Local governance, horizontal coordination and unauthorized immigrants’ status in France and Spain

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Abstract

The local governance of unauthorized immigration casts light on the fragmentation of policy outcomes in multi-level governance systems. The article focuses on the horizontal dimension of governance in local contexts in France and Spain. I argue that the devolution of competences in the policy-making and implementation of migration management and welfare, has empowered local and regional authorities in the governance of unauthorized immigration. In particular, I examine how the devolution of several policy domains has opened opportunities of collaboration between public and non-profit organisations. With the low devolution of migration control, public-non-profit relations are dominated by advocacy and bargaining. However, with the devolution of welfare and social exclusion policies, non-profit become partners in the policy-making and implementation of policies. I also show that these relations are different depending on the local settings and institutional cultures in France and Spain.

Keywords
Migrant policies; Multilevel governance; Non-profit organisations; Undocumented migrants

Author’s biographical note

Flora Burchianti is associate researcher at GRITIM-UPF and teacher in economy and social sciences at the Lycée Paul Valéry, Sète, France. She was a post-doctoral research fellow at GRITIM-UPF from January 2011 to September, 2014 where she carried out to the research project ACCEPT PLURALISM (European Commission's 7th Framework Programme 2011-2013), the Diversity in political parties (DIVPOL) project (DG Home European Integration Fund, 2012-2014), as well as the DIVERSIDAD project, funded under the Spanish Government plan for R&D (2011-2014). Her dissertation examined local policies, contentions and social movements about undocumented immigrants settling in France and Spain. Her main research interests include the political participation of immigrants, social movements of and in support of immigrants, territoriality and the transformations of citizenship.
Introduction

How do local authorities take into account unauthorized resident immigrants in their programmes and policies? Despite the fact that these ones have been mainly studied as people “living in hiding” and obvious non-citizens, a number of scholars have shown over the last years that unauthorized migrants’ relationship to the public space and citizenship was much more ambiguous (Coutin, 2000; McNevin, 2011; Ngai, 2014 Chauvin and Garcès, 2012; Nyers, 2010; Varsanyi, 2006). However, how political institutions and agencies effectively take undocumented immigrants into account in their programmes and the nature of the relations between public institutions and agencies, private actors and social movements on this matter have often been overlooked.

Unauthorized immigration is one of the complex problems public institutions are faced with. Complexity essentially comes from the conflicting set of normative and political principles which govern irregular immigration (such as liberalism, protectionism, human-rights based approach and utilitarianism). In addition, the complexity of the phenomenon comes from its cross-sector nature, touching upon security, citizenship and sovereignty issues as well as labour, welfare, family, education or health issues. Furthermore, there is no stability in the definition of the perimeter of the policy. The legislation and regulations change rapidly in reason of the politicization of migration issues and create a complex and unstable normative environment for policy-makers.

As for other cross sectoral and global issues, migration policy-making challenges institutional divisions and leads to a decompartmentalization of institutions and practices in favour of a global and cross-sectoral approach of issues. In addition to the sector logic (through different ministries and state agencies) this process of differentiation has led to a shift in powers and competences toward different levels of government (local, regional, state and supra-national) and to the association of private actors in policy-making and implementation processes. Multi-level governance theories have highlighted the vertical (territorial scales) and horizontal (public-private cooperation) shifts in the policy process of most policy domains (Hooghe and Marks, 2005).

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2003; Piattoni, 2010). This differentiation creates increased interdependencies between actors, and processes of hybridisation between institutions and actors which used to have different agendas. This has led to the adoption of policy tools more aimed at the motivation, coordination and organization of complex networks of actors (Agranoff, 2007; Eliadis, Hill & Howlett, 2005; Lascoumes & Le Galès, 2007b; Rhodes, 1997) and thus renewed the respective places of the State and local authorities in this governance process (Osborne & Gaebler, 1992; Goldsmith, 1995).

