrators of their property could express their preference in local elections and in some municipalities they could also be elected. In Tuscany and Veneto women participated in local elections but could not be elected. These rights were eliminated in the Kingdom of Italy, because the formula 'citizens of the state' that can be found in the decrees and laws of united Italy referred by tacit agreement to men, and men only (Galeotti, 2006).[42] However, not all rights were brought under the control of the ruling centre, as is illustrated by regional variation in the fundamental civil right to life and corresponding constraints on the death penalty. The Grand Duchy of Tuscany had been the first modern European state in the world to ban torture and the death penalty under the reign of Pietro Leopoldo. In spite of this, at the moment of unification the penal codes of the other pre-unification states all included capital punishment. When the Kingdom of Italy was proclaimed in 1861, legislation was divided and it remained so until 1889, with the almost unanimous approval of both Houses of Parliament upon the suggestion of Minister Giuseppe Zanardelli (Rodotà, 2011).[43] Therefore, while some citizenship rights, including electoral rules and protection of civil

[42] In 1861 the women of Lombardy brought to the parliament a petition, which demanded the right to vote that was in their possession before unity and demanded that it was extended to the whole country. The petition did not pass.

[43] The death penalty remained established as part of military and colonial penal codes. In 1926, it was reintroduced by Benito Mussolini to punish spies, armed rebels, as well as those who made an attempt on the lives of the king, the queen, the heir apparent or the prime minister. The Italian constitution of 1948 finally abolished capital punishment.

liberties, were put under the exclusive responsibility of the central government, others remained fragmented recognising pre-existing privileges and traditions.

At the time, the prospects of a centralised regime generated considerable debate. Voices in favour of federal arrangements with a greater diversity of rights across the territories of the state were strong. The debate between different schools of constitutional thought was vibrant: Filippo Sabetti (2000, sec. 2000) demonstrates that some of the most influential intellectuals and politicians of the time supported federal options, including Vincenzo Gioberti and Carlo Cattaneo. It is now largely forgotten that 'the idea of confederation had been present in Italian statecraft for more than a generation, not as an exotic political invention but as a seemingly inevitable alternative to the situation established in 1815' (Binkley, 1935: 197). There was, in other words, a common awareness that a unitary system of government and citizenship was not necessarily a model of good government.

In spite of this intellectual opening towards less coercive territorial structures of authority, a unitary system was established where the ultimate decisions of the centre would prevail. In his book, *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism*, Daniel Ziblatt (2006) demonstrated that the main reason behind this solution was the weak infrastructural capacity of the constituent units, which had been ruled by foreign invasions for decades and lacked the capacity to enforce rights and duties upon the citizens of the newly formed kingdom. In the north, the Napoleonic Code had deprived Italian territories of much of their administrative capacity and autonomous political institutions. In the south, unchecked monarchs ruled the territories. At the time, of all the seven territorial units that constituted the new kingdom only Piedmont had a working constitution and a parliamentary structure. It was left to this territory to undertake 'unification by conquest' (Ziblatt, 2006: 7) and impose common citizenship rights over the rest of the kingdom.

In the end, therefore, the impact of French blueprint on the Italian nascent state was strong. Notwithstanding the diversified traditions that were bestowed in the regions before they were annexed and the diffuse intellectual sympathy for federalism, the Kingdom of Italy was born as a centralised state. The reunited Mediterranean peninsula ended up following the ideal promoted by the Le Chapelier laws in revolutionary France and took thus a different path from the German

federal model of unification: in the Kingdom of Italy nothing stood between the state and the citizen.

In the 1920s fascism brought both territorial privileges and the fragile democratic institutions of the Kingdom of Italy to a halt. During his rise to power, Benito Mussolini strengthened centralism and suppressed regional elites. He did not carry out the promise of establishing special autonomy powers for the bordering territories with diverse administrative traditions that had been annexed to Italy after World War I: Trentino–Alto Adige, Trieste, Gorizia, Istria, Carinzia, and Carniola (Sluga, 2000). In fact, the regime implemented a combination of measures to promote uniformity and assimilate the new regional minorities into a common Italian polity. In 1926, mayors were replaced with *podestà* nominated by the national government and with the new legislation introduced with the 1934 *Testo Unico* the authority of prefects strengthened the controls on local governments exercised by the central government (Baldini and Baldi, 2013). Several municipalities and local territories were merged, claims for group rights were suppressed, and intra-state mobility was regulated by the regime. The case of South Tyrol is instructive: while hundreds of Southern Italians were more or less forcefully relocated into the region's capital Bolzano, autochthonous members of the German and the Ladin language communities of the region were given time until 31 December 1939 to choose between remaining in Italy and giving up the use of their regional language, or emigrating to Nazi Germany were they would have been provided German citizenship through an international agreement that was called Option for Germany (*Option für Deutschland*). The fascist regime established a strongly coercive citizenship architecture that included no recognition for territorial fragmentation or group-rights. The advent of war, however, shook up the territorial structure of the state.

The re-invention of the region: Italy 1948–today

It is useful to open a brief comparative parenthesis at this point. European countries experienced very different pathways to regionalisation during World War II. In France and Germany regions became a tool in the hands of totalitarian regimes to better control the territory. In the French case, the Vichy regime established eighteen new regions that were merely inventions of the central regime to better control the territory. By contrast, in the UK a regionalised system was invented

from scratch to respond to the potential threat of a German invasion: civil defence was organised around regional committees. Although this plan was short-lived, its salience cannot be underestimated: the Fabian Society discussed the possibility of extending regional institutions created by emergency to a more stable base for the territorial structuring of the state (Rotelli, 1967: 5). Such developments did not take place in the UK, but they did somewhere else: in Yugoslavia. Here regional committees that were originally created to liberate the country from foreign invasion subsequently became the constituent units on which a federal regime was established. Italy chose a third way between these models. During World War II, national liberation committees, or *Comitati di Liberazione Nazionale*, exercised considerable power on a large portion of the territory. These committees were established on a regional basis and were responsible for the distribution of resources and the guarantee of civil rights. Territorial pluralism in Italy represented a reaction to the centralist impulse of fascism. These committees remained, however, linked to a central structure, which regained full authority at the end of the conflict. After the war an intellectual discussion began on which form of organisation would be most apt to accommodate the Italian Republic and avoid falling back into fascism. When framing the new constitution, considerable inspiration was drawn from the Weimar Republic, Swiss federalism, and Spanish regionalism. These three experiences, in particular, were found to be particularly effective by the research unit of the Ministry for the Constituent Assembly (Mangiameli, 2014). For post-war Italian elites, regions were equated with an ideal of democracy (Rotelli, 1967). The Constituent Assembly chose to break with the fascist ideas and pre-fascist organisation of a centralised administration by creating a plural state, open to a multiplicity of institutions. The recognition of regional self-government was part of this design.

In 1948 the new republican constitution was approved: it included recognition for the regions as the territorial units that compose the republic and were to be vested with their own statute, government, and legislative assembly. Twenty regions were established. Nevertheless, the Constituent Assembly chose to grant autonomous powers only to those regions characterised by linguistic minorities, borderlands or island territories (Rolla, 2015). Five regions were provided with an elective assembly, the capacity to pass limited legislation, and their own statute of autonomy;[44]

[44] Sicily was given a special statute of autonomy on 15 May 1946 to respond to the secessionist demands that were gaining ground on the island. Sardinia, Valle d'Aosta, and Trentino–Alto Adige were given a

the other fifteen regions were vested with limited administrative powers and their establishment was delegated to subsequent agreements between the parties in the parliament. The financing of the regions was also kept under strict control by the central state and there was no representation of the regions in the national parliament.

This choice introduced competition in the system. The republican constitution created a territorial structure 'characterised by its asymmetrical design, both as a matter of constitutional law and in terms of effective use of powers transferred to the Regions' (Palermo & Valdescalici, 2014: 181). The elected assemblies of the five autonomous regions used regional legislation to develop regional rights related, for instance, to the residence requirement to vote and to social care entitlement. Meanwhile, the rest of the territory of the state lagged behind in terms of recognition: agreements between the parties in parliament was complicated by mutual distrust and strategic calculations, so that in the end the establishment of ordinary regions was implemented only in 1970 (Groppi, 2015). The constitution granted these regions only very limited legislative powers on matters such as agriculture, housing, tourism and urban planning. None of these policies had any meaningful impact on citizenship rights because there was extremely little competence for legislating on political, civil, and social rights. However, the creation of directly elected regional parliaments emboldened a new elite eager to assert itself as a legitimate actor and emulate the powers that had already been conquered by the five autonomous regions. In the years following 1970, the elected representatives of regions, especially in the richer territories of the centre and the north, used popular legitimacy and the functional interdependence of different policies to press national political actors to redefine their common tasks. In this way, they exercised their political influence to increase their powers and to justify them: joint action in public works, for instance, created new pressures to control welfare rights. Citizenship language started to be used so that regions could claim a relatively autonomous space of action, which was often instrumental to emphasising a specific regional identity. This mode of structuring of territorial institutions was based on competition, rather than cooperation.

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special statute of autonomy in 1948. Finally, Friuli Venezia Giulia was given a special statute of autonomy in 1963. These forms of recognition for autonomous regions were included in Article 116 of the constitution (Mangiameli, 2014).

Regional governments initially recurred to political pressure within the parties in order to obtain greater competencies. From the beginning of the 1980s, though, the regional elite moved the debate outside the party system into new political arenas: the regional assemblies themselves and, indirectly, the Constitutional Court. The state, however, had maintained a coercive control over the creation of regional rights. In fact, the constitution 'established the ideological premises, but not the institutional conditions, for the termination of a centralist tradition that had lasted for almost a century' (Fabbrini & Brunazzo, 2003: 104). One of the tasks of the newly created Constitutional Court was to control the application of the constitution in potential disputes between the state and regional governments. One of the first decisions of the Constitutional Court already in 1956 was to invalidate a law of the autonomous province of Bolzano that had sought to create a system to regulate social provisions for artisans that de facto excluded participation of individuals coming from outside the province. Another important case concerned the right of the Italian state to restore citizenship to those returning to South Tyrol after having been sent away under fascism. The Province of Bolzano claimed the unconstitutionality of the law that set precise time frames for presenting the demand for citizenship and excluded from the pool of candidates those individuals who belonged to the Schutzstaffel or the Gestapo, held positions in other bodies of Nazi Germany or demonstrated anti-Italian bigotry or hatefulness or had been convicted as war criminals or as collaborators of Nazi Germany. The court validated the state law as compatible with the principles set by the Constitution. These rulings demonstrate that while a limited regionalisation was allowed and even encouraged, a strong centre remained to adjudicate on whether regional developments were permissible or not. The Constitutional Court, in particular, extended the scope of legitimacy control to all cases where there was the possibility to create a clash with a constitutional norm. The coercive powers of the central state remained in place.

At the same time, political use of constitutional adjudication was a tool in the hands of the most active regional governors to assert their limited powers 'by intentionally losing the case but bringing the court to make important statements as to the limits of central state jurisdiction' (Palermo and Wilson, 2014: 518). Indeed, conceiving the role of the Constitutional Court as that of a simple arbiter of legitimacy would be reductive; being increasingly often called upon by the regions, the court steered the political process, attempting to mitigate the consequences of its decisions on the territorial system as a whole (Fiorillo, 2005). This strategic adjustment to work through its new function in the system turned the court as an institutional mediator, rather than simply a veto player

approving or disapproving legislation. These steering functions of the Constitutional Court grew stronger over time.

Meanwhile, regional elites became relatively independent from their parties. In the 1990s, while a crisis of legitimacy invested the national political system as a consequence of far-reaching judicial investigations that involved the leaders of the main national parties, regional governors and peripheral executives continued to put the issue of further decentralisation at the centre of the public debate. At the same time, the crisis also opened up room for the electoral rise of new regionalist parties. This combination of a power switch and progressive spill-over of newly created institutions resulted in two constitutional amendments approved in 1999 and 2001.

These reforms represent the blueprint for the current architecture of multilevel government in Italy. The revised constitutional text grants more financial and organisational autonomy to the regions, which can now decide how to spend part of their money. It also includes a catalogue of the exclusive powers of the state, leaving the regions the task of dealing with all those not explicitly mentioned. Finally, the reform institutionalised a multilateral arena of negotiation, the *Conferenza Stato-Regioni* (State–Regions Conference). This is a consultative entity that can be called upon by the central government only. In the reformed constitutional framework, therefore, those rights that are not explicitly left to the state are defined by a network of relations between various territorial subjects and the state, which however remains charged with the responsibility to ultimately decide where to draw the line and retains control in the absence of alternative, cooperative institutional arenas. In fact, the reform did not create a corresponding reshaping of institutional relations.

This structure of the territorial institutions, characterised by the weakness of shared rule, the dominance of bilateral relations, and the possibility for regions to develop asymmetric powers perpetuates the competition between ordinary and autonomous regions, and between ordinary regions themselves. It also confirms the presence of a strong force at the centre: changes of the institutions continue to be imposed unilaterally in the form of concessions made by the government without any substantial political involvement of the regions; regional spending is still controlled by the state, which is also in charge of adjudicating contested cases. The Constitutional Court, which has progressively adjusted its function as that of an institutional mediator rather than an arbiter in charge of simply accepting or rejecting proposed legislation, 'has been called upon to take up a

substitutive function that was neither required nor welcome', as its president, Vladimiro Zagrebelsky, concluded in the annual press conference of 2003 (quoted in: Groppi 2015: 51).[45] Such a hybrid system has produced intense regional competition, as demonstrated by recent cases of disputes revolving around the three types of citizenship rights.

The mediation of regional rights

In this section I explain how regional competition touches upon all of the different realms considered by Thomas H. Marshall: civil, political, and social rights. In each of these fields the competition between regions has created attempts to modify the boundaries and the provision of rights; and the state government has almost invariably referred to the Constitutional Court when trying to preserve the homogeneity of citizenship on the territory of the state. The court has interpreted its role as an institutional mediator, refraining from a strict adjudication and occasionally encouraging regional initiatives through a stronger cooperation with the state.

Civil rights

In the early 2000s, several regional governments approved laws challenging state provisions on the control, identification, and accommodation of undocumented immigrants. They did so using their powers in matters such as housing and welfare assistance. Nonetheless, the government opposed these laws, arguing that they violated the state's exclusive competence on immigration, asylum and legal status of non-EU citizens. Who has responsibility, then, when it comes to trace the boundaries between civil rights and immigration policy? In the absence of any other institutional arena, it was again left to the Constitutional Court to draw the line. In a series of judgments, the court conceded that an intervention by regions aimed at ensuring that immigrants, regardless of their juridical status, have the right to legal protection and defence cannot be accepted because it violates the reserved power of the state in the field of immigration.

[45] Author's own translation. The original text reads as follows: '[La Corte] è stata chiamata a una funzione di supplenza non richiesta e non gradita.'

More recently, the issue of civil rights has been re-ignited by religious disputes. In 2015 the region of Lombardy approved new legislation regulating the construction of religious buildings. Law 2 of 2015 set strict principles for planning structures of worship and temples with religious denominations other than the Catholic Church. This regulation made it extremely difficult to erect religious buildings particularly for Muslims. The new law requires a local agreement between the territorial municipalities and the representative bodies of the denominations; the latter must have an extensive, consistent and organised presence in the municipality where the new building is located. Shortly after its approval the Italian government appealed against the law on substantive grounds, namely infringement of the system of protection of religious freedom and equality, its discriminatory effects, and arguments inferred from Article 117 of the constitution related to the matters of public order and national security. In its decision, the court argued that the availability of temples and mosques is an essential condition for the effective exercise of religious freedom, a regulation imposing different requirements between denominations would exceed the regional power, interfering with constitutional rights standards.

Until now, this has been the only case of contention between a region and the state in matters of religious freedom. It might not be the last one, though. Religious freedom has remained largely undisputed in Italy because the country has long been characterised by the presence of one dominant religion and other minorities have generally tried to gain privileges as close as possible as those enjoyed by the Catholic majority. It is only recently that other groups have claimed their right to be different and this might encourage regions to take control of this issue—as happened in Lombardy—signalling via the law their inclination or lack of thereof to accommodate religious diversity. Other regional rights might also be promoted with the spread of new civil rights, such as same-sex marriage, legalisation of drugs and euthanasia. Regional governors and mayors have made declarations on these different aspects of citizenship rights, but until now they have not taken legislative action.

Political rights

The competition among the regions and the interpretative role of the Constitutional Court have clearly characterised the area of political rights. Contested legislation around political rights was largely a consequence of the legislation created by the regional governments and assemblies via the new statutes of the ordinary regions that followed the constitutional reform of 2001. Subnational constitutionalism has been defined as consisting of 'charters of self-governance self-consciously adopted by subnational populations for the purpose of achieving a good life by effectively ordering subnational governmental power and by protecting the liberties of subnational citizens' (Gardner, 2008: 328). Several regions used these statutes as a sort of political manifesto.

The regional councils of Umbria and Liguria, for instance, used the newly drafted regional statutes to define the regional 'council' as a 'parliament'. The state brought the case in front of the court. In judgments no. 306 of 2000 and 106 of 2002 the court clarified that a 'regional council' is not a 'parliament' and that a 'regional councillor' is not a 'parliamentary member'. The court reiterated that the regions should be placed next to the state as constituent elements of the republic as dictated by the amended Article 114 of the constitution. However, the court explained that because of its evocative power, the *nomen iuris* of the parliament shall be attributed to the national parliament only. The court argued that the name of the parliamentary institution is related to the struggle that it had to endure since its beginnings to succeed against the power of the king. Along with the conquest of the different parliamentary rights, the legal definition of a member of the parliament needed to guarantee her or him the independence from all the other powers. The regional council, by contrast, is the result of a historical evolution that is not even remotely comparable to that of parliament: and indeed, more than historical evolution, it is the result of the 1948 constitutional engineering (Di Giacomo Russo, 2003). Importantly, the *name* parliament does not have a purely lexical importance: it has a value that is essential in itself. In addition to the principle of political representation, there are other fundamental differences between a national parliament and a regional council. The Italian parliament is recognised as an essential structure of integration of territorial pluralism for realising unity in multiplicity; it has the task of defining the constitutionally significant values and recomposing the various interests under a general mandate. This is a role that the regional councils, because of their congenital territorial restriction, cannot fulfil. While the case has not figured prominently in the subsequent legal literature, the logic behind this judgment

informs much of the approach of the court to the division of citizenship spheres between the state and the regions and reflect the fraught history of regional structuring in Italy.

During the same period, other regions used the statutes to assert their status via different strategies. A controversial issue arose when the governments of Tuscany and Emilia–Romagna inserted in the statutes they were drafting a rule according to which 'the Region promotes [in the case of Emilia–Romagna, 'guarantees'], in compliance with constitutional principles, the extension of the right of vote to immigrants'.[46] While other autonomous regions had previously been allowed by the government to restrict the regional franchise by including only those citizens with a certain period of residence in the region,[47] the regional governments of Tuscany and Emilia–Romagna were indeed expanding the political boundaries of the polity by enfranchising those residents who do not have Italian citizenship. The national government questioned the constitutional legitimacy of that rule before the Constitutional Court, which, in decisions no. 372 and 379 of 2004, asserted that granting of regional electoral rights to second and third country nationals could not be entrusted to a single regional legislator without any concurrent intervention by the state institutions. The court argued that national and regional elective assemblies are both an expression of the sovereignty of the people: regions are therefore precluded from independent interventions on the regional franchise, but they could, in theory, engage in this matter provided that there is also a parallel intervention of state institutions. The court, however, saved the provisions because, it explained, being part of the preamble they cannot have any legal effect. These rules simply represent an expression of the different political preferences of the regional community at the time of approval of the statute, therefore exerting a programmatic function of cultural or political value, but with no normative force.[48] Furthermore, the court pointed out that the region can promote the

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[46] Author's own translation. The original text reads as follows: 'la Regione promuove, nel rispetto dei principi Costituzionali, l'estensione del voto agli immigrati'.

[47] South Tyrol and Aosta used the principle of safeguard of their linguistic minorities to set voting eligibility criteria. Those immigrants who have naturalised must have been resident in the region for an unbroken period of four years before being granted the right to vote and to stand as a candidate in regional elections. This is a privilege granted to regions under special statues and has been criticized by other regions that would like to be equally allowed to intervene on the boundaries of their franchise.

[48] In this manner the court saved the provisions that entitled the region to promote or guarantee the extension of the right of vote to immigrants because they are a kind of cultural or institutional element of

participation of foreigners in public life including, for instance, forms of popular consultation such as referendums. Non-citizen residents were therefore denied the possibility of an extension of the right to vote in particular regional elections only, whilst regional interventions to promote political participation of foreign immigrants would be considered legitimate. In these cases, it is possible to observe both the asymmetry of the architecture generating competition—autonomous regions can modify the franchise; ordinary regions cannot—and the creative space allowed by the Constitutional Court in saving regional norms as programmatic declarations, both limiting and encouraging regional experimentation at the same time.

Social rights

In 2004, the regional assembly of Lombardy passed a law allowing free travel on public transport services to totally invalid persons, under the condition that they hold Italian citizenship. The case was taken to the Constitutional Court by the central government. In judgment no. 432 of 2005 the court decided that if there is a right to a benefit that the region dispenses separately and that is more generous than state-regulated rights, then this benefit must not discriminate against individuals who are in the regional territory and might be eligible for that benefit. The institutional mediation of the court denied the region the right to restrict additional benefits to national citizens and asserted that regional governments and assemblies have the power to modify rights only *in melius*, raising the minimum standard of rights provided for by the state.

This is what several regions did when passing legislation to extend the access of basic social rights, with specific reference to health, to all the individuals residing in the territory of the region. The government disagreed with most of these laws, arguing that the inclusion of all resident individuals

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the landscape of the region. 'But what would we say—and what would the Constitutional Court say—if a regional majority wanted to use the statute to proclaim that the region will work for the dismantling of the welfare state, or for Italy's exit from the European Union or even for the restauration of a patriarchal society? … Would such proclamations be acceptable, for the sole reason that they are not binding? Would they not harm values that are shared and—most importantly—codified in the constitution?' (Falcon, 2005: 2, Author's own translation from Italian). In its judgment the Constitutional Court avoided entering the constitutional limits of these programmatic statements.

would defeat the legal status distinction between legally and illegal residing individuals. The Constitutional Court was repeatedly called upon to decide on whether these laws were constitutionally appropriate tools for an extension of non-citizen residents' inclusion in the regional polity. In judgments no. 300 of 2005 and 156 of 2006 the regions of Emilia–Romagna and Friuli–Venezia Giulia were sued because they refused to implement state legislation imposing some controls over undocumented immigrants; and in judgments no. 134 and 299 of 2010 and 40 of 2011 the regions of Tuscany, Liguria, and Friuli–Venezia Giulia were sued because they had extended social provisions to all the individuals in the region regardless of their regular status on the territory. The national government argued that the regions undermine the importance of legal status by granting basic social standards to all the residents. In the defence presented to the court, the region of Tuscany argued that the legislation reserves to the state the determination of 'the legal status of foreign nationals' because the regional law merely takes note of the presence of immigrants on its territory to address problems arising within the regional competence: the legal status of immigrants is, in fact, not affected, nor their right to seek asylum, which are entrusted only to state law. This view was supported by judgment no. 269 of 2010, in which the court took up the question of whether it is legitimate for a regional government to legislate that 'all persons dwelling in the region, although lacking a residence permit, may benefit from urgent social welfare interventions that cannot be differentiated and that are needed to ensure respect for the fundamental rights recognised to every person according to constitution and international rules'.[49] The court suggests that there is a distinction between 'immigration policies'—which are indubitably under state jurisdiction—and 'policies for immigrants'—which are under regional jurisdiction. The court ruled that the region of Tuscany could legitimately legislate that there is an irreducible core of health rights protected by the constitution that fall under the scope of inviolable human dignity—and therefore could entitle also non-citizen residents to basic health care services offered by the region, regardless of their legal status.