This increased differentiation and interdependence of actors which characterizes multi-level governance also lead to question the legitimacy, transparency and accountability of the policy process (Hooghes and Mark, 2003, Papadopoulos, 2010). Even if processes of coordination and networks aim at increasing the efficacy of policies, this differentiation necessarily leads to mismatches and sometimes contradictory outcomes depending on the levels of coordination and the networks involved.

The article focuses on the horizontal dimension of governance in local contexts in France and Spain. I argue that the devolution of competences in the policy-making and implementation of migration management and welfare, has empowered local and regional authorities in the governance of unauthorized immigration. In particular, I examine how the devolution of several policy domains has opened opportunities of collaboration between public and non-profit organisations. With the low devolution of migration control, public-non-profit relations are dominated by advocacy and bargaining. However, with the devolution of welfare and social exclusion policies, non-profit become partners in the policy-making and implementation of policies. I also show that these relations are different depending on the local settings and institutional cultures in France and Spain.

The empirical data of this research has been collected in different local and regional contexts in France and Spain between 2003 and 2008 (Author, 2010). Several case studies have been taken as examples of the local management of unauthorized immigrants needs and claims. In France, interviews and an ethnographic research have been done in the cities of the urban area of Bordeaux (Communauté Urbaine de Bordeaux, CUB). We studied the management of several controversies, the programmes
of several public agencies and institutions and public-non-profit partnerships on the social exclusion of undocumented immigrants. In Spain, an ethnographic research and interviews have taken place in two Autonomous Communities (AC), Andalusia and Catalonia. In Catalonia, we studied the policies and public-non-profit partnerships in the city of Barcelona as well as the temporary programmes aimed at seasonal workers in the city of Lleida. In Andalusia, we studied mainly the programmes of the city of Málaga and the programmes aimed at farmworkers in Almeria and Huelva provinces. We carried out 65 semi-structured interviews with policy-makers, social organisations representatives and undocumented immigrants. We did ethnographic observations of encounters between undocumented immigrants and public institutions, in social organisations providing services to undocumented immigrants and during contentious episodes. Policy and social organisations' documents have also been collected and analysed.

In the first section, I present issues that are raised by the devolution of competences on undocumented immigrants' management. I argue that this has led to reinforce the role of non-profit organisations in the policy-making and implementation of programmes. In the second section, I highlight the similarities and differences in the devolution of several immigration-related programmes in France and Spain. I argue that local governments have received much more competences in Spain, but that non-profit organisations play a central role in both countries, although with not the same relation to public institutions. Finally, I examine the types of collaborations between local governments and non-profit actors, which form different local governance regimes in relation to undocumented immigration. I conclude that the diversity of cooperation outcomes and the absence of actors interoperability (Agranoff, 2013) create hierarchies and modify the status of undocumented immigrants.

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2 The Foreigners office at the Prefecture of Gironde, the Solidarity department, the Child welfare office (Aide sociale à l'enfance, ASE) and Mother and Child protection office (Protection maternelle et infantile, PMI), at the Département of Gironde, and programmes associating the Regional council and the social services of municipalities.
1. Devolution and the association of non-state actors in the governance of undocumented immigration

Supranational and transnational processes affecting the governance of migration have received much attention from scholars. They showed how policies and processes at these levels challenge the state-defined citizenship (Soysal, 1994). To a lesser extent, the implication of private actors in the policy process and their contribution to the transformation of policies has been highlighted (Guiraudon, 2001, Lavenex, 2006). A territorial approach of how local and regional levels govern and contribute to redefine undocumented immigrant status also provide empirical evidences of these transformations.