[49] Author's own translation. The original text reads as follows: 'Tutte le persone dimoranti nel territorio regionale, anche se prive di titolo di soggiorno, possono fruire degli interventi socio assistenziali urgenti ed indifferibili, necessari per garantire il rispetto dei diritti fondamentali riconosciuti ad ogni persona in base alla Costituzione ed alle norme internazionali'.

The reason this is such a delicate topic is that the power of the state to regulate the legal status of citizenship becomes empty in the absence of some strong links between central and regional administrations, which are in fact charged with controlling the policies for immigrants. These judgments protect the room for manoeuvre that regions have in the multilevel citizenship architecture, leaving a wide margin of flexibility as to how immigration and immigrant rights should be jointly managed by the regions and the state authorities (Biondi Dal Monte, 2010). In this respect, the court has noted that, even in their heterogeneous prescriptive content, the various regional laws are aimed at providing opportunities for foreign persons present in the region for access to rights—such as tertiary education and vocational training, social assistance, employment, housing, health—in a context of concurrent or residual powers. These judgments stimulate a more in-depth investigation of the dynamics by which regional authorities and the state government decide cases of contested citizenship legislation.

The right to health care across regions

Many of the rights traditionally linked to citizenship are still, in principle, protected by the Italian constitution. Health care, for instance, is protected as a fundamental right of the individual and a collective interest. Yet, regional governments provide different answers in relation to health care and assistance for vulnerable individuals. Especially profound variations exist with regard to health care for undocumented immigrants.

National health care legislation for undocumented immigrants

The Italian constitution points to the elimination of any obstacle to the enjoyment of the right to health. In particular, Article 32 states that the Republic protects health as a fundamental right of the individual and a collective interest. The Article reads as follows:

> The Republic safeguards health as a fundamental right of the individual and as a collective interest, and guarantees free medical care to the indigent. No one may be obliged to undergo any health treatment except under the provisions of the law.

> The law may not under any circumstances violate the limits imposed by respect for the human person.[50]

In practice, the issue of undocumented immigrants was addressed for the first time in 1998, with the Legislative Decree no. 286 of July 1998. This law mandates that undocumented immigrants are guaranteed some specific services, such as pregnancy care, the protection of minors, prophylaxis, and vaccinations. In a series of subsequent decisions, the Italian government introduced additional specifications to the type of intervention that should be guaranteed, so that the range of health care rights was both clarified and broadened.[51] A basic level of cross-regional harmonisation was established in December 2012, with the signature of an agreement within the State–Regions Conference, which adopted the guidelines set by the Health Commission of the Conference of Regions and Autonomous Provinces (Carletti and Geraci, 2012). The goal of the document was to establish some common standards for the correct application of legislation on health care to immigrants, both documented and undocumented. As a result of these norms, Italy has one of the most favourable normative frameworks concerning health care for undocumented immigrants in the European Union (Cuadra, 2012; Marceca, Geraci and Baglio, 2012; PICUM, 2013: 13; Huddleston *et al.*, 2015).

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[50] Original translation by the Italian Senate at https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf (last accessed: 17 August 2017). The original text reads as follows: 'La Repubblica tutela la salute come fondamentale diritto dell'individuo e interesse della collettività, e garantisce cure gratuite agli indigenti. Nessuno può essere obbligato a un determinato trattamento sanitario se non per disposizione di legge. La legge non può in nessun caso violare i limiti imposti dal rispetto della persona umana'.

[51] According to the legislation, undocumented immigrants are not entitled to register in the SSN, but they can access health care via the temporary residing foreigner code STP. This is an anonymous health card, which is free of charge, valid for six months, renewable and which provides access to a health care services that are urgent (cannot be deferred without endangering the patient's life), or essential (preventative and curative), or continuous (must proceed until the whole treatment and rehabilitation period has been completed). However, undocumented immigrants are not entitled to register with a general practitioner and this is a major barrier to accessing primary and secondary care in practice, as secondary care provided in hospitals requires referral.

Yet, the levels of assistance change across the state because the regional governments provide different answers in relation to the health care assistance of vulnerable individuals. Rules on how to provide assistance and to which groups of undocumented immigrants change significantly from one region to the other (Pasini, 2011; Marceca, Geraci and Baglio, 2012). One reason for this heterogeneity of practices has to do with the fact that up to 2016 only eight regions had ratified the agreement signed with the state in 2012, while others still have not (Affronti *et al.*, 2016). This is important because, although in theory the agreement is self-applicable and would not need to be ratified, in practice the lack of ratification leads to the absence of implementing measures.

Tuscany: once innocents, now undocumented

Regional authorities in Tuscany have traditionally coordinated with civil society organisations which, in the field of health care, are often a continuation of mutual aid societies of the past—that is, voluntary non-profit associations, whose main purpose was to protect workers in case of sickness or injury on the basis of voluntary subscription and contributions of their members. In the recent past, this collaboration has been used to promote inclusionary measures towards immigrants.

In 2009 Tuscany was one of the few regions in Italy that introduced legislation concerning the protection of health care rights for undocumented immigrants. The regional government approved a law that included some references to the right to health for undocumented immigrants. Article 14 of regional law 29/2009 guarantees the protection of all residents 'through a possibility to access the services and essential social services and health care aimed at safeguarding the health and the existence of the person even if s/he is lacking the regular permit to stay'.[52] This law was approved with the purpose of contrasting regional values of openness to the restrictive nature of the reforms

[52] Author's own translation. The original text reads as follows: 'Attraverso la possibilità di accesso a servizi e prestazioni essenziali sociali e sanitarie tesi a salvaguardare la salute e l'esistenza della persona pur se priva di titolo di soggiorno, occorre promuovere il valore di una cittadinanza sociale riconosciuta all'uomo in quanto tale, a prescindere dalla sua condizione giuridica e dalla sua appartenenza a una determinata entità politica statuale'.

to the Italian immigration law that were initiated at the time by the right-wing coalition in government at the national level.[53]

Following the approval of the law, the regional government started financing projects of NGOs providing assistance to vulnerable subjects that require continuous care. One example is *Casa Stenone*, which was initiated in 2011 and today hosts between 50 and 100 patients. These projects were initially designed to assist the homeless population, temporary guest workers and caretakers from Eastern Europe; over time, there was a significant rise in the relative number of undocumented immigrants among the patients and today they are the most numerous group in terms of the population assisted (interview with an respondent, Florence, 18 November 2016). Furthermore, the regional government established an institution in charge of coordinating the work related to public health, the *Centro di Salute Globale*, and expanded the possibility for doctors to be assisted by a linguistic and cultural mediator, in spite of the financial cuts that have affected the regional budget since the beginning of the recession in 2008.

In 2012, after the agreement within the State–Regions Conference, which adopted the guidelines set by the Health Commission of the Conference of Regions and Autonomous Provinces, civil society organisations lobbied the regional government to implement the set of measures included in the agreement. In 2014, the regional government introduced via regional decree the possibility for undocumented immigrants to choose a family doctor and a paediatrician for their children, though only during dedicated office hours. Several NGOs filed formal complaints with the regional governments, stating that the regional texts do not fully comply with the national legislation. In particular, the regional measures required the release of a medical certificate attesting to the urgency or the essential nature of the intervention as a condition for obtaining the STP card, in contrast with the agreement within the State–Regions Conference where such condition is excluded.

[53] The national government brought this law in front of the Constitutional Court arguing that it represented a breach of the exclusive state competence of regulating immigration; the regional government of Tuscany, in turn, defended the right to implement effective territorial policies, with particular reference to health and social assistance, observing that the contested provisions would provide additional rights for individuals already present in the region, therefore not affecting the conditions of entry and residence or the legal capacity of foreigners. In judgments no. 269 and 299 of 2010 and 61 of 2011, the court upheld the regional law.

Furthermore, the NGOs lament the voluntary registration of non-EU foreign nationals awaiting prior permission or renewal, which instead should be automatic. Additional complaints concerned the lack of a comprehensive regional governance of the right to health care for undocumented immigrants. For example, the NGOs pointed out that the STP cards issued by some hospitals were not recognised by other hospitals in the region because of the arbitrary insertion of a letter in the alphanumeric code; they also noted that in some cases, the STP cards have a duration of 30 days instead of six months as explicitly stated in national legislation; and that some hospitals refuse to transplant immigrants who do not comply with the rules on their stay, despite the fact that national legislation explicitly provides so. Following these complaints, the regional government introduced new guidelines regulating access to health care for undocumented immigrants and providing for a limited harmonisation of the services on the regional territory.

These initiatives are justified by reference to the welcoming tradition of the region. In a public declaration, the former minister of the right to health of the region explained:

> In our region we want to guarantee the same rights of health and assistance to all citizens, regular or irregular. The current Health Plan includes the definition of integrated care pathways for foreigners in situations of discomfort, accidents, or serious illnesses who, when discharged from the hospital, are lacking adequate forms of assistance. And a regional law of 2009 stipulates that all persons present on the territory have the right to urgent socio-sanitary interventions that guarantee their health and dignity.[54]

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[54] Author's own translation. The original text reads as follows: 'Nella nostra regione - è il commento di Daniela Scaramuccia, assessore al diritto alla salute della Regione Toscana - vogliamo garantire gli stessi diritti di salute e di assistenza a tutti i cittadini, regolari o irregolari. Il Piano sanitario vigente pone tra gli obiettivi la definizione di percorsi assistenziali integrati per stranieri in situazioni di disagio, vittime di incidenti o colpiti da gravi malattie, che, una volta dimessi dall'ospedale siano sprovvisti di adeguate forme di assistenza. E una legge regionale del 2009 dispone che tutti i cittadini presenti sul territorio nazionale abbiano il diritto agli interventi socio-sanitari urgenti che ne garantiscano salute e dignità. Il progetto che presentiamo oggi vuole essere una risposta concreta a questa esigenza, e ci auguriamo di poterlo poi estendere anche ad altre realtà'. The quote is available on the website of the municipality at: http://press.comune.fi.it/hcm/hcm5353-2_4_1-

At a public event hold in Florence on the 27 October 2016, the health minister of the region explained that the region of Tuscany takes pride in the *Spetale degli Innocenti*, a historic building in Florence that was designed by Filippo Brunelleschi in 1419 and functioned for centuries as a public orphanage for children. Tuscany has a long tradition of assistance, which started from private charitable organisations and was subsequently taken up by the public institutions. A region with such a long story of attention for vulnerable populations, she explained, cannot turn a blind eye to immigrants, including undocumented ones.

Lombardy: private crutches for the public service

The activism of the regional government of Tuscany stands in sharp contrast with the relative inaction of Lombardy, which is one of the eight Italian regions that have not ratified the agreement of the State–Regions Conference approved in 2012 (Affronti *et al.*, 2016). Up to today, the region has not created structures for undocumented immigrants to access health care via a general practitioner and has not signed agreements with civil society organisations to entitle them to issue the anonymous code that is needed to access the service. Unlike Tuscany, this region has a political environment that is predominantly hostile to claims of undocumented immigrants because of the political orientation of the parties that have been in power over the last two decades.

At the same time, several organisations in the region have been traditionally active in providing assistance to disadvantaged groups, especially indigents and foreigners (Ambrosini, 2015; Campomori and Caponio, 2016). The *Opera di San Francesco*, for example, started to provide some basic health services to the poor in the late 1950s, as a complementary service to the religious functions of the centre. The range of services provided grew over time and in 2010 the centre was expanded and now provides medical care to over 7,000 patients each year, most of whom are undocumented immigrants (interview with an respondent, 20 April 2017, Milan). While the *Opera di San Francesco* was established as a religious organisation, *Naga* was created in 1987 as a secular

Marginali+e+immigrati+irregolari,+un+progetto+per+.html?cm_id_details=58683&id_padre=4472&stampa_pdf (last accessed: 23 October 2017).

organisation of volunteers with a view to promoting and protecting the rights of all non-citizen residents. Nowadays, over 300 *Naga* volunteers provide health, legal and social assistance to undocumented immigrants, as well as to Roma, Sinti, and asylum seekers: over a year, the structure carries out more than 15,000 outpatient visits (interview with an respondent, 22 November 2016, Milan). The association, which also carries out training, documentation and lobbying activities, does not position itself as the alternative or in competition with the public health services and aims at making itself superfluous as a consequence of the assumption of responsibility in this policy area by the public bodies in charge. Other organisations in the region are *Casa della Carità* (Milan), *Centro San Fedele* (Milan), *Ambulatorio Immigrati* (Brescia), *Ambulatorio Caritas* (Lodi), *Gruppo Articolo 32* (Crema), *Ambulatorio Associazione Oikos* (Bergamo).

Since the early 2000s, these organisations have become the natural point of access for many undocumented immigrants in the region. However, these organisations do not receive funding from the regional authorities and they do not have official channels of communication with the government. In practice, this situation limits the access of health care for undocumented immigrants: these organisations have very limited resources and cannot provide the STP code that immigrants need to access the health care system. At the same time, public hospitals tend to rely on their activities to take some of the work off their shoulders. In 2014, 155 instances of unattended undocumented immigrants have been reported in the hospitals of Milan alone (Naga, 2015). In these cases, undocumented immigrants were sent from public hospitals to the structures run by civil society organisations.

The regional government does not directly tackle this problem. The argument made by politicians from the majority coalition in the regional assembly is that health care coverage should include only those individuals who pay taxes. The position of the government is that full health care rights should be available only to residents who can successfully demonstrate to be legally part of society and contributing to the welfare system.

> Of course, if a person comes to the door of the hospital and is about to die, in that case we cannot deny assistance. But there is a real risk of abuse of the system; so apart from these extreme situations, the right to health care should be guaranteed

> only to those individuals who pay the taxes (interview with an respondent, Milan, 22 April 2017).

The resulting landscape is one of profound inequality, as access to health care for undocumented patients depends, at least to a certain extent, upon the discretionary choices of each health practitioner in the region. While the national legislation sets some minimum standards to be followed, the lack of implementing measures from the regional governments leaves the right to health for undocumented immigrants limited to emergency services. In fact, the task of assisting undocumented immigrants has been delegated to civil society organisations, which exist independently from the regional institutions and today continue to provide a *substitutive* rather than *complementary* function.

Summary

In 1861, the new-born Kingdom of Italy did not recognise regions as constituent parts of the state and started a process of centralisation of citizenship. This was, however, an incomplete process, and centralisation was taken to the extreme by fascism, which brutally suppressed remaining forms of regional difference. After World War II, the 1948 republican constitution restored the role of regions as part of a more plural way of structuring the state. Regions were, however, asymmetric in their powers, had no shared power in the new parliament, and could negotiate their competences bilaterally with the state while no multilateral arena was institutionalised. The Constitutional Court was the ultimate arbiter on disputes between the regions and the state. This created a competitive territorial structure of the institutions mediated by a strong centre, which attempted to maintain control over the regions. Regional institutions initially struggled to define themselves; they did so through a slow process of spill-over, progressively assuming new competencies, mainly over political memberships, but also—to a more limited extent—social and civil rights. Because of the activism of the newly created regional elite, the number of disputes grew enormously over time. The Constitutional Court attempted to downplay its role as arbiter and became an institutional mediator of regional initiatives, interpreting, innovating, and mediating among diverging territorial interests and conflicting visions of the polity. This produced a hybrid architecture of citizenship, where it is not entirely clear what is allowed to the regions and what is not.

A paradigmatic example regards the legislation related to access to health care for undocumented immigrants. In this field, some regions have passed legislation providing broad access to health care for all residents, regardless of status, therefore surpassing the standards that have been established at national level. Tuscany, for instance, prides herself on a tradition of civic openness and reflected this tradition in the involvement and cooperation with NGOs and civil society organisations. By contrast, Lombardy has sought to restrict access through legal, administrative and practical barriers. Health care for undocumented immigrants in this region has been left entirely to NGOs and civil society organisations, de facto delegating to them the task of assisting undocumented immigrants. This difference between subsidiarity and delegation sheds a light on the different approach and on the enduring territorial differences in the provision of rights across the country. This is what I call 'homophonic politics of regional citizenship' in the sense of a dominant state melody that is accompanied by different regional voices that are harmonically interdependent, yet independent in rhythm and contour. These regional voices flesh out the harmony and often provide rhythmic contrast.

Switzerland: the polyphonic politics of regional citizenship

In Switzerland, the creation of the state proceeded with the inclusion and accommodation of the pre-existing cantonal constitutions and rights. As I explain in the following section, regional forms of citizenship in Switzerland were structured together with the state, therefore allowing canton-specific traditions to flourish while the federal government only set minimum standards encouraging some degree of horizontal cooperation. I then proceed to show how today this cooperation is reflected in the regional legislation produced in all realms of civil, political, and social citizenship. Finally, I focus on the case of health care rights for undocumented immigrants in the cantons of Vaud and Zürich to demonstrate that regional variations in this field remain particularly strong and can be largely explained by the different use ruling coalitions elected in the cantons make of historical conceptions of regional citizenship.

Structuring regional citizenship with the state

The Helvetic Confederation developed incrementally from 1291, when the three cantons of Schwyz, Uri, and Nidwalden agreed on an oath of commitment to mutual military assistance. A number of territories joined in the following centuries, leading to the creation of the League of Thirteen Cantons in 1513. The League was a loose alliance with an assembly of delegates, called *Tagessatzung*, which met regularly to discuss matters of common interest. This institution was far from permanent, as delegates had to regularly return home to receive instructions. The cantons remained sovereign over their jurisdictions, deciding independently over issues of membership in their territory. The beginning of the contemporary federal state can be traced back to the Federal Constitutional Act of 1848, which for the first time introduced national regulations on citizenship and related rights.

The Civil War of 1847 set the confederal, Catholic–conservative cantons of the separatist league of the *Sonderbund* against the liberal, mostly Protestant, cantons. The victory of the latter coalition led to the establishment of a national state with an army, a permanent federal government, and a federal citizenship. The cantons defeated in the civil war ultimately accepted the outcome and in November 1848 the parliament gathered for the first time in Bern, which was made the official capital of the Confederation, and signed the first constitution.

Swiss cantons and communes still differed in their geographical, linguistic, cultural, and political structures, incorporating populations speaking four different languages, numerous local dialects, and embracing either more urban or more rural patterns of living. The 1848 constitution carefully tried to avoid breaking the fragile equilibriums within this highly diverse country. It established a bi-cameral parliament with a lower house, the National Council (*Nationalrat*), which represents the citizens and an upper house, the Council of Estates (*Ständerat*), which represents the cantons. The two houses were given equal powers, thus establishing a system of perfect bicameralism. The constitution also established the creation of a Federal Court, which did not, however, have the power of judicial review over federal laws. The constitution created another effective veto point that was meant to protect cantonal autonomy and re-assure the losers of the *Sonderbund* war: the double majority rule for direct democracy (Frey and Bohnet, 1995). The double majority rule required that every change to the constitution had to be approved by a popular referendum that required a majority of both the total number of voters and majorities of citizens in a majority of cantons. This device was a powerful tool in the hand of those who were against centralisation. Furthermore, the federal constitution of 1848 recognised the linguistic, religious, social, economic, and political cleavages of the new state, creating an institutional balance that was strong enough to guarantee security and basic forms of equality, but loose enough to allow the autonomy of each of the units to flourish.

The twenty-five cantons were recognised as the constituent units of the Confederation: they were guaranteed equal political autonomy and retained their constitutions. Each canton could claim its particular values and decide how inclusive it would be, along which dimensions, and on what terms. In this sense, cantonal constitutions are 'a source of guarantee for people and a source of

interpretation for the federal government' that 'uses them to reinforce and disseminate its own conception of the relationship between state and citizens' (Weerts 2016: 190). At the same time, the positions of civil servants in the federal institutions were distributed among language groups in an attempt to create the conditions for stability through constant negotiation and compromise. In spite of the lack of explicit rules on this regard, an informal understanding led to a proportional representation of the four language groups within the institutions of the nascent federation.[55] According to Andreas Wimmer (2011: 728), the composition of the new administration 'did not emerge at the end of a long struggle by linguistic minorities to achieve balanced representation vis-à-vis majority, nor was it the result of a pact between French-, German- and Italian-speaking elites'. Because of the history of tensions across different linguistic and religious groups across Switzerland, the maintenance of institutions geared toward maintaining stability was considered to be a fundamental goal.

The constitution established that every citizen of a canton was a Swiss citizen. Federal citizenship was thus derived from cantonal citizenship rather than the other way around. In contrast with a later consolidation of the priority of federal citizenship in the USA and Germany (Schönberger, 2007), Switzerland has preserved until today the constitutional principle giving cantons and municipalities the right to confer cantonal as well as federal citizenship (Achermann *et al.*, 2010).[56] The ancient customs according to which the cantons and municipalities decided who was eligible to become a citizen were thus upheld with the establishment of the new federal state. At the same time, the constitution established that every citizen who moved to a new canton was accorded full civic rights after a period of two years of residence. Additionally, the constitution gave everyone the right to marry outside the community, be it municipal or cantonal, without the latter being able to withhold part of the individual's property 'thus alienated' (Article 62 in the current federal Constitution, quoted in Frenkel 1993: 68). Hence, the federal level established the right to travel from canton to canton and the right to enjoy equal treatment in other cantons, functioning as

[55] In 1948, a revision of the constitution led to the insertion of a rule that was meant to protect the linguistic representativeness of the federal institutions and in 1998 another revision included a recommendation to represent adequately all cantons and language groups within the federal council.

[56] For a further discussion on the procedure of naturalisation in Switzerland and the role of cantonal authorities refer to the following section.

guarantor of certain basic freedoms. Through this novel set of protections, Swiss citizens had the possibility to exercise their rights throughout the territory of the federation regardless of their canton of residence (Helbling, 2008; Zimmer, 2011). This was a considerable step, as until 1848 the cantons had the power to restrict the right to vote to their own citizens only.

This framework shows that Swiss citizenship cannot be understood as a state-driven project; instead, it is a complex process engaging three different territorial levels of authority—federal cantonal and municipal institutions. In the first years of its existence, the ruling elite of the federal state was more concerned with balancing interests across the cantons than with imposing its own rule. While the cantons and the municipalities maintained their powers over the procedures of naturalisation, the federal state established the equality of the Swiss citizens and introduced a common legal status for all emigrants and for all *Heimatlose* (literally, homeless) who did not have cantonal or municipal citizenship. The function of the federal government as guarantor of individual rights was to be exercised as a last resort only. Such system reflects the carefully crafted balance of diverging interests across the territories of the state, with the federal government adopting a *laissez-faire* policy with regard to cantonal and local citizenship.

A steady process of centralisation: Switzerland 1874–today

Because of the prominence of the cantons and the residual role played by the federal government, Switzerland has been defined as a unique case of 'non-centralisation' (Linder and Vatter, 2001: 95). At the same time, however, the liberal founders used federalism to create a common ethos. The concept of *Willensnation*, first coined by Ernest Renan, characterised the Swiss situation starting from 1874, when a new constitution was adopted (Wimmer, 2011). In that period, the federal government pursued a more aggressive policy of centralisation, starting from the organisation of national exhibitions, promotion of national archives and festivals that magnified ancient battles rooted in the founding myth of 1291 and the apocryphal Ruetli–Schwur of 1307 (Achermann *et al.*, 2010; Wimmer, 2011). Parallel to this symbolic pursuit of a common Swiss nationhood, the government started to centralise citizenship rights. This was not a straightforward process. Because of the constitution of 1848, every transfer of new competences to the federation required a constitutional amendment subject to a popular vote. This mechanism made it more difficult for

the government to centralise power, as demonstrated by a variety of scholars over time (Immergut, 1992; Kriesi and Trechsel, 2007; Vatter, 2016). So while in Italy and Spain subsequent central governments extended their powers by appealing to the respective courts which, under legal concepts of implied powers, upheld many of the new functions of the national government, the federal government in Switzerland progressively gained a larger share of competences through a series of compromises that had a chance of being approved by both a majority at the federal level and a majority of the cantons (Linder and Vatter, 2001).

The national government centralised several competences over time, including citizenship rights that were previously left to the cantons. In 1866, the signing of a treaty with France enabled the Jews in Switzerland to receive citizenship across the whole of the country—until that moment, several cantons had banned them from citizenship. Then, after a failed attempt in 1872, a broad constitutional revision was approved in 1874. The new constitution reduced the time of residence for internally migrating Swiss citizens prior to being granted full rights in the new canton from two years to three months of residence (Argast, 2009). It also allowed the federal government to intervene in the rules determining the acquisition and loss of Swiss citizenship. Following this new clause, the Citizenship Law (*Bürgerrechtsgesetz*) of 1876 improved the central government's control over the individuals applying for citizenship and prevented those who had the citizenship of another country from naturalising.[57] Hence, every applicant for Swiss citizenship had to be granted prior authorisation by the federal authorities. While these were significant steps to centralise citizenship status and rights, the ultimate power in this field remained in the hands of the cantons and municipal authorities, which were in charge of deciding on each applicant previously approved by the federal authorities (Zimmer, 2011). Subsequent attempts of the federal authorities to further centralise the procedures for the granting of citizenship were rejected by the cantons.

After a new constitutional revision in 1898, the authorities adopted a law on naturalisation in 1903, a federal civil code in 1907 and a federal penal code in 1937. Yet, these changes did not have a strong impact on cantonal authority concerning the rights of citizenship and the control of

[57] This law aimed at addressing the problems that had arisen out of the military confrontation that had arisen between France and Germany following the fact that several French and German nationals applied for Swiss citizenship to avoid the draft in their country of origin (Zimmer, 2011: 763).

movement within the federation (Ruedin, Alberti and D'Amato, 2015: 10). During the two world wars, the federal authorities gained new powers of direct taxation, welfare, old age pensions, unemployment insurance and health insurance. With the federal Act of 24 June 1977 '*Loi fédérale sur la compétence en matière d'assistance des personnes dans le besoin*' ('On Responsibility for Providing Assistance to the Needy'), the federal government forced municipalities to support their resident population (Argast, 2009: 514). It has been calculated that at the end of the twentieth century almost one third of national social expenditure was administered by the federal government (Armingeon, Bertozzi and Bonoli, 2004) as a result of the fact that the country has undergone an extensive, steady, and mono-directional process of centralisation (Mueller and Dardanelli, 2016). In 1952, a new legislation at the federal level established that Swiss women who married foreign nationals no longer had to give up their Swiss nationality (Achermann *et al.*, 2010). The federal state thus played a dual role: while respecting local and cantonal identities rooted in territorial forms of citizenship, it also created shared rules and minimum standards.

One example of how the federal state can impose a common framework can be found in the political franchise. Cantons were traditionally left free to decide on their own franchise without any limitation. As a result, for most of the twentieth century the norms of cantons varied considerably: in Geneva women were entitled to vote, in Zürich they were not (Achermann *et al.*, 2010). In 1971 women's suffrage was introduced at the federal level after most cantons had led the way and Swiss males accepted it in a referendum.[58]

Cantons, however, remain in charge of important policies and may add supplementary requirements to the standards set at the federal level. Unlike in any other state in the word, for instance, they continue to have important responsibilities in the field of citizenship acquisition. Federal law exclusively determines who is a Swiss citizen by birth, the conditions for loss of Swiss citizenship, and lays down minimum conditions for naturalisation.[59] While acting within the limits

[58] Even after that date, the canton of Appenzell–Innerrhoden refused to implement women's suffrage at the cantonal level. It was only with a 1990 decision of the Federal Supreme Court that the canton was forced to allow women to vote through a re-interpretation of their cantonal constitution. This was provided under an amendment that expressly added sex as an area of non-discrimination to the federal constitution's equality clause (Frenkel, 1993: 68).

[59] The federal law on citizenship stipulates that only immigrants who have lived in Switzerland for at least

set by these standards, the cantons add their own criteria and can also adopt different procedures for deciding on naturalisation. For instance, the requirement of residence in the respective canton ranges from two years in Geneva to twelve years in Nidwalden (D'Amato, 2012).[60] The Swiss case clearly shows how the criteria for naturalising into citizenship can be regulated differently by cantonal institutions and then negotiated across the state. .

Furthermore, cantons collaborate in producing the laws of the Confederation. Individual cantons can affect federal legislation through the cantonal initiative, which gives cantons the right to submit proposals to the parliament. The prominent role of the cantons is also due to their participation in the pre-parliamentary stages of federal legislation: when new rules are framed, cantons are often invited to express their views in the discussion stage of the process.

Cantonal–federal executive cooperation was institutionalised with the creation of a contact body (*Kontaktgremium Bund-Kantone*) in 1978. This was replaced in 1997 with the federal dialogue (*Föderalistischer Dialog*) which focuses mostly on information exchange and inter-jurisdictional coordination to harmonise federal and cantonal policies (Hooghe *et al.*, 2016: 402). This forum serves as a framework for regular political meetings that usually take place twice a year. The composition of delegations (three to five members each) varies according to the themes.

Conflicts are usually not resolved in the judicial sphere because of the role direct democracy plays in Switzerland. The Federal Supreme Court (*Bundesgericht*) has avoided addressing constitutional questions. Instead, the court has historically taken up mainly administrative questions coming from the cantons (Erk, 2003: 57). In case of conflicts among the cantons or between cantons and the federal government, the constitution requires settlement by negotiation or by mediation (Article 44, paragraph 4). Furthermore, the constitution enables the cantons to cooperate by concluding treaties with each other (Article 48). At the same time, citizens are called to the polls to accept or

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twelve years can acquire Swiss citizenship by naturalisation. Further criteria listed in the constitution are respect for the legal order, absence of a threat of internal or external safety of the country and integration, as well as familiarity with the Swiss habits and customs (Helbling, 2008).

[60] For a more detailed discussion on the variation in naturalisation policies across the cantons, refer to the section: Political rights.

reject legislative bills or popular initiatives. Numerous referendums have resulted in more than 150 amendments to the constitution since 1848, including one permitting the creation of a twenty-sixth canton, that of Jura, in 1979. Jean-Thomas Arrighi (2017) found that direct democracy leads to a significant restrictive effect in matters of membership: on the one hand, mandatory referendums have often blocked liberal legislations, whereas optional referendums largely failed to challenge restrictive bills. On the other hand, popular initiatives, though almost always failing in the polls, have shifted agenda setting powers from mainstream political elites to radical right and anti-immigrant groups, who used them as a means to impose a negative frame on migration-related issues.

The preservation of cantonal rights

Civil rights

Today, cantons continue to have their own constitutions. While some only include a few provisions about civil liberties, twenty-three cantons have a detailed catalogue of fundamental rights. Bern and Basel–Country, for instance, include the freedom of education; Bern guarantees the presumption of innocence; Basel–Country has a provision on the freedom of association. And some constitutions, such as those of Lucerne, Basel–Country, Thurgau and Aargau, extend the freedom of press to the freedom of expression (Weerts, 2016: 186).

One important field where citizenship rights vary from one canton to the other is that pertaining to religious practices. The Religious Support Index is a tool to systematically evaluate this variation, consisting of a total of 51 binary items that cover various privileges as well as legal and material support afforded to organised religion by the cantonal governments (Helbling and Traunmüller, 2015). The index sheds light on some variations of rights across cantons. For instance, six cantons place additional restrictions on activities during religious holidays: Obwalden, Appenzell–Innerrhoden, Bern, Aargau, Uri, and Glarus. However, the most notorious case is that of Ticino, where in 2013 a referendum confirmed the popular initiative to change the cantonal constitution by inserting a clause to ban the use of burqas from all public spaces. Until today, Ticino remains the only canton where such a prohibition is in place.

Cantons also have broad powers in the determination of the language to be used in communication with public administration. As a result, the official language of communication changes from one canton to the other. Twenty-two cantons are officially unilingual: seventeen German, four French, and one Italian. Three cantons are bilingual: Bern, Valais, and Fribourg. One canton, Grisons, is trilingual with German, Romansh, and Italian being the official languages. Finally, Bern is the only one of the pluri-lingual cantons to grant its linguistic minority a special autonomy status (Fleiner and Hertig, 2010: 338).

Political rights

Article 3 of the constitution describes the cantons as sovereign entities. In fact, the official name of some cantons, such as Geneva, Neuchâtel, and Jura, still includes the term 'republic'. The importance of this norm is not only symbolic. Cantons are entitled to design their own franchise for cantonal elections. As a result, the electoral rights for non-citizens change depending on the decisions of cantonal governments. Foreign residents enjoy some electoral rights in nine cantons: Aargau, Appenzell–Ausserrhoden, Basel–Stadt, Fribourg, Geneva, Grisons, Jura, Neuchâtel, Vaud. However, the procedures and the set of rights to which they are entitled change significantly even across these cantons. Foreign residents are automatically enfranchised for cantonal elections in Jura after ten years of continuous residence in Switzerland and one year of residence in the canton; and they are automatically enfranchised for cantonal elections in Neuchâtel after five years of continuous residence in the canton, provided that the person holds residence permit C. At the same time, the cantonal law mandates foreign citizens to be automatically enfranchised for municipal elections in all municipalities of the cantons of Fribourg (after five years of residence in the canton, if the person holds residence permit C), Geneva (after eight years of residence in the canton), Jura (after ten years of continuous residence in Switzerland and one year of residence in the canton), Neuchâtel (after one year of residence in the canton), and Vaud (after ten years of residence in Switzerland and three years in the canton). Cantonal laws also entitle individual municipalities to enfranchise foreign citizens in Aargau (after ten years of residence in Switzerland and five years in the canton), Basel–Stadt (at their discretion), and Grisons (at their discretion). In

practice, the number of municipalities that enfranchise foreign residents in these cantons amounts to three out of 20 in Aargau, two out of three in Basel–Stadt, and 23 out of 125 in Grisons.

Only the cantons of Fribourg, Jura, Neuchâtel and Vaud grant foreign residents the right to stand for election at the municipal level. The conditions are the same as for voting: in Fribourg foreign residents can run for elections after five years of residence in the canton, if the person holds residence permit C; in Jura after ten years of continuous residence in Switzerland and one year of residence in the canton; in Neuchâtel after one year of residence in the canton; in Vaud after ten years of residence in Switzerland and three years in the canton. None of the cantons grant foreign residents the right to stand as candidates in cantonal elections.

Swiss emigrants can cast a ballot from abroad in some cantons but not in others. The cantons of Bern, Basel-Country, Fribourg, Geneva, Grisons, Jura, Neuchâtel, Solothurn, Schwyz, and Ticino allow former residents living currently abroad to participate in legislative elections and referendums. In the canton of Ticino, in particular, this right is limited to 'citizens of Ticino' (Article 3.1, Constitution of Ticino), that is those who acquired cantonal citizenship through *jus sanguinis* at birth or naturalisation, therefore excluding other former residents. In the other cantons listed above any Swiss citizen with a sufficiently long former residence can vote from abroad.

This complex pattern of rights reflects the unique mode of allocating citizenship that allows for a profound differentiation across the cantons in terms of the procedures for naturalisation procedures. Historically, the main variation with regard to naturalisation used to be between some German speaking municipalities, where citizens could directly vote on the list of applicants for naturalisation in an annual open air vote called the *Landsgemeinde*; and other municipalities, where the decision was taken by local authorities (Erk, 2003). The former practice has been banned by the Federal Supreme Court in 2003. The court argued that since naturalisations are purely administrative procedures, justifications for the decisions must be made available so that subjects have the possibility to appeal against such decisions on this subject. This decision has been the subject of an intense political debate and led to a series of referendums (Ruedin and D'Amato, 2015). Today, the outcomes of naturalisation decisions change significantly across municipalities depending on the different institutional traditions of each cantons (Helbling, 2008, 2010;

Manatschal, 2011). In 2014, the naturalisation rates varied between 1% in Glarus and 2.3% in Neuchâtel (nccr - on the Move, 2017).

Social rights

The main variation in social rights concerns cantonal welfare schemes for the poor and the homeless. Geneva has six schemes in place; other cantons, such as Aargau or Obwalden, have none (Armingeon, Bertozzi and Bonoli, 2004). Another variation can be found in the recognition of the right to health care in cantonal constitutions. The cantons of Appenzell–Ausserrhoden, Bern, Neuchâtel, and Ticino have all established the right to necessary health care as a principle of action (Bilger and Hollomey, 2010: 16–17). These variations reflect a tradition of different approaches to social rights: minimal in some, more generous in others.

The right to health care across cantons

The Swiss Constitution enshrines the right to receive basic health care regardless of one's citizenship status, residence or insurance. However, the cantonal authorities differ in their interpretation and implementation strategies, leading to very different practices across the country.

National health care for undocumented immigrants

The Swiss Constitution guarantees the right to be helped and to receive the essential resources for a dignified human existence to all individuals in a situation of distress. In particular, Article 12 reads:

> 'Persons in need and unable to provide for themselves have the right to assistance and care, and to the financial means required for a decent standard of living'.[61]

[61] Original translation by the Swiss Federal Council Senate at https://www.admin.ch/opc/en/classified-

Furthermore, Article 41b requires the federal government and the cantons to ensure that everyone has access to the health care that they need:

> 'The Confederation and the Cantons shall, as a complement to personal responsibility and private initiative, endeavour to ensure that . . . every person has access to the health care that they require'.[62]

Regular as well as undocumented immigrants have traditionally enjoyed the right to emergency health care even without insurance coverage. For all other health services that are not considered urgent they must be insured: by virtue of the 1996 Federal Law on Health Insurance or '*Loi fédérale sur l'assurance-maladie*', public insurance companies have to accept all persons irrespective of their legal and health status.[63] In fact, however, very few undocumented immigrants are able to get health insurance due to its high cost (Wyssmüller and Efionayi-Mäder, 2011: 22). Cantons can decide to financially subsidise those individuals whose basic resources are not enough to pay the cost of social insurance. Moreover, they can supplement the lack of insurance by creating alternative access channels that function without requiring health care insurance. Through these decisions, cantons can profoundly affect the availability and accessibility of health care rights.

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compilation/19995395/201702120000/101.pdf (last accessed: 17 August 2017). The original text reads as follows: 'Quiconque est dans une situation de détresse et n'est pas en mesure de subvenir à son entretien a le droit d'être aidé et assisté et de recevoir les moyens indispensables pour mener une existence conforme à la dignité humaine'.

[62] Original translation by the Swiss Federal Council Senate at https://www.admin.ch/opc/en/classified-compilation/19995395/201702120000/101.pdf (last accessed: 17 August 2017). The original text reads as follows: 'La Confédération et les cantons s'engagent, en complément de la responsabilité individuelle et de l'initiative privée, à ce que … toute personne bénéficie des soins nécessaires à sa santé'.

[63] If a person uses health care services without insurance, he or she should pay at least CHF 500 for hospitalisation and up to 20000 CHF for giving birth (Bilger *et al.*, 2011: 18). These costs are prohibitive for most people.

Vaud: quietly broadening the range of deserving community members

Historically, the canton of Vaud has allocated funds to the public safety-net infrastructure to facilitate life conditions of the young, the elderly, and all those without a regular income. Today, there are extensive subsidies for health care insurance and some of those who benefit are undocumented immigrants who could not otherwise afford to pay the mandatory insurance fee (interview with an expert, Neuchâtel, 5 May 2016). These laws and practices make for an inclusive climate, which reinforces the symbolic understanding of undocumented immigrants as deserving local community members.

Furthermore, since 1957 the canton of Vaud has established dedicated services in the public university hospitals to provide care to everyone living in the canton. Since 2002 this task is performed by the *Unité des Populations Vulnérables* and the *Centre de Santé Infirmier* at the university hospital of Lausanne. Those who use these services have the right to confidentiality and services are provided at preferential rates or even free of charge depending on the financial possibilities of the patient (interview with a doctor, Lausanne, 16 June 2016).

The only other canton where integrated services exist in the public hospital is Geneva, where the cantonal public health department initiated dedicated departments after the approval of the federal law on insurance in 1996. These departments work to guarantee health care rights for the entire population. Today, in particular, this service is provided by two units of the hospital: the *Unité mobile de soins communautaires* and the *Programme Santé Migrations*. These departments offer care to vulnerable groups irrespective of their legal status. Because of their visibility and the absence of strict, formal administrative barriers, these units reach most uninsured patients (Wolff *et al.*, 2005).

In both Geneva and Vaud, the initiative to provide greater access to health care is rooted in a long tradition of assisting the poor, with public authorities working together with broad advocacy coalitions and using NGOs as intermediary organisations. Although the norms that permitted the creation of these services do not explicitly mention undocumented immigrants, they refer to broader categories, such as vulnerable groups or forced immigrants. It is thus a customary practice to treat undocumented immigrants as part of this category, together with refugees and asylum seekers (interview with a doctor, Lausanne, 16 June 2016).

In addition to these services that are integrated in the public hospitals, these cantons have also established co-financed structures that can work as an alternative access point for those in need of assistance without health care insurance. The services offered by the hospital of Lausanne, for instance, are sometimes provided in cooperation with NGOs, such as *Point d'Eau Lausanne* or *Fleur de Pavé*. Both associations were created with the purpose of targeting specific groups and have evolved over time to include broader segments of the population. The association *Fleur de Pavé*, for instance, was established in 1996 to provide support to female drug addicts who prostitute themselves. The service consisted in offering hot beverages and providing counselling on the prevention of transmissible diseases. Today the service, which is financed by the city of Lausanne and the canton of Vaud, concerns many undocumented immigrants, although the exact number is impossible to estimate because information on legal status is not collected (interview with an respondent, Neuchâtel, 5 May 2016). Similar cases exist in other cantons. In Fribourg, for instance, private centres to provide care to the homeless, drug addicts and sex workers were set up by dedicated NGOs. Over time, these structures have strengthened their links, both formally and informally, with the regional authorities, and have adapted to the rise of new vulnerable groups, among whom feature undocumented immigrants. The cantonal governments have now started to use the projects initiated by NGOs as a complementary part of their public health systems. In these cantons, the presence of left-wing ministers at the health department is generally regarded as a facilitating factor, but not a necessary one. The work of these structures is closely embedded in the ties developed with advocacy coalitions that actively take part in community-care development, research activities and training (interview with a doctor, Geneva, June 20 2016).

Zürich: not a public service

So far, no such initiatives have been developed in the German-speaking part of Switzerland. In Zürich, in particular, opportunities to receive medical treatment outside an insurance scheme are not provided by the cantonal authorities. In this canton, assistance to the poor has been historically performed by private associations, such as the Protestant Church, in relative isolation from cantonal authorities (interview with a doctor, Zürich, 18 June 2016). The services that are offered

depend on ad hoc, informal agreements with doctors and specialised health care practitioners who agree to offer medical treatment at lower-cost.

One example of these informal networks is the *Meditrina* project, which was initiated by *Médecins sans Frontièrs* in 2006. The project was initially aimed at establishing a limited system of ambulatory health care for vulnerable subjects in the outskirts of Zürich. The range of services includes gynaecological examinations, maternal care, contraceptive counselling and sometimes also dental transplants (interview with a doctor, Zürich, 18 June 2016). Those involved in the project negotiated with the some public and university hospitals the possibility to apply a lower fee to undocumented immigrants who use health care services without an insurance. However, public authorities in the canton leave this activity to the association and do not support its activities in any other way.

The cantonal government has traditionally refrained from providing financial or legislative help to these structures, which therefore rely entirely on private funds and donations. This reflects the positioning of charitable organisations, which in this canton have historically exercised a *substitutive* rather than *complementary* function to those of public authorities in their assistance for the vulnerable. While some forms of cooperation between public authorities and these private centres exist, these are rarely formalized. Furthermore, restrictive policies implemented in the field of public security impose additional obstacles for undocumented immigrants to access health services. As a consequence of the combination of these policies, many undocumented immigrants live beyond the reach of medical care, especially when this is not perceived as essential for survival. One doctor explained that 'if I ever find myself in the situation of being an undocumented migrant in need of health care in this country I would without doubt move to one of the Francophone cantons' (interview with hospital doctor, Lausanne, 16 June 2016).

In other cantons, public hospitals protect the health care rights of uninsured undocumented immigrants, and either pay for the costs of the treatment themselves or seek for some kind of external financial contribution (Bilger *et al.*, 2011). Yet, this practice is neither advertised nor linked to any cantonal law, therefore resulting more from the discretionary decisions of the hospital personnel rather than from a certain framework established by the public authorities. Furthermore, facilitating measures such as interpreter services are generally not used, making it more difficult for

the subjects to access health services. For these reasons, while health assistance to uninsured undocumented immigrants is also sometimes performed in other parts of Switzerland, it is mainly in the cantons of Vaud and Geneva that it is widely advertised and recognised as an integral part of the distinct citizenship that comes with residence in these cantons.