Even if states still have the upper hand over immigration policies, migration-related policy-making is affected by governance transformations. Control of borders, residence and work permits as well as the deportation of undocumented immigrants remain largely a competence of the central state. But in addition to these core competences, devolution of powers to sub-state levels also empowered regional and local actors, especially through the territorialisation of welfare and the management of new social risks. Most of these competences affect directly unauthorized immigrants, such as immigrant integration programmes or education, housing, health and social policies carried out at local and regional levels, as well as the management of social exclusion and emergency assistance. Even if unauthorized immigrants are theoretically excluded from the beneficiaries of these policies and programmes, in practice they may be part of the users and are eventually taken into account in the policy process. In fact, the responsibility of undocumented immigrants welfare, or at least basic support, falls into municipalities competences which are responsible for most residual welfare problems not addressed by state's consolidated programmes. In addition, tasks of security enforcement and immigrants control have also been increasingly devolved to regional and local agencies. Multi-level governance and the importance of coalitions and competition of different actors (public, non-profit and private) over the definition and procedures which govern migration deserve more attention (Alexander, 2003; Caponio, 2005).

Behind the affirmation at national level of a unified framework (i.e. securitization from unauthorized immigration), different interests, representations and implementations at
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territorial level are leading predominantly to makeshift policies. Several studies which examine the territorialisation of policies about unauthorized immigration hypothesise a unity of view between local and national authorities on the way to deter and control immigration. In this sense, local policies would be an extension of national policies. Indeed, there has been a general movement in the 1990s and 2000s in European and North American states toward increased internal bordering practices, which means that the control of external borders have been paralleled by an enforcement of exclusionary practices in public institutions. The implementation of migration policies led to the securitization of the access to social benefits and human services, to increased police controls in places where undocumented immigrants live and to new norms and ordinances enforcing their exclusion (Engbersen, 2001). Local authorities have sometimes been proactive in this matter and took measures to effectively deter the installation of unauthorized immigrants (Gilbert, 2009; Ambrosini, 2012).

This does not mean however that there is always a coherence between local authorities and the state. With the territorialisation of policy-making, the local space appears as an institutional space, structured around its proper set of logics and principles. Migration policy is implemented by separate institutions and agencies: home affairs, foreign affairs, social and employment, health, education... They have frequently different objectives and regulations which are not necessarily compatibles. For example, the objective of deportation of unauthorized immigrants is conflicting with the objective to provide universal access to education or health care. Cross-sectoral collaborations and agencies have thus been developed, taking the form of independent authorities, inter-ministerial committees and commissions, or cross-sector agencies, such as in the politique de la ville in France. The devolution of a large share of competences concerning immigrant or integration policies reinforces ambiguity in goals and discretion in institutions in charge of these policies (Jordan et al., 2003). The discordance between local and national policies, has been attributed classically to a dysfunction of public administration such as a bad allocation of resources or to the intrusion of private interests in the process. However this distance is also intrinsic to public action (Borraz, 1999). Concerning unauthorized immigrants, a large share of the policy-making is necessarily informal or poorly institutionalized. The policy-making is thus either procedural (constituted through practices, with no strongly formalised
programmes) or reactive (policies are build in reaction to exceptional events or context transformation).

In addition, the lack of resources and of expertise of local institutions to manage the needs of immigrants in general, and undocumented immigrants in particular, has led to enforce the collaboration of social organisations to the policy process (Salamon, 1987). This devolution of competences has then been accompanied by coordination, contractualisation and networking methods of governance, associating private actors to the policy process. One of the main reasons for this association has been in both countries the expertise held by non-profit organisations and their capacity to provide services to immigrants and populations facing social exclusion. At the same time, as S.R.Smith points out (2006, p.288) it can be a way to reduce the visibility of government and its responsibility in the failure of the policy implementation. It allows to dissolve the accountability of public institutions in the governance of undocumented immigration.

However, most of non-profit organisations are also protesters against the enforcement of immigration controls and the deterrence of immigration. The criticism is then brought directly inside the policy networks and coordination processes and challenges the public management of the issue. But the possibilities of advocacy of non-profit organisations may be complicated precisely by their ties with public institutions and particularly by their dependence to public funds, but also because of their lack of staff. Depending on the objectives, means and beliefs of the actors which compose these networks, they tend to bring solutions which can be somehow contradictory with other decisions affecting the life of undocumented immigrants. Obviously, cooperating actors on local security have different aims and beliefs than networks aiming at securing housing or at ensuring that every child goes to school. In the case of undocumented immigrants, this means that depending on their different status, it progressively creates a hierarchy between those who are recognized some ties to the community and their belonging to the citizenry somehow (as parents, as workers, or even as 'good neighbours'...) and those who are not deserving assistance or citizenship (see Chauvin and Garcès, 2012). The inclusion of undocumented immigrants in public policies and programmes makes it possible to develop forms of belonging and a public existence, even despite a formal (national) exclusion and denial of recognition. For a number of scholars (see for example Bauböck, 2003), urban citizenship increasingly challenges the state-centred
definition of citizenship, and residence is becoming key to access rights. This contributes to put the emphasis on the local level as the place in which integration and political membership are primarily realized.

2. Comparing the devolution of undocumented immigrants policies in Spain and France: between control and accommodation.

France and Spain are contrasted examples in terms of devolution of power to the local level. In Spain, regional and local authorities have exclusive competences on domains which in France remain competence of the state (for example in education). Even if France has also undertaken a devolution process to regional and local authorities, these levels do not benefit from the same autonomy as in Spain. As for the immigrant integration policies, the State and national agencies remain largely in charge of the conception of policies, even if municipalities have also competences on social assistance, anti-discrimination and reception policies. The two countries are also very different in terms of migration history. While France is an ancient country of immigration, the main inflows taking place between the 1950s and the 1970s, Spain only experienced large arrivals of foreign immigration from the end of 1990s onwards.

We examine two different sets of policies which affect the status of undocumented immigrants living in France and in Spain. Firstly, policies which aim at regulating and controlling immigrants' right to stay and reside in the country. Secondly, welfare policies which affect undocumented immigrants' daily lives, such as reception policies, health and social assistance programmes, and education. We will outline the similarities and differences in the devolution of conception and implementation of these policies to local and regional authorities in both countries.

The competences over the control and regulation of immigration at the local level have increased in France and in Spain during the 2000s. In France, these new competences are linked to the 1990s empowerment of municipalities on security related issues, for example in the design and implementation of local security contracts (contrats locaux de sécurité) as part of the French urban policy (politique de la ville) or by the reinforcement of municipal police forces. They have emerged through the lobbying of associations and networks of mayors and their common diagnosis on the need to increase the power of municipalities in matters of security (Bonelli, 2008).
immigration issues, it includes the control of intermarriages, of housing and living conditions of residents who want to receive foreigners and of those who want to apply for family reunion visas. In 1997, the Debré law granted powers to mayors to deliver “certificates of accommodation”, requiring people to declare that they host a foreigner and necessary to obtain a visa, generated an important controversy and was dropped in 1998 by the Chevènement law. Nevertheless, the principle of the certificate has been retaken in 2003 and municipalities can control and restrict its deliverance if the accommodation does not comply with legal standards. The control of the “authenticity” of marriages is another important prerogative of local officers. In spite of these competences, state agencies have exclusive competences over the deliverance of residence permits and over the control and deportation of undocumented immigrants.