Summary

The 1848 constitution recognised the differences among Swiss peoples. The twenty-five cantons were recognised as the constituent units of the Confederation: they were guaranteed equal political autonomy and retained their constitutions. Each canton could realize its own values about how inclusive it should be, along which dimensions, and on what terms. From 1874 onwards, the federal government started to assume more competences. However, each decision had to pass —and still must today—a referendum that requires a double majority of both citizens in the country and citizens in a majority of cantons. This shows that territorial pluralism was attributed an enormous value in the structuring of the Swiss state and that changes to the system are agreed politically rather than adjudicated by courts. In this sense, regional citizenship in Switzerland has always been structured with, rather than against, the state.

A paradigmatic example is provided by the legislation concerning health care rights for undocumented immigrants. The analysis has shown that important differences exist across the cantons. However, these differences are not due to a competition for policy competences, but rather to the recognition of different traditions of assistance to vulnerable populations and how they are supported by the public cantonal authorities. The government of Vaud, in continuity with existing laws and institutions, continues to provide financial support to the integrated services that, within the hospitals, assist forced immigrants without distinction of their legal status. These patients are assisted because they are poor, regardless of their legal status. In addition to this service, the cantonal authorities also provide refunding for the indigent who want to insure themselves and supports the activity of dedicated centres run by NGOs for specific groups of socially emarginated persons. The government of Zürich, by contrast, does not provide such a system. In this canton, the health care of those who are not insured is provided by the voluntary activity of charities and NGOs that, unlike in the canton of Vaud, do not receive funding from the government. This

variation shows that the differences in provision of certain rights across the country remain very significant as a result of the combination of party ideology and historical legacies. This is what I call 'polyphonic politics of regional citizenship', a rather uncommon system capable of producing simultaneous lines of independent melody.

The regional battleground: a comparison of the cases

This chapter sheds light on the variation in the provision of rights that occurs within European multilevel states by comparing the cases of Spain, Italy, and Switzerland. In the first part of the chapter I discuss the two factors that condition the politics of regional citizenship within multilevel states: the value assigned to territorial pluralism and the rules of the game, or the structure of veto points. I suggest that the combination of these factors shows whether regional citizenship is constructed against, with, or in a neutral relation with the state. In the second part of the chapter I explain how regional citizenship is constructed by focusing on health care rights for undocumented immigrants as an illustration. This part of the chapter includes both a survey of the practices used by different regional governments and a discussion of the drivers behind them. The argument is that the emergence of contested ideas about citizenship across territory takes place through the partisanship of regional governments, which make abundant use of distinct traditions. In particular, with respect to the protection of the right to health care, regional traditions of protection towards vulnerable individuals, such as minor children, the disabled, and the homeless, provide the building material used by left-wing parties or coalitions of parties at the regional level to expand forms social commitment towards new vulnerable groups, including undocumented immigrants. The concluding part of the chapter discusses the external validity of this argument with reference to other kinds of polities (municipalities) and other kinds of rights (social rights in general, as well as political and civil rights).

The politics of regional citizenship: conditioning factors

The comparison sheds light on the existence of common patterns across different multilevel states. In all the cases surveyed, devolved institutions with legislative powers have become arenas for differentiating the rights of citizenship. However, the comparison also shows that evolutionary patterns guiding the territorial structuring of multilevel states affect the way in which regions provide substance to the rights of citizenship. Two factors emerge as particularly important in the

comparative analysis of regional citizenship in Spain, Italy, and Switzerland: the value that the state assigns to territorial pluralism and the methods chosen to resolve disputes.

The value assigned to territorial pluralism

Historically, the governments of Italy, Spain and Switzerland have assigned different value to territorial pluralism. In Spain, successive national governments strengthened central institutions in the hope of defending thereby the unity of the country. In Italy, national governments pursued unitary legislation, but granted regions some room for deviation from centralised rule. In Switzerland, the national government refrained from attempts of harmonisation, recognising the autonomy of the cantons in most issues related to the attribution of citizenship and the organisation of related rights. These patterns of structuring territorial pluralism have resulted in contrasting forms of the politics of regional citizenship. Let us analyse them in detail.

In Spain, regional citizenship has been built *against* the state, in an attempt to recover historical forms of autonomy. Today, autonomous communities compete over legislating powers in fields that directly affect citizenship. The examples that have been used include the regional statutes approved in the early 2000s: many of these texts are exercises in region-building through the use of provisions regulating minority languages, the integration of immigrants, and the recognition of same-sex couples. These rights reflect an attempt, on the side of regional governments, to mark their difference from the rest of the country. As public dissatisfaction with national policies grows, regional actors stand to gain in their political confrontation against the central authorities. In this sense, the regulation of citizenship rights at the regional level can be understood as a *manifestation of dissent against the state*. This acrimonious use of citizenship rights emerges also in the case of health care. Many regional governments, including that of Andalusia, have adopted programs that hollow out the restrictive provisions of the central government. The historical pattern in Spain has determined a competitive and acrimonious logic behind the structuration of regional citizenship rights.

In Italy, regional citizenship has been built in a more neutral relation with the state, sometimes recovering historical forms of autonomy, sometimes inventing new rights. Again, the example is

the adoption of regional statutes in the early 2000s, which has been mediated by the interpretations of the Constitutional Court. In the field of health care, the regional government of Tuscany has recently encouraged assistance to undocumented immigrants in public hospitals and has fostered inclusionary practices not only at the level of the region, but also at the level of the state, by lobbying the national institutions to spread these practices. By contrast, the regional authorities of Lombardy have restricted the access of undocumented immigrants to health care by introducing complex procedures or falling short of implementing legislation previously agreed upon in national venues. The historical pattern has determined an ongoing dialogue between the regions and the state, whereby elected regional governments have enough room of manoeuvre to adapt, shape, and ultimately redefine the meaning of citizenship.

In Switzerland, regional forms of citizenship that existed before the founding of the Confederation have been incorporated into the constitution of the state, protecting the original character of cantonal constitutions and their right to legislate autonomously in most fields related to the attribution of citizenship and the organisation of related rights. Today, cantons recognise some independent powers to the state, but are granted autonomy over the determination of a wide range of citizenship rights, including welfare, the franchise, and religious freedoms. The historical pattern in Switzerland has allowed cantonal forms of citizenship to survive and flourish. Regional citizenship rights in this country do not represent a form of dissent against the state; they are instead an *expression of multilevel differentiation*. This polyphonic use of citizenship rights emerges also in the case of health care. Many cantonal governments, including that of Vaud have approved programs to provide access to large sectors of the population that in other cantons, such as Zürich, cannot rely on the assistance of public institutions. This trend reflects a historical pattern where cantons are free to pioneer, mitigate and resist the decisions of the central government in the field of citizenship and rights, as long as they respect the minimum requisites set at the federal level.

The rules of the game

The structuration of regional citizenship creates important incentives for the different levels of government to promote or inhibit the creation of regional citizenship rights. The realisation of different rights at the regional level requires not only political action on the part of the subnational government, but also some level of willingness on the part of the central state to allow, or at least

not actively prevent, such developments. The structure of veto points in the multilevel states analysed is therefore of crucial importance for the politics of regional citizenship.

In Spain, attempts to establish new forms of regional citizenship have to be approved by the Constitutional Court which is perceived as the protector of the unity of the state. Several attempts of regional governments to create new rights have been rejected by the court. Large parts of the statute that was approved by the *Generalitat de Catalunya* in 2005, for instance, concerned individual rights: these and other parts of the statute were struck down by the court in a heavily contested judgment handed down in 2010. A similar plan officially proposed by the Basque government in 2005, the *Ibarretxe Plan*, was also rejected in 2008. The important point to be made here is that the court is the ultimate gatekeeper and has the right to decide whether the rights created at the regional level can be accepted or not. This applies also to the issue of health care for undocumented immigrants. As discussed in chapter 4, several cases are currently pending before the court, which has to decide whether the regional projects are in line with the constitution.

Similar procedures exist in Italy, where new legislation creating regional citizenship passes through the control of the Constitutional Court. However, in contrast with the Spanish court, the latter has interpreted its role as that of an institutional mediator between the state and regional governments. In the Italian political system greater importance is given to coordination between the state and the regions in the form of the State–Regions Conference. This creates a hybrid system, where competition across the regions is accompanied by a form of coordination with the state. At the same time, in both Italy and Spain the possibility that competences given to regions might be taken away creates incentives to create distinct rights at the subnational level in order to mark a difference from the other regions of the state.

In Switzerland, the Federal Supreme Court does not review cantonal laws. Instead, changes to the constitution have to be approved in a referendum: in order to pass, any amendments to the federal constitution needs a majority of the popular vote and majority of the cantons. At the same time, any amendments to cantonal constitutions needs a majority of the popular vote in the canton. Hence, in this country it is the political rather than the judicial branch that determines the admissibility of new regional rights or the centralisation of competences that previously belonged to the cantons. Furthermore, the entrenchment of cantonal statutes into the country's constitution

provides some basic guarantees to cantonal actors, who do not feel they have to fight in order to protect what they already have.

The procedures to validate changes in how regional governments affect the meaning of citizenship within a country have important consequences. This evidence leads to an important caveat. The thesis started from an interest in avoiding methodological nationalism and showing the impact and variety of regional governments on citizenship. Interestingly, the historical patterns that we have discussed affirm the constitutive and enduring power of states. The capacity of subnational elites to articulate and institutionally entrench citizenship rights in their discourse is strongly affected by the ever-evolving national context in which they are embedded. The politics of regional citizenship cannot be understood without attention to the national context in which they unfold. Regional governments are subject to regular interactions with the national government and different state structures, as well as crystallised patterns of relationships within these, set the formal context against which subnational actors may take action. Thus, how the state is organised territorially is critical to the process of change and continuity in the politics of regional citizenship. Processes of state-building are constitutive of their subnational units, whose activities cannot be understood apart from this context. This implies that the state should remain at the centre of the analysis: once we take a distance from the assumption that strong regions are inherently secessionist, it becomes clear that the regional politics of citizenship cannot be understood in isolation from the national context where these processes take place.

At the same time, regional actions can shape national policies, reinforcing or limiting their effects in important ways. A regional decision in the field of health care for undocumented immigrants can be understood not only as a policy of an individual regional government, but also as a policy that is involved in a national process of structuring citizenship rights across different levels. There are at least four ways in which regional governments can shape the meaning of citizenship as it is defined at the level of the state. First, regional governments can be pioneers of certain policies and lead the way for others to follow. Second, regional governments can resist national legislation. Third, regional governments can mitigate the effects of national legislation. Fourth, regional governments can work as catalyst for national debates.

In all these cases, regional governments are effectively *steering the wheel of rights* in an action of straying from the national path. That is, they navigate through the interstices left open by the lack of legal clarity and policy coordination. Already in 1995, Wolfgang Streeck argued that the establishment of social policy initiatives at the supranational level can be more easily done in those areas that deal with new risks, needs or concerns, because traditional areas are already occupied by entrenched national programs (1995: 389). Similarly, shifting the argument from areas to targeted populations and from the supranational to the regional level, the evidence collected in this thesis suggests that regional governments might more easily pursue different forms of social inclusion with respect to those groups, like undocumented immigrants, for whom there is not an entrenched national tradition.

The politics of regional citizenship, in this sense, has a transformative impact on national processes. It raises a set of possibilities about the co-existence of subnational units within a state. This reading of the politics of regional citizenship suggests that regional decisions can be explained by the motivation of subnational governments to send a message to their national counter-part.

The politics of regional citizenship: mechanisms

The comparison demonstrates how citizenship rights can take different forms and meanings within multilevel states depending on the decisions of regional governments. The focus on health care for undocumented immigrants is revelatory of how regions provide meaning to citizenship and related rights. The legal framework in Spain, Italy, and Switzerland provides that undocumented immigrants in need of urgent treatment enjoy access to emergency health care as would any other resident; however, the comparison has shown that national rules are ineffective if they are not accompanied by the willingness of the regional governments to implement them. In Italy, the regional government of Tuscany has encouraged assistance to undocumented immigrants in public hospitals and has fostered inclusionary practices not only at the level of the region, but also at the level of the state, by lobbying the national institutions to spread these practices. By contrast, the regional authorities of Lombardy have restricted undocumented immigrants' access to health care by introducing complex procedures requiring registration with public hospitals. In Spain, the government of Andalusia has promoted the assistance of all undocumented immigrants in public

hospitals, creating its own *tarjeta sanitaria* that guarantees the provision of health care for all residents regardless of their legal status, while the regional authorities of Madrid have applied the national legislation restrictively, excluding undocumented immigrants from most services beyond emergency care. In Switzerland, the cantonal authorities of Vaud have integrated undocumented immigrants in public hospitals, while the government of the canton of Zürich has left the assistance of undocumented immigrants to the discretionary care of private networks and NGOs. This evidence suggests that the regional governments surveyed have maintained different approaches to what citizenship entails and to whom it applies. National rules determining citizenship rights in multilevel systems should not be understood as if they were applied coherently and homogeneously across the territory of the state.

Eligibility and access to rights

The different approaches to what citizenship entails and to whom it applies are based on a combination of differing views of citizenship, pragmatism, and vacuums created by the lack of central national policy. There are several ways in which regional governments can interpret and change state legislation. Regional variations can be obscured by a narrow focus on legislation: such variation happens, and matters, also through procedural requirements, organisation, and communication. These methods are summarised in the table below. The table shows how regional governments can affect both eligibility, i.e. the definition of who has the right to public health care, and access, i.e. the practical possibility to benefit from this right.[64]

[64] While I refer specifically to measures used in the field of access to health care rights, it is important to note that similar procedures can be found in any other citizenship domain: the EUDO-Observatory on Citizenship distinguishes between conditions of eligibility and conditions of access to electoral rights, with the latter referring to the broad range of practical measures that can practically constitute barriers to the effective exercise of rights.

Table 8. Regional governments affecting eligibility and access to health care rights: illustrative examples

Impact	Type of action	Examples
Eligibility	Legal action against the state	Government of Andalusia bringing the national legislation on the restriction of access to health care before the Constitutional Court
	Adoption of a regional law	Government of Tuscany adopting a regional law on the recognition of health 'of foreign citizens as a fundamental right of the person'
	Adoption of a regulation	Government of Andalusia adopting an order containing instructions to continue assisting undocumented immigrants in all the municipalities of the region
Access	Establishment of special requirements	Government of Madrid requiring registration with the local administration (*empadronamiento*) prior to assisting patients
	Funding of dedicated services	Cantonal government of Vaud subsidising the projects of the non-governmental association *Fleur de Pavé,* established to assist female drug addicts who prostitute themselves
	Organisation of the services	Regional government of Tuscany supporting the coordination of health and social services to promote integration through the *Centro di Salute Globale*
	Communication of the services	Regional government of Andalusia supporting the publication of leaflets and guidelines in several languages made publicly available online and at the hospital

Author's elaboration.

Regional governments can affect eligibility to the right of health care in a variety of ways. The most contentious action involves judicial contestation. In Spain, for instance, the regional government of Andalusia showed an upfront legal opposition against RDL 16/2012, filing an appeal against it to the Constitutional Court based on the interference of state government in matters that pertain

to the regions. The legal case against the state aimed at leaving the regulation of eligibility for health care as broad as possible, therefore including the provision of rights to undocumented immigrants.

An alternative action that regional governments can take is to pass legislation that modifies, either directly or indirectly, eligibility for rights. Approving specific legislation, the regional authorities can acknowledge the de facto legitimacy of undocumented immigrants as belonging to the regional civic community based on their actual residence rather than on their possession of a legal citizenship status. The example here is the legislation on the right to health for undocumented immigrants contained in law 29/2009 of the region of Tuscany, which promotes and supports the right to health 'of foreign citizens as a fundamental right of the person'.

Regional governments can also affect the provision of rights by passing administrative provisions. In 2013 the government of Andalusia circulated an order ('*Instrucciones sobre el reconocimiento del derecho a la asistencia sanitaria en centros del Sistema Sanitario Público de Andalucía a personas extranjeras en situación administrativa irregular y sin recursos*') containing instructions to continue assisting undocumented immigrants in all the municipalities of the regional hospitals. Importantly, these regulations work in the same way as those that existed at the national level with Law 16/2003 before the approval of the RDL 16/2012. They require merely registration in the local registry but shift the territorial scope of the right by creating a right to health care that cannot be carried to other regions of the state. In this way, these regional governments create territorially bounded citizenship spheres, introducing a variation in the provision of rights that is likely to impact on the mobility of the groups that are affected by it.

Regional governments can affect access to rights by adopting an array of measures that effectively help undocumented immigrants to receive health care and use the appropriate services or prevent them from doing so. In general terms, these measures are related to registration, funding, organisation and communication. These actions are fundamental to the real enjoyment of the right to health care.

The most important channel to enhance or restrict access is by affecting the administrative requirements for using health care services. The government of Madrid requires that all services beyond urgent care shall be given only to subjects who are registered with the local authorities

through the procedure of *empadronamiento*. By contrast, governments can enhance access also by supporting projects of NGOs that are dedicated to specific groups. In Vaud, for instance, cantonal funding is essential for the continuation of the projects of the association *Fleur de Pavé*, which was initiated in 1996 to assist the needs of female drug addicts who prostitute themselves. These services are important also because they often function as the initial point of contact with the vulnerable population, which is only rarely aware of the rights it enjoys. The work of civil society groups is generally perceived as facilitating the construction of trust, which is particularly important in this domain of citizenship. Once undocumented immigrants establish a relation of trust, they generally start using these services instead of delaying medical treatment as they would have done before.

Regional governments can also take steps to organise health care services in such a way as to make rights more easily accessible. The university hospital of Lausanne, for instance, is centrally located and easy to reach. In this way, access to health care is practically facilitated. In Tuscany, by contrast, there was a period between 2014 and 2015 when undocumented immigrants had to travel to the small town of Sesto in order to get their STP code that allows them to access health services in the region (interview with respondents, Florence, November 18 2016). Similarly, support for training courses for doctors and nurses aimed at explaining the legal framework and spreading best practices is one of the main measures to avoid that untrained staff rejects undocumented immigrants at the front desk of hospitals and health care centres in general. In this case, the authorities in Tuscany studied how to improve the competencies of health workers: courses for doctors aim at creating awareness of the legal mechanisms in order to ensure that they are known in theory and respected in practice. The regional authorities have also started to monitor more systematically the situation of undocumented immigrants in the region. One way in which this has been done is by creating specific institutions within the regional government. The example is the *Centro di Salute Globale*, which works together with the *Associazione Regionale Sanità* to coordinate and gather information on the health situation of several groups in the region, including undocumented immigrants. The collection of reliable information about the use that undocumented immigrants make of health care, in particular, can help in assessing the cost-effectiveness on the system. It can also help to raise awareness amongst medical practitioners. In this way, regional governments 'turn an intangible phenomenon into an administrable (and statistically ascertained) one' (Karl-Trummer, Metzler and Novak-Zezula, 2006: 21).

Other practical measures can make it easier to communicate with the patients. The availability of interpreters through a dedicated line in the region of Tuscany is one example. The publication of leaflets and guidelines in several languages by the university hospital of Lausanne is another. Finally, the employment of social workers and cultural mediators to assist doctors when it is required is reported as an important condition in the provision of health care to undocumented immigrants in the public hospitals of Tuscany. These measures provide alternative or additional forms to guarantee public health care coverage for immigrants. Their effect is that of facilitating the use of this right for the subjects. Yet, they remain more precarious than official legislation: while the latter is generally made to last and can be used as future reference, actions that facilitate access are often *ad hoc* and can be easily cancelled or reversed.

These are instances of how regional governments add to, shape, and adapt the rights that are initially determined by the state. Aside from legislative barriers to entitlements, regional governments use subtle mechanisms in order to deliver or inhibit the delivery of rights. In this sense, the politics of regional citizenship are not as apparent as those that we find in other policy fields. In practice, the deciphering of these mechanisms shows how the actions of regional governments affect the realisation of the right to health care for undocumented immigrants. The table below shows that while the governments of Tuscany, Andalusia and Vaud have opened small doors, those of Lombardy, Madrid and Zürich have built walls that sometimes are not easy to see.

Table 9. Regional governments affecting eligibility and access to health care rights: overview of the cases

		Lombardy	Tuscany	Andalusia	Madrid	Vaud	Zürich
Eligibility *Are undocumented immigrants recognised as holders of the right to health in the regional health legislation?*	Entitlement *Are there legislative documents regulating the right to health for undocumented immigrants*	No	Yes *Regional law no. 29/2009*	Yes *Regional Law no. 16/2011*	No	Yes *Décret 810.211*	No
	Scope of coverage *What is included in the right to health*	Conditional *Emergency care, continuous care, essential care, special categories*	Conditional *Emergency care, continuous care, essential care, special categories, general practitioner*	Unconditional *All services*	Conditional *Emergency care, special categories*	Conditional *Emergency care, continuous care, essential care*	Conditional *Emergency care*
Access *Do policies assist undocumented immigrants in accessing health care?*	Registration mode *Are there administrative demands for documents which may be difficult for immigrants to produce - e.g. identity documents; proof of address from local authority records*	Proof of low income, medical certificate, proof of local registration	Proof of low income	Proof of low income	Proof of low income, identity documents, medical certificate	Proof of low income	Proof of low income, identity documents
	Availability of cultural and language services *Provision of cultural and language mediators*	Yes	Yes	Yes	Yes	Yes	No

Author's elaboration.

The table shows that the governments of Lombardy, Madrid, and Zürich follow an approach of deliberate inaction on this issue, leaving the responsibility to assist undocumented immigrants to NGOs and civil society organisations. By contrast, the governments of Tuscany, Andalusia, and Vaud provide for some forms of assistance. There are, however, important variations across the cases, as the degree of recognition of the right to health care for undocumented immigrants also changes depending on the structuration of citizenship in the country. Andalusia provides formal inclusion, targeting explicitly undocumented immigrants and claiming control over this right. By contrast, Vaud provides for informal channels of inclusion with a wide array of informal assistance,

never explicitly referring to undocumented immigrants in the relevant texts. And Tuscany falls somewhere in between, providing for modes of inclusion counterpointing the national legislation, never completely in isolation from it. At the other end of the spectrum, the government of Madrid provides modes of formal exclusion, explicitly spelling out the groups of undocumented immigrants who do not have the right to health care beyond emergency services; the government of Lombardy counterpoints the national legislation by more exclusionary practices; and the government of Zürich engages in modes of quiet or informal exclusion by simply not providing any legislative or regulative text that can serve as a guide to health care practitioners. In these different attitudes we can see how national processes shape the way in which regional governments provide meaning to citizenship.