As for reception, social, health and education policies, undocumented immigrants have officially some rights but they also tend to be taken into account by these policies in virtue of other status (i.e. parents, workers or people in need). As for health, medical care can be provided for free to undocumented immigrants, through the State Medical Aid (Aide médicale d'Etat, AME), provided that they live in France for more than 3 months and have low incomes. The AME remains a competence of the State. Children of undocumented immigrants have the same obligation and right to education until their 16 years as others. Public education is a competence of the State with the contribution in some matters of other levels of government. Undocumented immigrants can also access to the services of the Mother and child protection services (Protection maternelle et infantile, PMI) and to Child welfare services (Aide sociale à l'enfance, ASE), both managed by the départements. Undocumented workers, even if their working relation is irregular, have right to salary and aid in case of accident. Finally, urgent social aid can be provided to unauthorized immigrants. They can access mainly to temporary shelters and dining rooms and can be granted under restrictive conditions so-called “extra-legal”/urgent social aid from municipalities and départements' services. Social policies are thus still framed at national level. However, the exclusion of undocumented immigrants from most social benefits grant to local authorities and social organisation de facto responsibilities in providing minimal support. The interlinking of public and non-profit actors at local level characterises the implementation of social policies and provide autonomy to the actors, even in situation of scarce resources.
In Spain, responsibilities of municipalities and autonomous communities are greater than in France. Spanish immigration laws have empowered municipalities in the delivery process of residence permits to foreigners. Municipalities are entitled to write a report on the social integration of undocumented foreigners applying for the regularization of his/her status by recognizing the existence of “social ties” (arraigo social), i.e. having relatives in Spain and demonstrating one's integration. While these reports have progressively been codified by the Spanish state, municipalities are not only free to add additional criteria to the report, such as questions of language or of duration of residence in the municipality, but also to give a positive or a negative opinion on the deliverance of the residence permit which strongly influence the final administrative decision. Even if these reports are not binding, this places the control on the hands of local officers. These ones select the “good” candidates, the ones who fill the criteria (Solanes Corella, 2006). In the words of a local officer in Granada about negative reports: “In that case we do not present them. If I see somebody who does not fit to the criteria I say to him to look into the form and take the criteria into account for a future application.” (Personal interview, local officer, Granada, 21.06.2006).

Autonomous communities of Catalonia and Andalusia also issue claims regarding the control of residence and work permits. For Catalonia this forms part of its claims for more competences in general and is a symbolic component of its identity policy (language and local identity). The AC obtained as part of the reform of its status of autonomy the co-delivery of work permits with the State. For Andalusia, which faced an important irregular immigration at the beginning of the years 2000, the claim for control has been much more symbolic and strategic in order to put pressure on the state. Since 2011, Autonomous communities are associated to the delivering of social ties certificates which were delivered by the municipalities. AC could decide to receive this competence in place of the municipalities. While Andalusia decided to leave this competence to the municipalities, Catalonia decided to ensure it. It collaborates with the municipalities which gather the informations needed for the report but the process is centralised at the level of the regional administration which gives a positive or negative appreciation.

As regards to social integration, health and social benefits, municipalities manage the local registers (padrón municipal). The inscription in this register grants access to basic universal social coverage and health care for all residents. The sole requirement of
residence to access these benefits has often led to consider that Spain was among the more favourable countries for undocumented immigrants rights. However, the local register only gives access to basic health care to undocumented immigrants. In addition, this right has been suppressed in 2012, which leads to an increased exclusion of unauthorized immigrants. Several regional and local authorities have nevertheless announced that they would continue to ensure social and health care in substitution to the state, which marks a new devolution of power and heterogeneity of unauthorized immigrants’ situation within the State. Both Catalonia and Andalusia have decided to maintain the rights to health care but with a few restrictions (length of stay, income). In this share of competences over immigration policies, the question of funding is of crucial importance. While local authorities have benefited since 2004 from a special fund dedicated to integration policies (Fondo de Apoyo a la Acogida e Integracion de Inmigrantes y al Refuerzo Educativo), its budget has been cut in half in 2010 and 2011 and suspended in 2012 as a consequence of the economic crisis and global budget cuts. This has an important consequence on the programmes developed by municipalities and regional governments. Social organisations, which depend greatly on public funding, have had to reduce their programmes catered at immigrants but remain at the same time important providers of support for undocumented immigrants.

In both domains of policies (immigration control and welfare/integration policies) local and regional levels have been empowered. Municipalities and regions are in charge of welfare in Spain, and to a lesser extent in France. Their role is even more relevant in social support and social emergency programmes where undocumented immigrants are found primarily as they cannot access to normalized programmes.