I suggest to interpret the Spanish cases as examples of *dissonant politics of regional citizenship*. This kind of politics lacks harmony, since the actions of the central government and those of the regional governments clash and do not have an institutionalised system of coordination. Italy, by contrast, could be described as a case of *homophonic politics of regional citizenship,* in the sense of a dominant state melody that is accompanied by different regional voices that are harmonically interdependent, yet independent in rhythm and contour. Some popular music today might be considered homophonic—with a strong melodic whiff—whereby there is a voice taking on the lead role while instruments like piano, guitar and bass guitar accompany it and occasionally switches role between verses and solos. Finally, Switzerland provides for quieter forms of inclusion and exclusion, never explicitly referring to undocumented immigrants in the relevant texts. I call this *polyphonic politics of regional citizenship* as they allow regions to produce more than one melody line at a time independently from each other. These metaphors exhibit the underling structure of the politics of regional citizenship in different contexts.

Table 10. Regional governments and health care rights of undocumented immigrants: a typology

	Polyphonic politics of regional citizenship (Switzerland)	**Homophonic politics of regional citizenship** (Italy)	**Dissonant politics of regional citizenship** (Spain)
Left-wing regional government	Quiet inclusion	Counterpoint inclusion	Loud inclusion
Right-wing regional government	Quiet exclusion	Counterpoint exclusion	Loud exclusion

Author's elaboration.

Building upon these descriptive findings, I can now advance some explanations as to why this variation occurs.

The politics of regional citizenship: drivers

This thesis demonstrates that in multilevel states, laws regulating citizenship rights at the national level can be ineffective if they are not accompanied by the implementation policies of regional governments. Regions have developed different approaches to what citizenship entails and to whom it applies, therefore having at least some degree of control over who is a deserving recipient of rights in the community. What are the drivers behind these differences?

Political party ideology

The establishment of representative and accountable government at the level of the region can provide new power bases and institutional resources for political leaders, just like the advent of the modern state fixed social and economic systems at the national level (Keating, 2016). The evidence of this dissertation shows that politics of regional citizenship revolve around substantive interests:

left-wing governments have promoted greater access to health care for undocumented immigrants, while right-wing governments have not. Hence, the partisanship of the respective subnational government not only gives a first idea of the policy goals that might drive a government's agenda; it is also the indispensable activating link that foster or inhibits the right to health care for undocumented immigrants.

Indeed, while a simple differentiation between right- and left-wing parties is useful to sketch a rough explanation of how politics affect policies, more detailed analysis reveals a range of important nuances related to the importance of the electoral power of different parties, the arguments they put forward, the context in which their struggles take place, the way in which their policies are pursued in the public sphere and the parliament.

The role of political parties in bringing together different actors and sorting out preferences is well established across political science. The comparison shows how left-wing governments in the regions promote greater access to health care for undocumented immigrants, while right-wing governments do not. This shows that political ideology is a key driver that fosters or inhibits the right to regional health care for vulnerable individuals. It follows that regional elections should no longer be considered merely second-order contests. Instead, they are heavily shaped by the set of issues that define regional politics. Regional elections offer a real choice to voters even in the field of citizenship, with different approaches to social citizenship emerging depending on the political orientation of the party elected. The argument is that that regions are spaces for the creation and the contestation of alternative conceptions of social citizenship.

Party incongruence

The cases in which regional citizenship was used to downgrade the rights of undocumented immigrants where those of Lombardy, Madrid, and Zürich, at a moment when a right-wing government at the regional level met a right-wing government at the national level. Regional governments are more likely to press a competing position when this is not shared by the central governments; while they are more likely to offer their support to the policy as initially designed by

the central government when they are ideologically aligned. This mechanism points to the importance of conjunctures, or constellations of political actors.

While this argument might appear intuitive, it has been surprisingly overlooked by most recent literature on multi-level politics. Today there is no a working vocabulary for describing partisan dynamics, let alone an account of why, where, when they happen and what implications they hold. One reason is that the literature on territorial rescaling has suggested that devolved territories, faced with the need to boost investment and lacking control over macro-economic powers, are ultimately led to cut social standards. Public choice economists from Charles Tiebout (1956) onwards have built on the assumption that the mobility of capital and citizens across the borders of subnational units leads governments to achieve an equilibrium between levels of taxation and public expenditure that reflects the interests of capital and a mobile citizenry. This leads to horizontal competition and a multiplication of veto points that undermine cooperation, empower special interest groups, and make it harder to achieve improvements in social provisions The political economy literature, in particular, describes decentralisation as process where states seek to offload the cost of social welfare to regions and localities, and these in turn will cut their social standards in order to attract and retain footloose investors (Ohmae, 1995; Lovering, 1999; Obinger, Leibfried and Castles, 2005). The outcome of this territorial competition is generally held to result in a race to the bottom in terms of social expenditure, as jurisdictions do their best to avoid becoming welfare magnets for the poor. This reading of territorial rescaling suggests that structures trump agency and regional governance, ultimately defeating subnational politics altogether and invariably leading to a race to the bottom in the provision of social standards.

Contrary to these assumption, the thesis makes the argument that, far from automatically leading to a race to the bottom, competition between different levels of government might foster some regional government to race for taking the credit for anti-poverty pograms. This tendency can be understood only in conjunction with political agency and political misalignment between regional and state governments. The findings concerning Andalusia, Tuscany and Vaud, in particular, build on the literature that explains how regions can become sites of opposition to austerity policy and locations of social solidarity. This confirms the expectation that multilevel governance 'could well represent not a *party-free* zone, but rather another contentious arena where politics is carried out by

different means other than rhetoric and ideology' (Campomori and Caponio 2016, italic in the original).

The different choices made by regional governments reflect the preferences of voters in nested *demoi*: both the national demos and the regional demos elect governments with some room of manoeuvre in the definition of rights and statuses and they do so following different logics. In this respect, political agency continues to define the outcomes of policy in some very important ways. Decisions taken by regional governments always represent an attempt to shape, weaken or reinforce the parallel course of action established at the level of the state. Government incongruence between national and regional levels provides, therefore, the window of opportunity for promoting different approaches to what social citizenship entails and to whom it applies.

Regional citizenship traditions: fitting new groups into old frames

Policy-making does not occur in a vacuum. In fact, the presence of a left-wing government in the region does not automatically guarantee more inclusionary policies. The effects of party politics should be treated carefully because they are embedded in a constraining or enabling framework. The magnitude of partisan effects on public policy depends upon pre-existing institutions and discourses that facilitate certain policy decisions. I propose to call this framework the '*regional traditions of citizenship*'.

Regional traditions of citizenship include shared narratives among policy-makers in the region about assistance for different categories of subjects considered vulnerable: women, children, refugees, disabled, homeless and elderly individuals, among others. For example, the regional statute of Andalusia approved in the year 2007 contains several references to the welcoming attitude of the region, a result of history and geography. And in Tuscany, the regional representatives often refer to the long tradition of assistance towards abandoned children and indigents, which started from private charitable organisations and was subsequently taken up by the public institutions. In fact, many of the regional representatives I interviewed stressed that undocumented immigrants are not assisted because they are undocumented: they are assisted in

spite of being undocumented, because they are vulnerable (interview with an respondent, Florence, 18 November 2016).

The idea of pre-existing traditions and their importance for contemporary notions of citizenship is discussed in a comparison of the path-dependent approaches to citizenship in the 26 Swiss cantons (Manatschal 2011: 11). The argument of this article is that Switzerland's multilinguistic heritage reflects in varying regional cultural understandings of citizenship. Similarly, in his work on welfare regions, Maurizio Ferrera (2008) explained that subnational governments might mobilise, where present, all the historical remnants of social and institutional capital in the territory in order to pursue distinct processes of region-building. The politics of regional citizenship is full of symbolic references.

Indeed, the understanding of the past can be partially manufactured. Regional citizenship traditions can be used instrumentally, translating them into contemporary understandings adapted to the changing objectives of the ruling party. For instance, when the regional government of Andalusia refers to the region as 'a space of encounter and dialogue among diverse civilisations' (Parliamento de Andalucía, 2007) it mobilises a discursive framework seeking to bring legitimacy to its actions. When these discursive frameworks are incorporated into a specific legislation or a new institution, regional traditions of social citizenship also structure future courses of action by creating linkages and precedents. For example, the long tradition of collaboration between the government and civil society in the region of Tuscany allows civil society actors to be trusted to generate the evidence and arguments necessary to produce programs that modify the rights provisions established by the state law. And in Madrid, where such traditions exist at the level of the municipality rather than the autonomous community, it is at that lower territorial level of government that programs to realise the right to health for undocumented immigrants are pursued. Regional governments tend to use regional traditions of social citizenship as their working material to realise the right to health care for undocumented immigrants rather than international human rights, as it would have been expected following other studies in this field on the decisions of policy-makers based on the national level (Chimienti and Solomos, 2015) and on the local level (Ambrosini, 2015; Marx *et al.*, 2015).

Although the understanding of the past can be partially manufactured, history does also constrain the actions of governments. In fact, references to the past must show a realistic grasp of history to resonate with the citizens (Evans, 1997; Arrighi, 2012: 271; Jeram, 2016). In a way, these discursive frameworks are powerful institutions on their own, especially when they become incorporated into a statute, a law, new infrastructures or authorities. In these instances, regional approaches to citizenship set at a certain historical moment constrain future choices. Past decisions leave a legacy of policy styles, networks, and practices. These institutional factors influence future patterns of agenda setting.

There are several examples among the cases we have analysed. The first example is that of the law for public hospitals in the canton of Vaud. This legislation, approved in 1957, mandated hospitals to assist vulnerable groups. It was passed at a time when the reference categories were mainly prostitutes, homeless, and poor. In the 1980s that legislation allowed doctors to treat several of the victims of the spread of HIV related to the diffusion of heroin in the country. Many of these patients were not insured. Today, a large part of the subjects who are not insured are undocumented immigrants. They, too, can access public hospitals thanks to a legislation that was approved several decades ago, when undocumented immigrants were no major public concern. The second example is that of the regional statute of Andalusia. This statute was approved in the year 2007 and made several references to the welcoming attitude of the region, a result of history and geography. These references do not have normative value. They are political declarations. Yet, they were used as a justification by the regional government to defend the decision to continue providing health care assistance to all undocumented immigrants in the wake of the national reform of the system. The third example is that of the establishment of a new centre, the *Centro di Salute Globale*, by the regional government of Tuscany in year 2011. The creation of an institution tasked with the monitoring and development of public health measures constrains the choices of future administrations in this field. In these cases, regional citizenship traditions do not only have a symbolic role, but also powerful force in structuring change.

Inclusive attitudes of the regional authorities towards rights for undocumented immigrants that become incorporated into law and administrative practices have two important effects. First, they make for an inclusive climate, which reinforces the symbolic understanding of undocumented immigrants as deserving local community members. Second, they create enduring precedents and

linkages between policy-makers and civil society organisations. This idea was clearly illustrated during one of the interviews:

'Due to the existence of collaborations between the private and the public sectors, there was already a training and an awareness that there could be more effectiveness . . . in short, there was a solid ground on which we could lean without finding hostility . . . Once the bases are placed, it then becomes possible to build on them with greater ease' (interview with an respondent, Bergamo, 24 April 2017, own translation).

Coalitions of advocacy are more effective when they have historical ties with regional governments. When established channels of communication exist, these coalitions are generally trusted to generate useful evidence. In regions where there is a left-wing party or coalition of parties in the government, the existence of these links puts pressure on the administration to translate rhetorical declarations into concrete actions; in regions where there is a right-wing party or coalition of parties in the government, inclusive regional citizenship traditions are used by the opposition and civil society organisations to denounce and attack the administration.

'"Greater access to health care for undocumented immigrants is generally more likely to be provided in those regions where the activity of private associations is recognised as complementary to that of public institutions and consequently integrated with their activities. Many of the initiatives for the improvement of health service provision to undocumented immigrants have relied largely on the efforts of concerned health workers and NGOs. When the work of these associations is at least 'partially accepted' (Karl-Trummer, Metzler and Novak-Zezula, 2006: 22) by the regional authorities, it is possible to establish a relationship of trust. By contrast, there are many cases when the regional authorities chose to 'functionally ignore' (Karl-Trummer, Metzler and Novak-Zezula, 2006: 21) the activities of these associations. Regional governments that enable undocumented immigrants to enjoy health care rights are characterised by the formalisation of linkages, contacts, and reliance upon those associations that have traditionally assisted vulnerable groups. This, in turn, is the product of long processes of path dependency. In sum, regional traditions of citizenship have a twofold function: they serve to both justify and promote actions of regional governments.

Extension of the argument

This dissertation focuses on the case of health care for undocumented immigrants in order to shed light on the politics of regional citizenship. A broader research design would have included the civil and political dimensions of regional citizenship alongside the social one; it would have examined also what regional citizenship means for nationals of the state and it would have explored more in details the differences between regional citizenship and other forms of citizenship, such as urban and supranational. In this section I would like to reflect on what such a broader research design would entail and, in so doing, I will try to answer the following questions: Would the empirical comparison be different if it were to focus on political and/or civil rights as opposed to social rights? Is health care for undocumented migrants a special case? Or is it a critical case from which we can draw inferences about the general features of regional citizenship? What are the differences between regional and local citizenship?

Regional and local citizenship

Regions and municipalities share several competences in this and in other fields of social policy. Indeed, as municipal authorities were able to put their spin on the production of certain rights, they tended to institute 'explicit and pro-active integration policies, often in the absence of national policies, using their own instruments and resources and thereby making pressure for such national policies' (Penninx, 2005). What would then be the specific characteristics that make the middle level of citizenship different not only from national, but also from local citizenship?

Scholars interested in the 'local turn of integration policies' (Caponio and Borkert, 2010) have shown that local policies are distinct from national debates because they are characterised by a 'bottom-up place sensitive approach' and a 'pragmatic logic of problem-solving' (Scholten and Penninx, 2016). There are several examples of how municipal practices allow for some forms of urban citizenship for undocumented immigrants. In his book *Confini irregolari. Cittadinanza sanitaria in prospettiva comparata e multilevello*, Nicola Pasini (2011) mentions the cities of Brussels, Gent and Lyon, which have interpreted strict national regulations in such a way to facilitate access to health care by requiring less paperwork (Brussels), provide a system of legal support to orient

undocumented immigrants towards the most fitting clinic (Gent), and orient undocumented immigrants towards the most suitable hospital (Lyon). In Spain, the municipal government of Barcelona facilitates the access of undocumented immigrants to local services like childcare, adult education, social assistance, and cultural facilities (Gebhardt, 2016). In Italy, the municipal government of Milan reacted to the 2008 security package by making access to childcare conditional on a regular status; others, like Genova, kept this service on a local residency base (Ambrosini, 2013). In Germany, consultation services have been set up by the Department of Health of the City of Frankfurt together with 'Maisha (*Selbsthilfegruppe Afrikanischer Frauen in Deutschland*)', an African women's NGO in the city, to provide health services for undocumented migrants (Parkin and Carrera, 2011: 20). And in the Netherlands, the city of Amsterdam subsidises NGOs to provide elementary services to undocumented immigrants that the city itself is not allowed to provide (Blom, 2014). These examples show that just like regions, also municipalities can compete with the central government to provide different visions on how to organise a basic right like health care for undocumented immigrants.

Cities do not only shape rights for undocumented immigrants; they also interpret the entitlements of non-citizens and citizens. The municipal government of Southampton in the UK, for instance, introduced smartphone applications to ease immigrant integration (Benton, 2014).

Some exceptions notwithstanding (Mahning, 2004; Ambrosini, 2013), the literature on urban integration policy—and urban citizenship more broadly—suggests that this is more likely to promote inclusionary measures its national counterpart. More often than not, local governments mitigate national policy changes. This is due to a variety of factors, including the smaller networks of policy-makers at the local level (Poppelaars and Scholten, 2008); the increasingly multicultural composition of cities and therefore municipal electors (Vertovec, 2007); the discretionality that local actors can exercise (Van Der Leun, 2006), and the fact that municipalities often rely on external funding for projects aimed at fostering inclusion and integration (Gebhardt, 2016; Caponio, 2017). Indeed, these factors apply, at least to some extent, also to regional authorities. All subnational governments, be they local or regional, are the first line of public anger towards irate publics. As Rob Jenkins (1999: 182) put it, 'Electorates vent their frustration at the most accessible level of government, not necessarily the one most responsible for their problems'. Unlike sovereign states, subnational governments generally do not control immigration; but they have the

responsibility of providing public services to all who take up residence. There is a fundamental difference between states, whose power of immigration control contributes to the process of *creating undocumentedness*, and subnational governments, which might be reluctant to accept immigrants but have to come to terms with this population nonetheless and are therefore engaged in *managing undocumentedness*. In the end, both regional and local polities require that public institutions pragmatically work together with NGOs and private actors to solve immediate problems that come with a face and a fate.

At the same time, regional governments are more like national institutions than local authorities in three important respects. First, they are more prone to partisan logics of competition. Second, as a consequence, regional citizenship is not necessarily more inclusive than its national counterpart. Third, while in practice they often use a dizzying assortment of obscure regulations, it is frequent for regional governments to symbolically mobilise grand ideas of identity and belonging. There are several examples of how variations in the rights provided by regional governments are becoming increasingly contested beyond the cases that I have presented in this article. During the campaign leading to the 2014 Scottish referendum on independence, for instance, social rights played a central role. The parties campaigning for independence defended the idea that Scotland must secede from the rest of the UK to protect its more progressive nation from social policy retrenchment pursued by the central government (Béland and Lecours, 2016). And the constitutional crisis that followed the Catalan referendum of 1 October 2017 was portrayed by the Catalan government as a fight to uphold basic rights. Beyond these secessionist crises, the issues surrounding the connection between citizenship and the government of regions raise a set of questions and possibilities about the co-existence of political communities. These questions relate, for instance, to the implications of territorially uneven access to rights, including for instance gay marriage, voting, and health care.

Regional citizenship for national citizens

While the thesis has concentrated on citizenship rights for immigrants, regional citizenship affects national citizens in many important ways. In Spain, the controversial RDL that spurred the reaction of Andalusia and other autonomous communities restricted the right of public health care not only

for undocumented immigrants, but also for people older than 26-year-old and disabled people with less than 65% of disability, both if they never contributed to the SNS unless they are demonstrably under the poverty line. The justification for rethinking eligibility to the SNS was based on the argument of eliminating abuse. In practice, students who had moved to a foreign university and decided to return to Spain for Christmas found themselves excluded from the right to health care. Autonomous communities have found different ways of addressing this situation. While I have not covered this issue at large in the comparison, this is an instance of how the ways in which regional governments shape citizenship has consequences that go beyond the integration of immigrants.

There are many examples, outside Europe, of how regional citizenship may affect the status of citizen residents. In the US and in Canada, state and provincial governments balance the principle of equal citizenship with demands for 'own polity first' (Maas, 2017a): unemployed people in Quebec, for instance, lose their benefits after only 7 consecutive days outside the province. In China, peasants drawn to the bright lights of cities like Shanghai and Dongguan are treated almost as foreigners and they are excluded from a broad range of social rights, including education and health care (Lucassen, 2017). The basis for this unequal treatment is the *hukou*, a system of household registration that binds the population to its administrative units. The *hukou* influenced similar systems in neighboring East Asian countries—such as one within the public administration structures of Japan (*koseki*), Korea (*hoju*), and Vietnam (*ho khau*). Although unrelated in origin, these ways of controlling internal movement remind the *propiska* of the Russian Empire and the later Soviet Union, where a person had to register with the local police and residence outside the place of registration for longer than a few weeks without a permit was prohibited. These examples show that regional citizenship can be used as a tool to expand or restrict rights and can also work as a tool to regulate migration.

Regional citizenship beyond social rights

Contrary to civil and political rights, the content of social rights is very sensitive to socio-economic transformations, from demographic ageing to economic crises. Safeguarding the functional and normative rationale of social citizenship implies periodical distributive and allocative rationalisations, consistent with overall sustainability constraints. It remains to be seen whether regional governments can shape also civil rights and the political franchise.

This latter option has been contemplated, even though it has not been realised, in the state of New York in the US, where a bill introduced in the Senate in 2014 proposed to grant the right to vote, together with several other social rights, to all the individuals who have resided in the state for the last three years, regardless of their legal status (The New York State Senate, 2014). Empirically, virtually in all states around the world, the full bundle of rights for individuals at the subnational level remains derivative from state citizenship and needs activation through residence in the regional territory. When regional authorities attempt to shape political or civil rights, as Tuscany and Emilia Romagna did when they tried to grant voting rights to immigrants, their actions are quickly dismissed as 'provocations' (interview with an respondent, Turin, 2 March 2017).[65] In fact, the empirical pattern suggests that, differently from the dynamics that revolve around social rights, regional citizenship in the field of civil and political rights remains strictly derivative from state citizenship.

Does the foregoing mean that rather than notions of citizenship, the discussion thus far has been about concepts of charity, based on human rights and moral considerations? As already discussed in Chapter 3, the full realisation of the right to health care presupposes more than simple charity or moral compassion. The provision of this right to undocumented immigrants that remain excluded from political rights suggests that when it comes to this specific group of reference, regional governments might be creating 'regional denizens' rather than 'regional citizens'. It is important to notice that they can be given rights that are more than merely temporary sojourn, an entitlement that, according to Immanuel Kant, all men should have 'by virtue of their common possession of the surface of the earth, where, as a globe, they cannot infinitely disperse and hence must finally tolerate the presence of each other' (see: Ferrera, 2016: 796). There is, however, a different kind of hospitality that involves the right to be a permanent visitor. What Kant had in mind when he was referring to this right was the *ius hospitii* defined by Roman law since the early Republic: the faculty enjoyed by the citizens of Rome and certain foreign cities or states to freely

[65] Yet, there are some exceptions to this otherwise strong rule: as it has been explained in Chapter 6, the Swiss cantons of Jura and Neuchâtel have enfranchised long term residents who do not have Swiss citizenship; and the Scottish government has enfranchised EU, Irish and Commonwealth citizens for the parliamentary elections and for the 2014 referendum on independence (Ziegler 2015).

move into each other's territory and of having the same privileges except for the right to vote. Regional citizenship, like other forms of citizenship beyond the state and notably EU citizenship (Ferrera, 2016), can be seen like a form of contestation of this *ius hospitii*.

The thesis suggests that states have not been rendered insignificant in spite of the fact that regional governments have acquired greater importance and have contested nationally determined citizenship rights. Instead, as Charlie Jeffery and Arjan Schakel put it, regional governments 'recast [the state] as a more complex multi-scaled form of political organisation that needs to respond to the demands of distinctive regional political communities as well as the political community as organized at the statewide scale' (2013: 305). Regional citizenship is a second-order status that supervenes on national citizenship and cannot be understood in separation from it. National programs are likely to remain the prime guarantor of rights and social rights in particular. The politics of regional citizenship do not undermine these programs; they adapt, blur, and ultimately redefine their meaning.

Future research on regional citizenship

There are at least four possible extensions for a future research agenda. A large-N comparison of cases could systematically test the hypotheses generated by this work; a more in-depth study could explain why regional governments prioritise different strategies for dissent, with a specific focus on juridical contestation; an ethnographic enquiry could switch the focus from policy output and implementation to policy consequences; and, finally, scholars interested in social movements could show how the strategic environment may be contribute to understand the distinct choices of regional governments. Let me discuss each of these possibilities in greater detail.

First, a large-N comparison should test more systematically the effects of party ideology and government congruence on the realisation of the right to health care for undocumented immigrants at the regional level. While this study has compared a small number of regional governments, it would be important to survey larger samples of cases over time and over space, in order to identify outliers and deviant cases. In this sense, it is important to note that this dissertation has not engaged with a diachronic comparison of cases where there has been a change of regional government.

Such comparison would provide a more complete understanding of the effects of ideology and how it affects health care policies for undocumented immigrants and under which conditions.

Second, when looking at dissent from a national policy, a focused comparison could investigate why regional government choose one mechanism over the other. The thesis demonstrates that regional resistance can be directed through three channels: political, administrative, judicial. How do they work together? And why do regional actors choose strategy over the others? The choice of judicial contestation, in particular, has remained on the background of this investigation. Courts in multi-level states are asked to invalidate some key practices of democratically elected governments, causing profound tensions A broader exploration of these dynamics and their implications is likely to represent a crucial part of the work of political and legal scholars for the next years to come.

Third, while my work is focused on policy output, in-depth research on how access to health care is perceived by undocumented immigrants could show how different groups are affected. The evidence suggests that there is an increasingly large gap between the official legal framework and social reality. A strictly legal analysis of the law captures only part of the picture: access to health care for undocumented immigrants is often the product of informal practices. The ambiguity of the legal terminology and the use of flexible, open-ended, and loosely codified programs widen the scope for the discretion of 'street-level bureaucrats' (Lipsky, 1980) like health workers. The ensuing question concerns the effects of greater bureaucratic discretion on a variety of groups, including unaccompanied minors, pregnant women, and immigrants with a different religious background than the majority of the population. Relatedly, further research could explore how street-level bureaucrats empowered by regional policies become 'de facto citizenship-makers' (Perna, 2018).

Finally, the findings suggest that a subnational governments' partisanship does not necessarily reveal whether these policy goals are driven by a political party's strategic and ideological motivations. Civil society organisations, in particular, are key actors struggling to keep the issue of undocumented immigrants on their governments' agenda. Indeed, although political ideology shapes policy priorities, the strategic environment may be equally important for understanding the behaviour of parties. The evidence produced by the comparison of these cases confirms the findings of other studies on the importance of networking strategies with civil organisations at local

and regional levels for those authorities that want to promote inclusive policies, but also need to be relieved from creating formal structures that might infringe the law of the state (Zincone, 1998; Sciortino and Bommes, 2011; Willens, 2011). At the same time, parallel structures of NGOs and private investments form a decisive part of health care provision for undocumented immigrants even under conditions of non-cooperation from the regional government in the region. In these contexts, lacking public support for the provision of health care rights to undocumented immigrants, the NGOs have to undertake many of the functions that in other places are exercised by the public authorities. More generally, researchers could explain the role of social movements and how they can pressure parties and institutions to change their policies. When does the civil society mobilise and how does it establish alliances with parties, policy-makers, trade union leaders? Future studies could engage more thoroughly with the political opportunity structures that make up the subnational governments' strategic environment.

Summary

The comparison reveals that national rules determining citizenship rights in multilevel systems should not be understood as if they were applied coherently and homogeneously across the territory of the state. Indeed, the contestation of citizenship rights at the regional level of government is common currency in all the states compared in this dissertation. While each system is a creature of its unique history, two lessons from this comparison have general validity.

First, also in countries that are not constitutionally federal, regional authorities have been able to develop their distinct approaches to citizenship and have modelled access to rights according to their diverse preferences. At the same time, the structure of the territorial system of a state plays a role in determining the direction of regional citizenship. The value assigned to territorial pluralism, in particular, determines whether regional citizenship rights are created against the state, as a strategy to manifest dissent and mark the difference—as in Spain—or, instead, together with the state, as a way of manifesting social complexity—as in Switzerland. Furthermore, the methods used to resolve constitutional disputes create incentives for the different levels of government to promote or inhibit regional citizenship rights. Veto points allow political decisions to be overturned

at different stages in the policy process: in Italy and Spain this is a power reserved to the courts, in Switzerland to popular referendums.

Second, the ideological orientation of the regional party in government, constrained by the regional citizenship tradition and the links established with civil society organisations, has proven to be the most powerful driver for explaining regional differences in approaches to social citizenship. This has been demonstrated using the paradigmatic case of access to health care for undocumented immigrants across Italian regions, Spanish autonomous communities, and Swiss cantons. The comparison showed that regional policies defining who is a deserving recipient of health care can be explained by a combination of partisanship and path dependency. In particular, pre-existing norms of regional protection towards minor children, homeless, drug addicts and sex workers are used by left-wing governments to feed contemporary forms of social commitment towards vulnerable groups, including undocumented immigrants. The infrastructure already in place makes it easier for regional governments to provide health care rights to undocumented immigrants.

More generally, regional governments use traditions as part of a broader contestation of what national citizenship entails, and to whom it applies. In the end, the politics of regional citizenship resemble local politics in the sense that public institutions pragmatically work together with NGOs and private actors to solve immediate problems. At the same time, when regional governments decide on citizenship, they are like national institutions in the sense that they symbolically mobilise ideas of identity and belonging.

In the end, the comparison shows that regional political actors decide to create or modify individual rights based on their partisan ideology and relatively independently of the multilevel institutional structure of the state. Yet, regional agency does not occur in a vacuum: strategic calculations and political outcomes are always likely to be conditioned by the surrounding institutional structures. While the political orientation of regional governments determines inclusionary or exclusionary regional citizenship policies, the structure of territorial institutions is the most important variable to explain the effects of regionally differentiated rights on democratic processes in the wider the state.

The forgotten middle level: regional government in a pluralistic theory of citizenship

This chapter aims to rise above the contingency of the empirical findings presented in the previous part of this dissertation by answering more general questions, such as: what do the cases of regional inclusion of undocumented migrants in public health care or their exclusion from it teach us? In what ways can these findings be generalised to other kinds of rights? Who determines the scope of citizenship rights and the status of members within European multilevel states? According to what criteria and through what drivers? By answering these questions, I will sketch a normative approach to the politics of regional citizenship grounded on the comparison of the cases. My argument is that regions in multilevel states can function as forums for broader disputes on what national citizenship entails and to whom it applies. Regional governments, in other words, should be seen as participants in an ongoing conversation on the meaning and the content of citizenship within the state. Political systems are more stable and the beneficiaries of citizenship are better off where such dialogue between central and regional government is both encouraged and channelled, through shared rules that define obligations in cases where conflicts arise.

The chapter is structured as follows. First, I introduce the framework for thinking about modern citizenship as a construction of the state. Then I explain how the original promise that was contained within that idea of modern state citizenship has come under pressure, mainly due to the rise of international migration and the progressive decline of full membership rights, especially in the realm of social welfare. I then show how regional citizenship can provide an added value to democratic processes within the state by providing the space for multilevel complexity and divergent public policies; and I discuss whether regional citizenship provides for more inclusionary membership than national citizenship. Finally, I bring these debates together and I try to situate regional citizenship within a theoretical framework that acknowledges the multilevel structure of democratic polities exposed to migratory movements.

The promise of modern state citizenship

This dissertation began with a series of conceptual clarifications. I explained that the idea of citizenship as the set of rights that follow from a status of membership was born within the contours of modern states and then, in the empirical chapters of the dissertation, I applied that definition to regional polities. Now we can turn again to state citizenship and ask the question of how regions, and regional governments in particular, can relate to this concept in the context of the twenty-first century.

To do so, I suggest we first answer the question of why modern citizenship exists. The original intuition of Thomas H. Marshall was that modern citizenship functioned as 'a basic form of human equality' within the state (1950: 8). His argument was that the rights of citizenship produce equality where otherwise there is none. This can be better understood in the context of the time and place where he wrote. Early twentieth century England was characterised by growing inequalities of the social class system, low participation in public affairs, and a fragile political order: citizenship was meant to have a mitigating effect on these problems that risked undermining social cohesion.[66] To speak of citizenship in this context invokes a contrast between the equality of rights and the inequality of social life. We might say that in the specific historical context of post-war Europe, modern state citizenship and its bundle of civil liberties, political rights and social welfare represented not only a sharply defined analytical concept, but also a promise: that of basic human equality in a bounded polity.

That promise has been kept for most of the post-war period until now. Over the past sixty years, the scholarship on citizenship in Western states has developed in a context of stable territorial nation states and deepening European integration. In this reality, citizenship contributed to strengthen the internal cohesion of the state, becoming one of the main mechanisms of social closure and, at the same time, a potential target of contention (Brubaker, 1992). The principle of

[66] To put it differently, we can say that modern state citizenship was a means by which capitalism and democracy, two systems in natural tension, could co-exist. Marshall himself was aware of this critical aspect of citizenship when he referred to it as the 'architect of legitimate social inequality' (Marshall, 1950: 9).

territoriality, under which sovereign entities hold exclusive authority within their borders, reserved the responsibility over the management of rights to emerging nation states. Citizens were exposed to certain duties, such as conscription and taxation, but they also enjoyed new freedoms, mechanisms of political participation and, in some cases, nearly universal insurance programs. Contestation around these novelties increased; but at the same time, the expansion of rights contributed to enhancing the loyalty of citizens (Ferrera, 2005). Citizenship, in this sense, worked as an integrating force against the fragmentation of the state. Perhaps the best example of this interaction between voice and loyalty around modern state citizenship can be found outside Europe, in the struggle of African Americans for full citizenship in the US. Also in European debates over civil rights, such as those in Italy over abortion and divorce in the 1970s, or those taking place in the 1970s across continental Europe over the expansion of social welfare rights, citizenship was the key site for claims-making, always within the bounded territorial community of the state. In this sense, the nascent notion of citizenship performed a vital function in the process of state-building, locking individuals into the boundaries of the state (Torpey, 1998; Flora, Kuhnle and Urwin, 1999; Bartolini, 2005). Modern state citizenship, its status and rights were a fundamental source of legitimacy for post-war states in the Western hemisphere.

Subsequent social and political transformations of the context that legitimised that post World War Two conception of citizenship appear to have weakened its original promise. At the turn of the century, a strand of literature stressed the 'diminishing returns of citizenship' (Nyers, 2004: 204) or even 'the decline of citizenship' (Jacobson, 1996; Falk, 2000). What had happened?

The first reason the promise of modern state citizenship has lost its Marshallian appeal has to do with the steady rise in the number of international migrants, the flow of people across nation state boundaries. The number of people living outside their country of origin has grown quickly over the last decades: from 173 million in 2000 to 244 million in 2015 (United Nations Department of Economic and Social Affairs, 2016).[67] This phenomenon is particularly marked in Europe, which attracts nearly one third of the total of international migrants (United Nations Department of Economic and Social Affairs, 2016: 6). International mobility puts tension on traditional notions

[67] It must be noted that the percentage of migrants at global level has not changed significantly as the number of the population has also grown in parallel.

of recognition, representation, and legitimacy, and complicates the relationship between a citizen and her/his state. Although they account for less than four percent of the global population, international migrants still appear to be anomalies, problematic exceptions to the rule of people staying in the nation-state where they belong, because national citizenship was premised on the idea that all residents of states are citizens, and vice versa (Wimmer and Glick Schiller, 2002; Pedroza, 2015). As explained in Chapter 2, the steady rise in the numbers of international migrants has led to the acceptance of the idea that there are persons who have access to citizenship entitlements although they are not formally recognised as citizens or they might be recognised in more than one state. In contemporary academic literature, the term 'denizen' designates those non-citizen residents who possess many of the entitlements of citizenship provided to resident citizens (Hammar, 1990). In Europe, in particular, a series of regulations and court rulings gradually disconnected social rights the status of citizenship, linking them to employment or residence status instead (Ferrera, 2016). The convergence between the rights of permanent non-citizen residents and resident citizens has weakened the strength of citizenship as the principle device of equality within bounded polities.

Another reason citizenship is losing its Marshallian appeal has to do with the recalibration of full membership rights, especially in the realm of social welfare. '"The deregulation of the state and the progressive curtailing of welfare rights undermine the basic assumption behind Marshallian citizenship that 'almost all adults would be steadily employed, earning wages and paying taxes, and the government would step in to help take care of the unemployable—the young, the old, the sick and disabled' (Colin and Palier, 2015: 29). The spread of neoliberal approaches during the last twenty years led to the gradual consolidation of market-driven policies of privatisation and reduction of welfare programs, starting in the UK, which is somehow ironic, since England was the reference model for Marshall's seminal account of social citizenship. After 2008, these policies further intensified through a variety of austerity packages that were approved by state governments in an attempt to counter the economic crisis. The consequences of the crisis have been particularly acute on social rights like pensions and public health care, which are very sensitive to distributive and allocative rationalisations. It must however be noted that in the same period of time, many European governments introduced new sets of rights, including childcare services, paternal benefits, and minimum income (Taylor-Gooby, 2004; Klaus Armingeon and Bonoli, 2006). More than retrenchment, we should therefore speak of a recalibration of the social rights of citizenship.

As a consequence of these two phenomena—the inability of citizenship to fully include mobile individuals in the state and the recalibration of its social rights—the Marshallian appeal of modern state citizenship is losing force. This can be seen in the territorial threats of disintegration that affected national and supranational polities over the last few years. In 2014, for instance, an important theme in the campaign leading to the Scottish referendum on independence was the social policy retrenchment pursued by the British government (Liñeira and Cetrà, 2015; Béland and Lecours, 2016). Similar arguments for independence and secession were floated across other long established Western European states, as popular support for secession grew stronger in Catalonia and to a lesser extent in Flanders and the Basque Country. At the same time, social policy and migration played a central role in the context of the Brexit referendum in June 2016.

These events can be understood as distinct manifestations of the same process. '[T]hose who feel they are slipping with no prospect of upward mobility may resent the dilution of the rights and protection of citizenship by an elite that does not need or value that protection' (Hooghe and Marks, 2016: 6). Those who used to seek shelter in the rights of citizenship have started to turn against consolidated polities, fuelling processes of territorial rescaling that would lead—or do lead, as it is happening with UK membership in the European Union—to the creation of new boundaries that turn former citizens into new aliens. Historically, the secession of the Netherlands from Spain in the 16th century, the breakup of Norway and Sweden in 1905, and the falling apart of the Soviet Union and Yugoslavia in the late twentieth century are examples of the emergence of new states delineating their new 'us' from 'the other' (Tierney 2015; Shevel 2009; Vidmar 2015). These processes are relatively new in the context of stable post-war democracies in the West.

The case for the politics of regional citizenship

What is the significance of the politics of regional citizenship in this context? In this section I present alternative forms of citizenship that go against the idea that states have the monopoly over the interpretation of citizenship rights in a context of migration and deregulation. The underlining assumption is that individuals at the regional level form specific preferences about policies that need not coincide with their preferences at national levels. 'Every political community is confronted

with the why of its existence, having to convince its members—or at least a good portion of them—that they do belong together' (Štiks, 2015). This is what the author calls 'the citizenship argument of a political community' (2015: 9), referring to the fact that the definition of every political community at any given moment is the outcome of the hegemonic arguments that remain in constant polemic with some alternative views. The discursive articulation of the role of regions within multilevel systems can be understood through this Gramscian approach. In today's world, where citizenship is increasingly contested 'as a result of the interactions between globalisation processes and the territorial nature of the nation-state' (Staeheli, 1999: 63), a region can develop a citizenship argument that is in contrast with the hegemonic narrative of the state the region belongs to. The point is that allowing regional governments to shape citizenship and rights responds to the idea of level-specific sensitivity of different polities (Bauböck, 2018). The underlying assumption that we live in cohesive and bounded states is flawed. The empirical chapters have provided abundant evidence for how regional governments modify, shape, strengthen or weaken the rights of citizenship that are set at the level of the state. What are the consequences of these policies for democratic processes within such states?

Multilevel complexity

Regional citizenship strengthens the ideal of self-government, which, according to authors like Jean-Jacques Rousseau (1792) and Alexis de Tocqueville (1835–1840), is a fundamental and intrinsic value that makes citizens free and laws legitimate. In Switzerland, for instance, regional citizenship exists as a recognition of the diversity of the cantons and their historic self-government rights. The state protects the pre-existing cantonal constitutions and their right to legislate autonomously in most citizenship matters. For instance, the levels of assistance to vulnerable groups like the indigent change across the country depending on the decisions of the cantonal governments. In this way, cantons nourish their differences.

The resulting inequalities in the multilevel bundles of rights that citizens enjoy in different parts of the polity may be regarded either as an unavoidable price of decentralisation, or as a positive consequence of federal experimentation. The latter is the orthodox argument for the justification of regional self-government: as citizens move to communities that correspond to their own

interests, subnational governments can specialise and tailoring their decisions in such a way to meet local preferences (Bednar, 2011). When governments develop original policies designed for the needs of the resident population, they become laboratories of democracy, as Justice Brandeis (1932; see also: Madison *et al.* 1788) described the public policy experimentation that is enabled by decentralisation. Furthermore, when regional governments innovate, successful solutions can diffuse across the national political community: a large body of literature shows that states and regions with successful policies are more likely to be emulated than those with failing policies (Shipan and Volden, 2006; Volden, 2006; Johnson, 2016). In the field of citizenship rights, in particular, regions can not only provide the expertise and the evidence necessary for nationally adopted legislation, but they can also build support to advance the spread of new policies across the rest of the state, helping to overcome bureaucratic inertia.

Regionally differentiated citizenship may have potentially positive and negative effects on freedom of movement. In a way, regional citizenship emancipates the individual from the nation state, providing for the freedom to move and choose a different type of life in a different type of place. For example, in the US, until the Supreme Court addressed the question with the *Obergefell Case* in 2015, internal freedom of movement allowed homosexual couples who lived in Georgia, where the legal and political conditions did not allow for gay marriage, to move to neighbouring Florida for legal recognition of their love. Today in Europe regional citizenship allows a young teacher from London to move with her partner to Edinburgh, be entitled to vote for a different assembly and have different conditions of access to health, pension, and social rights in general. While regional citizens would also be free to move in the absence of any regional authorities, it is precisely the addition of territorial rights that provides additional value to mobility.

At the same time, different levels of social assistance may constitute a substantial obstacle for mobility. A uniform set of social rights facilitates free movement by creating a level playing field and making social rights transportable; by contrast, when territorial units can determine their own sets of social rights, free movement may either be blocked or social welfare systems will come under stress due to extensive mobility. Already at the time of the Roman Empire, mobility from one village to the other was limited by the existence of physical walls and administrative barriers. In the late sixteenth and seventeenth centuries, movement across the Holy Roman Empire was subject to the competing authorities of feudal lords: such conflicts, which were often framed as

matters of 'conduct' (*Geleit*), hampered movement on the roads and rivers traversing the patchwork Empire (Scholz, 2016).[68] In fact, local and regional polities spent centuries waging wars against each other: it should come as little surprise that the Italian countryside was a constellation of walls and protective devices. Freedom of movement alone would be of limited value without two other principles that make it work. The first is the principle of equality; the second is the principle of non-discrimination. These principles protect the rights of those who decide to use of their freedom to move. Some scholars fear that when the nation-state loses its essential role in the organisation of rights, nothing else can effectively perform that role (Bartolini, 2005). This argument has also been used by policy-makers: for instance, the Canadian left opposed both the North American Free Trade Agreement and proposals to further decentralise the federation fearing a weakening of national solidarity.

In practice, regional governments already produce meaningful forms of membership and statuses even though they fall short of independent statehood. The argument that homogeneous standards are necessary to sustain citizenship may be too simplistic: instead, through the rescaling of territory subnational governments are able to create new forms of membership alongside, rather than in the place of, state-based citizenship. Today, it is the combination of EU citizenship and regional rights without walls that determines the possibility 'to move for love, work, family, language, social or cultural reasons, or simply to be somewhere 'else' . . . and about making available realisations of life in other states that might much more closely fit with the individual's own preferences' (Witte, 2016: 2). It is again in Canada that we can find a political ideology behind this view. During the campaign election that eventually led him to become the youngest Prime Minister of Canada in 1979, Joe Clark famously said that 'governments make the nations work by recognising that we are

[68] One of the most illustrious descendants of that Empire was the poet Johann Wolfgang von Goethe, who in the nineteenth century embarked on a trip from Bolzano all the way down to Sicily. In his famous report, *Journey to Italy,* he commented: 'Here all the people seem to be in hatred, the one against the other, in a way that surprises. Animated by a unique spirit of the bell tower, they cannot stand each other'. Indeed, the rivalry across Italian regions, feuds, and cities was rooted not only in cultural differences, but also in military competition. 'Better a dead person at home than a Pisan at the door': this famous saying originated in Lucca at the time when the city was one of the main targets of looting for the Republic of Pisa, so that having a dead relative at home became preferable to a warrior at the front door. Confronted with this statement, the Pisans would usually answer 'May God satisfy your wish'.

fundamentally a community of communities'. While the idea of *community of communities* has lost resonance in the public debate, in practice it is precisely this kind of multilevel complexity that adds value to free movement, providing a strong normative argument for territorially differentiated citizenship.

Public dissent with the central government

The second way in which regional citizenship affects the democratic processes in a state has to do with disagreements that might not otherwise come to a pitch. The politics of regional citizenship creates grounds for articulating public dissent with the central government. Regional policies enable the assertion of competing points of view for those who are not in accord with the choices of the state to express their dissent and maintain a political space for alternative policies.

This is the case in Spain, where regional citizenship has been constructed against the state. A variety of Spanish autonomous communities has enacted policies at the regional level that were a direct manifestation of dissent against the state. The focus of this dissertation has been on the action of Andalusia against the decisions of the state in the field of health care rights for undocumented immigrants; but other examples concern the policies of social rights for immigrants in the Basque Country (Jeram, 2012) or the recognition of rights for homosexual couples in Andalusia (Parliamento de Andalucía, 2007). Government at the regional level can influence policy simply by refusing to partner with the central government, as it happened in the case of health care for undocumented immigrants in Andalusia and many other autonomous communities. By refusing to cooperate with the central government, regional institutions force issues onto the national agenda, foregrounding debates that the other political side would rather avoid.

Regional citizenship as an expression of public dissent can also be found in other countries, particularly those with national minorities. In Scotland, for instance, the process of devolution in the late 1990s and then the independence referendum of 2014 featured arguments about how political autonomy could enable Scots to make social policy better suited to their social democratic preferences, with a particular focus on the organisation of public health care (Béland and Lecours, 2016). This emphasis on social policy in nationalist mobilisation is not unique to Scotland: the case

of Quebec, for instance, or the Basque Country offer an instructive comparative perspective. Some of the parties of these polities have promoted progressive welfare measures as supported by the regional identity and have argued that independence would allow the region to improve social justice for all its residents (Barker, 2010; Jeram, 2016). Other cases of distinct social citizenship as a form of dissent can be found in polities that do not claim independence. In a backlash against the effects of Proposition 187 that was adopted by referendum in 1994 and aimed to exclude undocumented immigrants from health care and public education in California, pro-immigration advocates started to push for a series of measures for undocumented immigrants in 2001. These state policies were meant as an anticipation of an expected federal comprehensive immigration reform; but then, with recurring delays in federal legislation, Californian laws began to accumulate to the point that 'we now have a set of integration laws cumulated over time that provide a bundle of rights to unauthorized immigrants [going] well beyond any benefits envisioned in federal proposals on immigration reform and . . . push[ing] towards a new conception of de-facto state citizenship that operates in parallel with formal citizenship at the national level' (Ramakrishnan and Colbern, 2015: 1). Other examples in the US concern state legislation prior to the Civil Rights Act of 1964, which outlawed discrimination based on race, colour, religion, sex, or national origin. One of these examples concern the decision of states like Wisconsin, New York, Massachusetts, and California to prohibit discrimination on the basis of race in employment and housing (Johnson, 2016). In recent years, several of these states have approved new rules banning discrimination in housing based on an individual's income, regulating the consideration of conviction in the process of employment decisions, and prohibiting discrimination based on a job applicant's credit history (Markowitz 2015). These examples suggest that attempts to promote citizenship rights as a form of dissent against the state can sometimes shape national legislation.

The likelihood that regional legislation will be upgraded to the state level is higher for civil rights, whose project is typically national—the goal is to advance rights that belong to all citizens. These forms of regional citizenship offer a reconfiguration of state citizenship, which interacts with structures and practices embedded in the nation-state. For social rights, instead, the possibility exists that regional measures might not result inevitably in national legislation. Indeed, many of the examples of legislation and regulation to advance social rights that have been discussed in this thesis are likely to permanently stay at the subnational level.

Inclusionary or exclusionary regional citizenship?

It is not an aim of this dissertation to present conclusions as to whether regional forms of citizenship foster the inclusion of undocumented immigrants and other groups. Empirically, the findings do not provide a clear answer: in Italy, the region of Lombardy tends to restrict the inclusion of undocumented immigrants against a more inclusionary national framework, while in Spain the autonomous community of Andalusia tends to protect a more inclusionary approach against a national legislation. Theoretically, both the more inclusionary and more exclusionary nature of regional citizenship have strong defenders.

The first possibility would be to assume that regional citizenship generally provides additional rights. Regions, in fact, have a variety of ways in which they can positively affect the provision of rights. For instance, they can decide to apply human and civil rights standards in cases where these fall short of enforcement by the state; or they can facilitate access to rights that would otherwise be difficult to access, for instance by providing legal advice. Indeed, a large part of the recent literature has pointed to the more inclusionary nature of rights at the local (de Graauw and Vermeulen, 2016; Gebhardt, 2016) and regional level (Marx *et al.*, 2015; Bird, 2016; Rumelili and Keyman, 2016; Schwiertz, 2016), although attention has been paid mainly to civil society organisations and not as much to regional authorities. In the case of Andalusia, the measures taken by the regional government brought back into the public health care system a portion of the population that had been excluded by the national legislation. Outside Europe, in the US, the California Package stands out as particularly significant today, especially in light of the failure of comprehensive immigration reform, the blocking of President Obama's executive order on deportation relief and work authorisation for undocumented immigrant parents of children born as US citizens, and, more recently, the election to the White House of a candidate who pledged to deport all undocumented migrants. By taking a more pro-active role in monitoring human rights standards and building bridges to facilitate access to services, regional institutions make a significant difference in the construction of citizenship rights and membership. In this way, regional citizenship can have a direct impact on the life of its members.

On the other hand, the politics of regional citizenship can also be seen as an obstruction for those who want to realise and provide meaning to rights set by central governments. Scholars have argued that nativism and racism can more easily prevail at subnational than national levels, as happened in the southern states of the US in the 1950s and 1960s (Riker, 1975). In the case of Lombardy, the inaction of the regional governments and its lack of willingness to implement the inclusive national legislation considerably weaken the latter. In Germany, Baden-Württemberg became the first *Land* to move the implementation of deportations from the municipal to the regional level when in 1989 it attempted to increase deportation rates for rejected asylum seekers. And in the US, in 1995 the government of California approved a measure that excluded the children of undocumented immigrants from the right to education. Another example of how regional rights could curtail individual rights is Arizona's Support Our Law Enforcement and Safe Neighborhoods Act, which introduced new measures for the enforcement of existing procedures.

In conclusion, there is scarce empirical evidence to support the argument that regional governments are naturally more inclined to adopt an inclusive stance. So how does the politics of regional citizenship fit with contemporary debates on citizenship and rights?

Regional governments in a pluralistic theory of citizenship

The structure of multilevel states allows regions to be influential in the public discourse over a set of policies that are closely connected to citizenship. Hence, regional approaches to citizenship should be seen as participants in a national forum, where regions become part of the ongoing conversation. In the long run, regional interpretations of citizenship are one voice in a broader controversy on the meaning and interpretation of citizenship, what it entails and to whom it applies.

Social movements have long used subnational policy-making as an organising tool and a testing ground for their ideas. The most remarkable example in recent years has been the same-sex marriage movement in the US, which depended heavily on subnational institutions as staging grounds for building shared ideals. Recent feminist research examines whether multilevel citizenship provides new opportunities to women, while other research emphasises how women's

entitlement to national citizenship rights such as gender equality can compete with group rights at other levels of government (for a discussion see: Maas 2017: 662).

The empirical findings of this dissertation demonstrate that regions have turned into a secondary battleground over contentious citizenship issues. Even if one is not convinced of the benefits of regional involvement, it is no longer possible to ignore it. The preceding chapters have shown that regional citizenship is not a theoretical abstraction or an invention; rather, it is the result of historical developments and it is a fundamental aspect of many European and American multilevel states. In the past, exclusive state control over citizenship was considered necessary to ensure clarity and uniformity (Torpey and Turner, 2017); yet, with major shifts in central governments' policy priorities from one legislative term to another, issues related to the nature and the benefits of citizenship are inevitably contested.

The existence of regional citizenship entails a space for legitimate inequality of some citizenship rights. This is also related to the fact that the socio-demographic situations of regions differ considerably, both within and across countries. Regions, for instance, vary greatly in terms of immigration realities: while some regions such as Extremadura in Spain, Apulia in Italy, or Wales in the UK are hardly affected by immigration with less than 6% of foreign-born population in each of these territories, the non-citizen resident's population accounts for about 15% in regions like Catalonia and Lombardy and more than 30% in the Greater London Authority (Manatschal, Wisthaler and Zuber, 2018). In this context, regions provide alternative political forums for contentious issues such as health care for undocumented immigrants. In all the cases analysed, regional governments promote some response to reform at the national level or its absence. In this respect, citizenship arguments made by regional governments represent an attempt to shape, weaken or reinforce the parallel argument of the state and never in complete isolation from it.

This empirical pattern is compatible with a normative theory that acknowledges the multilevel structure of democratic polities exposed to migratory movements (Arrighi and Bauböck, 2017; Bauböck, 2018). This approach provides a pluralistic reading of citizenship in the contemporary world, recognising that supranational, national, and subnational polities have different characteristics.

The politics of regional citizenship allows governments to produce policy even in the absence of national consensus. The participation of regional governments builds multiplicity and a degree of contestation into multi-level politics. It also averts the spectre of unchecked authoritarianism that haunts exercises of executive power. Indeed, the iterative nature of the politics of regional citizenship makes it well suited to accommodate both populism and highly polarised politics that are, arguably, among the most pressing challenges to contemporary democracies. While these are manifestation of politics as a zero-sum battle between popular will and whoever opposes it, regional citizenship encourages dissent, negotiation and compromise.

Indeed, the politics of regional citizenship amplifies disagreement, but it also enables officials situated at different territorial levels of governance to present their views and, sometimes, compromise. Hence, the two main qualities of the regional politics of citizenship are that of spurring richer conversations and exploring ongoing disagreement rather than settling in once and for all. In practice, the politics of regional citizenship can be better enabled by putting greater focus on a polyarchic understandings of multi-level politics: instead of a principal-agent model of delegation, the relationship between state and regions should be understood as that of interconnected and mutually reliant actors.

Two models of the politics of regional citizenship, in particular, facilitate the creation of *a marketplace for competing political discourses on citizenship* that is both vibrant and robust. In polyphonic and homophonic architectures, in particular, regional governments can engage openly with the central government, rather than being ruled out *a priori* in the name of a dogmatic rejection of subnational involvement in matters of citizenship. The argument is that in multilevel states, rights are often best structured not through the confining of power in different territorial levels of government, but instead via the promotion of mechanisms that encourage interactions among different levels of government. Central institutions need to set up rules for a contest, to establish structures of communication and to define standards and procedures for comparative evaluation.

These procedures may go under what I would propose to call *the Corleone rule*. There is a famous sequence in the second Godfather movie, when Michael Corleone explains to one of his men that

the most precious advice from his father has been: 'Keep your friends close, but your enemies closers'.[69] The idea of strengthening the interaction with those who disagree about policy choices enables the politics of regional citizenship to promote constructive differentiation. The obvious problem with these politics is that they might collapse into unilateralism, inhibiting pluralism and deliberation. Allowing and even encouraging regions to opt out of national policy-making altogether, as in the case of the Spanish dissonant politics of regional citizenship, short-circuits such interaction and undermines the integrative possibilities of all forms of dissent. By contrast, the cases of polyphonic and homophonic politics of regional citizenship exhibit the virtues of the model. In Switzerland and Italy, regional officials who want to effectively shape state law speak as both insiders and outsiders. In doing so, they act as rough equivalents of Michael Walzer's 'connected critics' (1993) who place themselves '[a] little to the side, but not outside' of the political process.[70] Different decision-making systems create greater and smaller incentives for parties to engage in a debate with the central government: as a general normative principle I suggest that the Corleone rule, which is followed more closely by polyphonic and homophonic systems, allows governments to use the politics of regional citizenship for maintaining deeply diverse, yet robustly integrated multilevel polities.

Summary

Rather than substituting modern state citizenship, the activity of regional governments may bring benign consequences to the democratic processes of states. This can be done in two ways: first, by enhancing multilevel complexity and therefore enabling freedom of movement to acquire additional value within a state; second, by enhancing public dissent and therefore invigorating disagreements that might not otherwise become evident. This empirical pattern is compatible with a normative theory that acknowledges the multilevel structure of democratic polities. I suggest that

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[69] The original quote has often been attributed to Sun Tzu and sometimes to Niccolò Machiavelli. There is also an Italian proverb that says: '*Dagli amici mi guardi Iddio, che dai nemici mi guardo io*', which I translate as: 'May God protect me from my friends, I will take care of my enemies'.

[70] This idea was brought to my attention by Jessica Bulman-Pozen and Heather K. Gerken (2009) in their description of the virtues of uncooperative federalism in the US.

the iterative nature of politics of regional citizenship makes it well suited to accommodate both populism and highly polarised politics that are, arguably, among the most pressing challenges to contemporary democracies. The two main qualities of the politics of regional citizenship are that of spurring richer conversations and exploring ongoing disagreement rather than settling in once and for all. These qualities are more likely to emerge when governments engage the concerns of regional governments openly and utilise them as part of a broader forum over the meaning and the boundaries of citizenship in contemporary states.

Conclusion

On 16 June 2014, the 'New York is Home Act' was introduced in the New York State Senate (Senate Bill S7879, The New York State Senate 2014). The bill proposes to decouple state and national citizenship, creating a status of citizenship linked to the state of New York for all those individuals who have resided there for at least three years, paid state taxes and are willing to abide by state laws and uphold the state constitution. Those with New York citizenship would enjoy legal equality under state law for purposes of social welfare, professional licenses, jury service, voting and even holding public office. Even though the bill lies dormant in the committees of the New York Senate and might never be approved, it stands as an example of how a status of citizenship may be institutionalised at a subnational level, including not only social but also civil and political rights for all the persons who have been present on the territory for a given period of time.

Meanwhile in Europe, regional institutions have increasingly acquired greater competencies to regulate the rights that were traditionally connected to citizenship in the Marshallian sense—that is, a status of membership linked to a bundle of rights in a self-governing political community. While the determination of the status of citizenship that is 'not just rhetorical and metaphorical' remains an exclusive prerogative of central governments in almost all European states (Joppke, 2010b: 3), nowadays several rights that were traditionally used to define the boundaries of national citizenship are affected by a variety of political institutions above or below it. In his edited volume *Multilevel citizenship* (2013b), Willem Maas argues that a large number of citizenship statuses and rights in the twenty-first century are the product of ongoing interactions between states and other political institutions. The idea is that the membership of individuals who are subject to multiple levels of government can be studied in terms of multiple levels of citizenship.

The relationship between states and their regional governments, in particular, produces an uneven terrain of rights: sometimes, persons who are not recognised as citizens of the state might be treated like *de facto* citizens of the region; or, the other way around, subnational institutions might decide to put in place exclusionary measures to restrict the provision of rights to citizens only. These are important questions at a time when ideas about membership and rights within multilevel polities are vigorously contested in courts, legislative chambers, and election booth. Instances of these

contestations are the Spanish Constitutional Court's decision on the legality of subsequent referendums on Catalan secession in 2014 and 2017; the ongoing standoff between the State of California and the American federal government on who ought to regulate the rights of undocumented immigrants; and the Scottish and UK referendums on independence and exit from the European Union, respectively. This dissertation has set out to explain under what conditions, how, and with what kind of consequences some regions are more inclusionary than others in their approach to what citizenship entails and to whom it applies. This is what I refer to as *the politics of regional citizenship*.

The first conclusion of this inquiry is that the politics of regional citizenship can be observed even in contexts where there is no regionalist party and no federal organisation of the state in the traditional sense of the word. Territorial contestation of citizenship is possible wherever there are regions whose authorities is constitutionally recognised, politically represented, and who have the powers to legislate in civil, political, and social matters. Regional polities of this kind combine stable boundaries, democratic input, and democratic output: these are the essential conditions for a territory to be understood as a polity and not merely as an administrative unit of government. Only a few cases in Europe clearly fit these criteria: the *Bundesländer* in Austria, the *régions/gewests* and Communities in Belgium, Åland Islands in Finland, Corsica in France, the *Länder* in Germany, the *regioni ordinarie, regioni autonome,* and *province autonome* in Italy, the *autonomne pokrajine* in Serbia, the *comunidades autónomas* in Spain, the cantons in Switzerland, the devolved assemblies in the UK. In these cases, the interaction of different territorial levels can lead to the emergence of contested ideas about citizenship, what it entails and to whom it applies.

The second conclusion is that the politics of regional citizenship is conditioned by the nature and the direction of the process of state-building. The structure of the territorial system of a state plays a role in forming the reasons why regional governments may want to develop different approaches to what citizenship entails and to whom it applies. The value assigned to territorial pluralism, in particular, determines whether regional citizenship rights are created *against* the state, as a strategy to manifest dissent and mark the difference or, instead, *together with* the state, as a way of encroaching multilevel complexity. In Spain, for instance, regional citizenship has been built *against* the state, in an attempt to recover historical forms of autonomy. Today, the autonomous communities compete over legislative powers in fields that directly affect citizenship: the possibility

that regional competences can be taken away from the government at any time creates powerful incentives for the subnational governments to promote policies that are meant to mark the difference from the rest of the state. In this sense, the regulation of citizenship rights at the regional level can be understood as a manifestation of dissent against the state. In Italy, regional citizenship has been built in a neutral relationship with the state, sometimes recovering historical forms of autonomy, sometimes inventing new rights as a corollary of the state-building process; this historical pattern has determined an ongoing dialogue between the regional and the state institutions. Finally, in Switzerland, regional forms of citizenship that existed before the establishment of the federation have been incorporated within the state, protecting the original character of cantonal constitutions and their right to legislate autonomously in most citizenship matters. Cantonal citizenship rights in this country do not represent a form of dissent against the state; instead, they are an expression of multilevel differentiation. This leads to the observation that the politics of regional citizenship cannot be understood without attention to the national context in which they unfold. How the state has been historically organised is critical to the process of formation of the politics of regional citizenship.

The third conclusion is that regional governments develop different politics concerning what citizenship entails and to whom it applies depending on party politics and historical path dependency. More precisely, the politics of regional citizenship can be understood by observing the ideological orientation of the elected government in power and on the use that it makes of pre-existing regional traditions. The comparison, which has focused on health care rights for undocumented immigrants, has confirmed that the political ideology of parties in government matter. Progressive parties at the regional level are more likely to develop inclusive norms of citizenship, while conservative parties are more likely to develop more restrictive rules. However, while regional governments are the *gatekeepers* of the politics of regional citizenship, the way in which they do or do not realise the right to health care is explained by the use that they make of *regional traditions of citizenship*, which have been defined as shared historical narratives with respect to care and assistance for different categories of subjects considered vulnerable: women, children, refugees, disabled, homeless and elderly individuals, among others. For example, the regional statute of Andalusia adopted in the year 2007 contains several references to the welcoming attitude of the region, a result of history and geography. And in Tuscany, the regional representatives often refer to the long tradition of assistance towards abandoned children and indigents, which started

from private charitable organisations and was subsequently taken up by the public institutions. Using these traditions, regional governments led by left wing parties are able to provide rights also to new groups of vulnerable individuals, including undocumented immigrants. This is what I call *fitting new groups into old frames*.

Regional traditions of citizenship are important not only because they are invoked to *justify* action, but also because they can *provoke* it. When discursive frameworks are incorporated into a specific legislation or a new institution, for example, regional traditions of citizenship structure future courses of action by creating precedents. The crystallisation of these traditions into linkages, actors, and institutions puts political pressure on future government, therefore establishing a necessary condition—though not a sufficient one—for establishing inclusionary norms.

In the complex structure of multilevel citizenship, regional governments that develop more inclusive politics of regional citizenship tend to do so following their political ideology. There are, however, important variations across the cases, as the way in which regional governments do or do not realise the right to health care for undocumented immigrants changes depending on the nature and the direction of the process of state-building. Andalusia loudly provides formal inclusion, explicitly targeting undocumented immigrants and claiming control over this right. This is what I call *dissonant politics of regional citizenship*. This kind of politics lacks harmony, since the actions of the central government and those of the regional governments often clash and do not have an institutionalised system of coordination. Italy, by contrast, could be described as the *homophonic politics of regional citizenship,* in the sense of a dominant state melody that is accompanied by different regional voices that are harmonically interdependent, yet independent in rhythm and contour. Finally, Switzerland provides for quieter forms of inclusion and exclusion, never explicitly referring to undocumented immigrants in the relevant texts. I call this the *polyphonic politics of regional citizenship* as they allow to produce more than one melody line at a time with each new voice still fitting into the whole so far constructed. In these different attitudes we can see how national processes shape the way in which regional governments provide meaning to citizenship.

In the course of these processes, regions have turned into a secondary battleground over contentious citizenship issues. Regional governments, in particular, can shape—either weakening or reinforcing—the rights of citizenship that are set by state governments. These activities reflect

either social complexity, as in the case of Switzerland, or public dissent against the state, as in the case of Spain, or both, as in the case of Italy. Importantly, however, these activities do not happen in complete isolation from the state, as regional politicians do not see their territory as an enclave sheltered from national decisions. When regional governments expand or restrict the bundle of rights available to resident individuals, therefore increasing or decreasing their life chances through health care, education, voting, or employment opportunities, they shape diverging visions of membership at the subnational level.

This approach challenges the assumption that a homogeneous national citizenship is necessarily the best way of organising political life. One illustrative example that can be found outside Europe is the unfolding of the debate over same-sex marriage in the US. The decision of the states of California and Massachusetts to issue same-sex marriage licenses to gay couples in 2003 and 2004, respectively, fuelled the debate on the issue. By taking advantage of the opportunities opened by the institutional setting of the system where they operated, subnational politicians made a clear case for same-sex marriage and remapped the politics of the possible.

This example should not lead us to the conclusion that the politics of regional citizenship is necessarily progressive. Often it is not. Ultimately, the politics of regional citizenship do not follow a political ideology. Instead, they are a source for all parties to influence the national agenda, shape policy results, and encourage political compromise. Political battles in the contemporary world are increasingly fought out in subnational elections and referendums. The mobilisation of regional communities often reverberates beyond subnational territories and shape how central governments pursue their choices. In this sense, regional governments can work as catalyst for national debates. The politics of regional citizenship do not undermine national programs; they fuel them.

The debate on citizenship can benefit from the multiplicity of institutional voices expressed at state and regional levels. My conclusion is that citizenship needs to be sensitive to the plurality of self-governing polities within a state. The main element of a successful model is the provision of clear rules that facilitate coordination and dispute resolution between levels of government. This would provide greater guarantees of stability over time. While institutions tend to be sticky, partisan bargaining circumstances change more easily depending upon contingent interests. Hence, in multilevel states, rights are often best structured not through the confining of power in different

territorial levels of government, but instead via the promotion of mechanisms that encourage interactions among different levels of government. Central institutions need to set up rules for a contest, to establish structures of communication and to define standards and procedures for comparative evaluation. The realisation of different regional rights requires some level of willingness on the part of the central state to allow for, or at least not actively prevent, such developments. This is the reason the structure of veto points in multilevel states is of crucial importance for the politics of regional citizenship. In Spain, regional rights have to be approved by the Constitutional Court, which is perceived as the protector of the unity of the state. Although attempts were made to institutionalise an alternative arena where conflicts would be solved by multilateral negotiations with all the presidents of the autonomous communities rather than judicial adjudication, the *Conferencia de Presidentes* (Conference of the Presidents), first summoned in 2004, progressively fell out of fashion, so that either bilateral meetings between individual regions and the state government or decisions of the Constitutional Court continue to shape an asymmetric and highly competitive system. Similar procedures exist in Italy, where new legislation creating regional citizenship passes through the control of the Constitutional Court. However, in contrast with the Spanish court, the latter has interpreted its role as that of an institutional mediator between the regional and the state governments. In the Italian political system greater importance is given to coordination between the state and the regions in the form of the State–Regions Conference. This creates a hybrid system, where competition across the regions is accompanied by a form of coordination with the state. In Switzerland, the Federal Supreme Court does not review cantonal laws. Instead, changes have to be approved in a referendum. Hence, in this country it is the political rather than the judicial branch that determines the admissibility of new regional rights or the centralisation of competences that previously belonged to the cantons. In all multilevel countries, the judiciary is being asked to invalidate certain key policies. The thesis suggests that courts can work out the inevitable tensions by permitting those practices insofar as they entail a degree of coordination, or co-governance, between the regional and the central governments. However, this remains a sketch and more research on this should be carried out by legal and political scholars together.

The thesis has already made the point that even if one is not convinced of the benefits of regional citizenship, it is no longer possible to ignore it. Yet, in the concluding chapter of the thesis I have argued that the recognition of the politics of regional citizenship is compatible with a normative

theory that acknowledges the multilevel structure of democratic polities. In Marshall's theory of the evolution of citizenship, the presupposition was that states had both stable borders and a territorially undifferentiated and stable provisions of rights to members. Both these presuppositions have come under strains over the last few decades. Regions, in this new context, might have specific interests at stake in affecting the mobility of individuals and the content of the rights that are provided to members. Unlike sovereign states, regional governments do not have powers of immigration control; but they do have the responsibility of providing public services to all who take up residence. In this sense, regional citizenship is structurally different from state citizenship: regions cannot control and select newcomers. If a region were to become independent at some point in the future, then it would have different incentives to pursue the kind of approach to citizenship than it does as a regional polity.

What this thesis suggests is that democratic processes within states benefit from a direct and open engagement of the concerns of regional governments as diverse forms of citizenship that are possible within a state. The rationale for multilevel governance is to strike an appropriate balance between the need for shared standards of citizenship throughout the territory of a democratic state and claims of self-government at the regional level. There are many empirical examples of how it is possible to leave open the question of which particular constellation of institutions are best suited to shape the rights that were traditionally linked to state citizenship, treating appropriateness to the particular circumstances of each community as a value rather than confining power at different territorial levels of government separately from each other. Regional and state governments may act virtuously in their relationship, serving as mutual checks and balances to the rights of citizenship that can be constitutionally provided in the respective country. This is part of a never-ending path that reflects the complexity and the disagreements that are inherent features of multilevel states.

Appendices

Appendix 1. Relevant legislation surveyed

ITALY			
Constitution	Costituzione della Repubblica Italiana	December 22	1947
Legislative Decree no. 286/1998	Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero	July 25	1998
Presidential Decree no. 394/1999	Decreto del Presidente della Repubblica in materia di immigrazione	August 31	1999
Circular no. 5/2000 of the Health Department	Indicazioni applicative del decreto legislativo 25 luglio 1998, n. 286 'Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero' - Disposizioni in materia di assistenza sanitaria.	March 24	2000
Decree no. 33 of the Presidency of the Council of Ministers	Definizione dei livelli essenziali di assistenza	November 29	2001
Agreement no. 255/2012 between the State and the Regions and the Autonomous Provinces of Trento and Bolzano	Accordo sul documento recante: 'Indicazioni per la corretta applicazione della normativa per l'assistenza sanitaria alla popolazione straniera da parte delle Regioni e Province autonome'	December 20	2012
TUSCANY			
Law no. 343	Statuto della Regione Toscana	May 22	1971
Statutory regional law no. 1/2004	Statuto della Regione Toscana	July 19	2004
Regional law no. 29/2009	Norme per l'accoglienza, l'integrazione partecipe e la tutela dei cittadini stranieri nella Regione Toscana	June 9	2009

Regional decree no. 1139/2014	Approvazione nuove Linee guida regionali per l'applicazione della normativa sull'assistenza sanitaria dei cittadini non italiani presenti in Toscana	December 9	2014
Circular no. 1/2015 of the Department on Citizenship Rights and Social Cohesion	Assistenza Sanitaria cittadini non italiani presenti sul territorio toscano di cui alla DGRT n. 1139/2014	April 22	2015
LOMBARDY			
Law no. 339/1971	Statuto della Regione Lombardia	May 22	1971
Law no. 38/1988	Interventi a tutela degli immigrati extracomunitari in Lombardia e delle loro famiglie	July 4	1988
Statutory regional statutory law no. 1/2008	Statuto d'autonomia della Lombardia	August 30	2008
Regional instructions of the Direzione Generale Salute	Iscrizione dei minori stranieri "irregolari" al Servizio Sanitario Regionale e loro accesso alle prestazioni sanitarie. Prime indicazioni.	January 21	2014
SPAIN			
Constitution	Constitución española	31 October	1978
Law no. 14/1986	Ley General de Sanidad	29 April	1986
Law no. 4/2000	Ley Orgánica sobre derechos y libertades de los extranjeros en España	11 January	2000
Ley no. 16/2003	Ley de cohesión y calidad del Sistema Nacional de Salud.	28 May	2003
Law no. 33/2011	Ley General de Salud Pública	5 October	2011
Royal Decree no. 16/2012	Medidas urgentes para garantizar la sostenibilidad del Sistema Nacional de Salud y mejorar la calidad y seguridad de sus prestaciones	24 April	2012

Royal Decree no. 1192/2012	La condición de asegurado y de beneficiario a efectos de la asistencia sanitaria en España, con cargo a fondos públicos, a través del Sistema Nacional de Salud.	3 August	2012
ANDALUSIA			
Regional Law no. 2/1998	Ley de Salud de Andalucía.	15 June	1998
Organic Law no. 2/2007	Estatuto de Autonomía para Andalucía	2 November	2007
Regional Law no. 16/2011	Ley de Salud Pública de Andalucía	23 December	2011
Regional instructions of the Dirección General de Asistencia Sanitaria y Resultados en Salud del Servicio Andaluz de Salud	Instrucciones sobre el reconocimiento del derecho a la asistencia sanitaria en centros del Sistema Sanitario Público de Andalucía a personas extranjeras en situación administrativa irregular y sin recursos	6 June	2013
MADRID			
Organic Law no. 3/1983	Estatuto de Autonomía de la Comunidad de Madrid	2 February	1983
Regional instructions of the Consejeria de Sandidad de Asistencia Sanitaria del Servizio Salud de Madrid	Instrucciones sobre la asistencia sanitaria a prestar por el servicio madrileño de salud a todas aquellas personas que no tengan la condición de asegurado o beneficiario	27 August	2012
SWITZERLAND			
Constitution	Constitution fédérale de la Confédération suisse	April 18	1999
Loi federal no. 283/1994	Loi fédérale sur l'assurance-maladie	March 18	1994
VAUD			
Decree no. 810.211	Décret 810.211 sur la Policlinique médicale universitaire et dispensaire central de Lausanne	May 13	1957
Regulation 810.211.1	Règlement sur la Policlinique médicale universitaire de Lausanne	October 2	1996

Appendix 2. List of interviews: category, interviewee, date, place

Country	Date	Role	Place	Label
Italy	2/2/2016	Professor at the Department of Political and Social Sciences of the University of Bologna	Forlì	it_expert_1
Italy	23/2/2016	Professor at the Department of Law of the University of Trento	Trento	it_expert_2
Italy	25/2/2016	Member of the Committee of Legal Advice for the regions of Trentino South Tyrol and Emilia Romagna	Trento	it_expert_3
Italy	12/6/2016	National coordinator, Area Salute Caritas Diocesana Rome	Rome	it_professional_1
Italy	25/10/2010	Senator of the Gruppo per le autonomie at the Permanent Commission of Constitutional Affairs of the Italian Senate	Rome	it_politician_1
Italy	26/10/2016	General doctor at the Hospital of Coverciano	Florence	it_professional_2
Italy	18/11/2016	Regional coordinator for the Area Salute of the Caritas Diocesana of Florence	Florence	it_professional_3
Italy	18/11/2016	Psychiatrist consulting for NGOs that work with undocumented immigrants in the region of Tuscany	Florence	it_professional_4
Italy	11/10/2016	Researcher at the Agency of Health of the region of Tuscany	Florence	it_policymaker_1
Italy	22/11/2016	Doctor at NAGA (Associazione Volontaria di Assistenza Socio-Sanitaria	Milan	it_professional_5

		e per i Diritti di Cittadini Stranieri, Rom e Sinti)		
Italy	22/11/2016	Doctor, NAGA (Associazione Volontaria di Assistenza Socio-Sanitaria e per i Diritti di Cittadini Stranieri, Rom e Sinti)	Milan	it_professional_6
Italy	23/11/2016	Doctor at the Caritas ambulatory of Lodi	Milan	it_professional_7
Italy	23/11/2016	Professor at the Department of Political and Social Sciences of the University of Milan	Milan	it_expert_4
Italy	2/3/2017	Professor at the Laboratory of Fundamental Rights of the University of Turin	Turin	it_expert_5
Italy	4/3/2017	Doctor at the Regional Service of Epidemiology of the region of Piedmont	Turin	it_professional_8
Italy	19/4/2017	Regional councillor of the Partito Democratico at the Permanent Commission on Health and Social Policies in the regional assembly of Lombardy	Milan	it_politician_2
Italy	20/4/2017	Doctor at the Opera San Francesco per i Poveri	Milan	it_professional_8
Italy	20/4/2017	Doctor at the Opera San Francesco per i Poveri	Milan	it_professional_9
Italy	20/4/2017	Coordinator of the Area Stranieri at the Caritas Ambrosiana of Milan	Milan	it_professional_10
Italy	22/4/2017	Regional councillor of the Lista Civica per Maroni at the Permanent Commission on Health and Social Policies in the regional assembly of Lombardy	Milan	it_politician_3

Italy	22/4/2017	Coordinator of the Associazione Gruppo Articolo 32 of Cremona	Cremona	it_professional_11
Italy	13/6/2017	Coordinator of the unit on Hospital Centres for the regional government of Lombardy	Milan	it_policymaker_2
Italy	24/4/2017	Director of the ambulatory for migrants and of the association OIKOS of Bergamo	Bergamo	it_professional_12
Italy	29/5/2017	Director of the Department of Public Health of the University of Florence and consultant for the regional government	Florence	it_expert_6
Spain	22/3/2016	Professor, Universidad Complutense de Madrid	Madrid	es_expert_1
Spain	22/3/2016	Professor, Centre for Political and Constitutional Studies	Madrid	es_expert_2
Spain	22/3/2016	Professor, Universidad Nacional de Educacion a Distancia	Madrid	es_expert_3
Spain	28/3/2016	Coordinator, Departamento de Migraciones de Unión General de Trabajadores	Madrid	es_expert_4
Spain	30/3/2016	Professor, Universidad Pablo de Olavide de Sevilla, Departamento de Sciencias Politicas	Seville	es_expert_5
Spain	30/3/2016	Researcher, Observatorio Permanente Andaluz de las Migraciones and researcher at the Institute for Advanced Social Studies (IESA), Spanish Council for Scientific Research	Seville	es_expert_6
Spain	16/6/2016	Doctor, Medicina Preventiva y Salud Pública, Escuela Nacional de Sanidad	Seville	es_professional_1

Spain	9/3/2017	Doctor, CIBER de Epidemiología y Salud Pública, Madrid	Seville	es_professional_2
Spain	17/3/ 2017	Coordinator, Asociacion Pro Derechos Humanos Andalucia	Seville	es_expert_7
Spain	17/3/2017	Coordinator, Delegación Territorial de la Consejería de Salud Andaluza en Cádiz	Cadiz	es_policymaker_1
Spain	21/3/2017	Coordinator, Médicos del Mundo de Andalucia	Seville	es_expert_8
Spain	21/3/2017	Doctor, Cruz Roja de Andalucia	Cordoba	es_professional_3
Spain	22/3/2017	Professor, Universidad de Sevilla, Facultad de Derecho	Seville	es_expert_9
Spain	22/3/2017	Coordinator, Andalucia ACOGE	Seville	es_expert_10
Spain	22/3/2017	Coordinator, Salud Pública, Junta Autonomica de Andalucia	Seville	es_policymaker_2
Spain	23/3/2017	Doctor, Medicina Preventiva y Salud Pública, Escuela Nacional de Sanidad	Madrid	es_professional_4
Spain	24/3/2017	Councillor, Miembro del Consejo Ciudadano de Córdoba	Cordoba	es_policymaker_3
Spain	24/3/ 2017	Professor, Centre for Political and Constitutional Studies	Madrid	es_expert_10
Spain	27/3/ 2017	Deputy director, Prevención y Promoción de la Salud en Madrid Salud	Madrid	es_policymaker_4
Spain	27/3/2017	Coordinator, Area inmigracion Asociacion Pro Derechos Humanos Andalucia	Seville	es_expert_11
Spain	27/3/2017	Professor, Instituto de Salud Carlos III, Escuela Nacional de Sanidad	Madrid	es_expert_12
Spain	27/3/ 2017	Coordinator, Médicos del Mundo	Madrid	es_expert_13

Spain	28/3/2017	Doctor, Hospital Ramón y Cajal, Servicio de Enfermedades Infecciosas	Madrid	es_professional_5
Spain	28/3/2017	Local coordinator, Médicos del Mundo Madrid	Madrid	es_expert_14
Spain	6/4/2017	Founder, Yo si sanidad universal	Madrid	es_expert_15
Switzerland	20/4/2016	Professor of the Swiss Forum for Migration and Population Studies	Neuchâtel	ch_expert_1
Switzerland	5/5/2016	Professor of the Swiss Forum for Migration and Population Studies	Neuchâtel	ch_expert_2
Switzerland	12/5/2016	Professor of the Swiss Forum for Migration and Population Studies	Neuchâtel	ch_expert_3
Switzerland	15/6/2016	Professor of the Swiss Forum for Migration and Population Studies	Neuchâtel	ch_expert_4
Switzerland	16/6/2016	Nurse at the Réseau Santé Migrations of La Chaux-de-Fonds	La-Chaux-du-Fonds	ch_professional_1
Switzerland	16/6/2016	Doctor at the Centre of Vulnerable Populations of the University Hospital of Vaud	Lausanne	ch_professional_2
Switzerland	17/6/2016	Private doctor	Zürich	ch_professional_3
Switzerland	20/6/2016	Doctor at the Centre for First Aid of the University Hospital of Geneva	Geneva	ch_professional_4
Switzerland	20/6/2016	Nurse at the University Hospital of Geneva	Geneva	ch_professional_5
Switzerland	22/6/2016	Activist at the Croix-Rouge and Plateforme des sans papiers en Suisse	Bern	ch_professional_6
Switzerland	22/6/2016	Professor at the Faculty of Law of the University of Bern	Bern	ch_expert_5

Switzerland	22/6/2016	Public officer at the Federal Office of Public Health within the Federal Department of the Interior	Bern	ch_policymaker_1
Switzerland	12/7/2016	Researcher at the World Health Organisation	Geneva	ch_expert_6

Appendix 3. Guideline for the interviews

First part: general questions

1. Who is the interviewee?
    - Name and surname
    - Organisation
    - Role and position in the organisation
    - Time of service in the organisation

2. What does the organisation do?
    - General field of work
    - Date of establishment of the organisation
    - Reasons for the establishment of the organisation

Second part: health care for undocumented immigrants in the region

3. What are the most important events concerning the provision of health care rights to undocumented immigrants?
    - The most important events that have happened over the last fifteen years
    - The most important actors
    - The motivations behind the choices of the actors

4. How is health care for undocumented immigrants organised in the region today?
    - National and regional context
    - The most important legislation
    - Existing barriers to access

5. What is the actor's understanding of health care for undocumented immigrants?
    - Who should be included in health care and under what conditions?
    - The activities of the organisation that relate to the topic of health care for vulnerable groups
    - Date of establishment of these activities
    - Reasons for the establishment of these activities
    - Collaborations and other actors with whom the organisation has worked
    - Disagreements with other actors with whom the organisation has worked

5b. If a health care service: How is the day-to-day job?

What are the main sources of funding for this structure?

Who are the users (age, gender, legal status)?

What are the requirements for access?

How many persons are affected by the activities of the organisation?

Third part: additional data and information

6. Are there additional sources of information concerning health care for undocumented immigrants that should be consulted?

Publicly available data that can be accessed

Important stakeholders to be interviewed

Appendix 4. Composition of the regional councils

Regional Council of Andalusia, 1982 – 2015

Legislature	**I**	**II**	**III**	**IV**	**V**	**VI**	**VII**	**VIII**	**IX**	**X**
Start	**1982**	**1986**	**1990**	**1994**	**1996**	**2000**	**2004**	**2008**	**2012**	**2015**
End	**1986**	**1990**	**1994**	**1996**	**2000**	**2004**	**2008**	**2012**	**2012**	**-**
Grupo Andalucista	3	-	6	3	4	3	5	-	-	-
Grupo Centrista Andaluz	11	-	-	-	-	-	-	-	-	-
Grupo Ciudadanos	-	-	-	-	-	-	-	-	-	8
Grupo Izquierda Unida	6	17	11	20	13	6	6	6	12	5
Grupo Mixto	10	13	4	-	-	2	-	-	-	1
Grupo Podemos	-	-	-	-	-	-	-	-	-	15
Grupo Popular	17	19	26	41	40	46	37	46	50	33
Grupo Socialista	62	60	62	45	52	52	61	56	47	47
Total	**109**	**109**	**109**	**109**	**109**	**109**	**109**	**108**	**109**	**109**

Regional Council of Madrid, 1983 – 2015

Legislature	**I**	**II**	**III**	**IV**	**V**	**VI**	**VII**	**VIII**	**IX**	**X**
Start	**1983**	**1987**	**1991**	**1995**	**1999**	**2003**	**2003**	**2007**	**2011**	**2015**
End	**1987**	**1991**	**1995**	**1999**	**2003**	**2003**	**2007**	**2011**	**2015**	**-**
Grupo Ciudadanos	-	-	-	-	-	-	-	-	-	17
Grupo Centro Democrático y Social	-	17	-	-	-	-	-	-	-	-
Grupo Izquierda Unida	9	7	13	17	8	9	9	11	13	-
Grupo Podemos	-	-	-	-	-	-	-	-	-	27
Grupo Popular	34	32	47	54	55	55	57	67	72	48
Grupo Socialista	51	40	41	32	39	47	45	42	36	37
Unión Progreso y Democracia	-	-	-	-	-	-	-	-	8	-
Total	**94**	**96**	**101**	**103**	**102**	**111**	**111**	**120**	**129**	**129**

Regional Council of Tuscany, 1970 – 2015

Legislature	**I**	**II**	**III**	**IV**	**V**	**VI**	**VII**	**VIII**	**IX**	**X**
Start	**1970**	**1975**	**1980**	**1985**	**1990**	**1995**	**2000**	**2005**	**2010**	**2015**
End	**1975**	**1980**	**1985**	**1990**	**1995**	**2000**	**2005**	**2010**	**2015**	**-**
Gruppo Alleanza Nazionale	-	-	-	-	-	-	-	6	-	-
Gruppo Democrazia Cristiana	16	15	14	14	14	-	-	-	-	-
Gruppo Forza Italia / P.D.L.	-	-	-	-	-	7	9	10	16	2
Gruppo Misto / Altri	4	4	5	5	8	3	12	11	10	-
Gruppo Lega Nord	-	-	-	-	-	-	-	-	3	6
Gruppo Movimento 5 Stelle	-	-	-	-	-	-	-	-	9	5
Gruppo P.C.I / P.D.S.	23	25	25	25	21	20	18	-	-	-
Gruppo Sinistra Europea / Sinistra Ecologia Libertà	-	-	-	-	-	-	-	5	3	2
Gruppo Socialista	7	6	6	6	7	8	-	-	-	-
Gruppo Toscana Democratica / Ulivo / P.D.	-	-	-	-	-	12	11	33	24	25
Total	**50**	**50**	**50**	**50**	**50**	**50**	**50**	**65**	**65**	**40**

Regional Council of Lombardy, 1970 – 2015

Legislature	**I**	**II**	**III**	**IV**	**V**	**VI**	**VII**	**VIII**	**IX**	**X**
Start	**1970**	**1975**	**1980**	**1985**	**1990**	**1995**	**2000**	**2005**	**2010**	**2013**
End	**1975**	**1980**	**1985**	**1990**	**1995**	**2000**	**2005**	**2010**	**2013**	**2015**
Gruppo Alleanza Nazionale	-	-	-	-	-	8	6	5	-	-
Gruppo Democrazia Cristiana	36	32	34	31	25	-	-	-	-	-
Gruppo Forza Italia / P.D.L.	-	-	-	-	-	28	27	25	28	19
Gruppo Lega Nord	-	-	-	-	15	12	13	16	18	26
Gruppo Misto / Altri	11	12	12	15	13	12	8	10	12	4
Gruppo Movimento 5 Stelle	-	-	-	-	-	-	-	-	-	9
Gruppo Partito Popolare Italiani / P.D.	-	-	-	-	-	4	21	21	22	21
Gruppo P.C.I / P.D.S.	19	25	23	22	15	11	-	-	-	-
Gruppo di Rifondazione Comunista	-	-	-	-	-	5	5	3	-	-
Gruppo Socialista	9	11	11	12	12	-	-	-	-	-
Total	**75**	**80**	**80**	**80**	**80**	**90**	**80**	**80**	**80**	**80**

Cantonal Council of Vaud, 1998 – 2015

Start	**1998**	**2002**	**2007**	**2012**
End	**2002**	**2007**	**2012**	**2017**
Autre / Mixte	-	2	-	-
Parti démocrate-chrétien	3	2	9	6
Parti libéral	36	31	19	-
Parti libéral-radical	-	-	-	47
Parti ouvrier et populaire / La gauche	12	12	5	4
Parti radical	53	44	29	-
Parti socialiste	46	46	38	41
Les verts	16	21	24	19
Les Vert'libéraux	-	-	-	7
Union démocratique du centre	14	22	26	26
Total	**180**	**180**	**150**	**150**

Cantonal Council of Zürich, 1995 – 2015

Start date	**1995**	**1999**	**2003**	**2007**	**2011**	**2015**
End date	**1999**	**2003**	**2007**	**2011**	**2015**	**-**
Autre / Mixte	7	6	1	2	9	10
Alliance des Indépendants	6	2	-	-	-	-
Christlichdemokratische Volkspartei der Schweiz	11	13	12	13	9	9
Eidgenössisch-Demokratische Union	-	1	1	5	5	5
Evangelische Volkspartei der Schweiz	9	9	9	10	7	8
Grünliberale Partei der Schweiz	-	-	-	10	19	14
Parti libéral-radical	46	35	29	29	23	31
Parti socialiste	45	43	53	36	35	36
Les verts	16	11	14	19	19	13
Schweizerische Volkspartei	40	60	61	56	54	54
Total	**180**	**180**	**180**	**180**	**180**	**180**

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