3. Local authorities and non-profit organisations in the governance of undocumented immigration: contracts, networks and contention.

One of the most important changes due to the increasing autonomy of local authorities has been to open the structure of opportunities for cooperation, bargaining and contention with non-profit organisations at the local level. There are nevertheless differences between the local governance of the domains of policies mentioned above, i.e. control and admission on the one hand, access to social services on the other. Networks and cooperation with the non-profit sector can be hardly found in processes of
control and administration of residence permits. Non-profit and private actors seek to influence the process but they generally do it from outside the policy process, through advocacy, negotiation or personal contacts. Conversely, non-profit organisations are major actors in the local governance of welfare and immigrant integration. We will illustrate the different local regimes through examples taken from the cases studies.

Even if the procedures of control and authorization of residence remain competences of the state, this does not mean that other actors, local authorities, private actors and social movements are fully excluded from these procedures. The important discretionary power that these institutions and their bureaucrats often lead to enforce controls on migrants (Bastien, 2009) but they sometimes contribute to create opportunities for non-profit organisations and advocacy coalitions to bargain. In the urban area of Bordeaux, exchanges happen between the Préfecture, city officers, employers, non-profit organisations and even social movements to negotiate the legalization of individual cases or to solve emergency problems involving undocumented immigrants. These exchanges remain limited, especially in a context of reduction of authorizations to immigrants, and the process is marked by bureaucratic routines and the lack of publicity and transparency (Spire, 2005). Nevertheless, the widening of the discretionary power of the Préfectures over the admission or denial of residence permits has given opportunities for these actors to bargain and press some cases. A few associations specialise locally on the defence of foreigners and provide legal advice and orientation to undocumented immigrants. They also have at different degrees a role of advocacy and pressure and engage relations with municipalities and state agencies. ASTI (Association for the support of immigrant workers) in particular combines both roles of assessor and advocacy. It also participates to social movements coalitions, such as the RESF (Education without borders network) a grass-root coalition of organisations, teachers and parents opposed to the deportation of undocumented parents. This coalition was very active during the years 2003-2007 in France and in the agglomeration of Bordeaux. As most of the participants to this advocacy coalition do not specialise in the defence of immigrants, non-profit organisations such as ASTI or CAIO (Centre of Reception, Information and Orientation, an organisation providing services in social emergency matters) detain expertise and are most likely to lead negotiations and bargaining with public institutions. During extraordinary legalization processes and social movements, territorial agencies of the state and advocacy coalitions always
cooperate and maintain daily encounters to determine criteria and the perimeter of legalization.

In routine periods in turn, when there is no important social protest going on, RESF asked and obtained several times a year to meet representatives of the Préfecture, the general secretary and the head of the foreigners division, to discuss on parents cases. This was possible because of the relatively reduced number of files to manage in Gironde, which is not the case in the Préfecture of Paris for example. But the institution remains in command of these meetings, by allowing them or denying solicitations of the coalition, and by choosing to solely listening to the representatives of RESF or accepting to look into a situation. The notification (signalement) of individual files is a normal procedure and non-profit organisations and social movements are not the only ones to use it. Employers and mayors also alert the Préfecture on cases which are then treated by upper levels in the hierarchy. This also lead social movements to mobilise municipalities in defence of individual cases and create more or less stable cooperation with local representatives. Nevertheless, only weak ties exist between public agencies, local governments and associations in this matter. Being relatively small cities, many relations are build on an individual basis. But public and non-profit sector do not form stable networks. Rather, pressure is exerted from outside and the bargaining power of associations remains weak.

In turn, local governments and non-profit organisations are in continuous relations of cooperation in the governance of welfare and social exclusion. Spain, as a model of “Mediterranean welfare” system, has counted with the private and non-profit sectors to provide a large part of welfare services (Agranoff, 2010). Since the formation of the quasi-federalist territorial organisation, the devolution of social services and the use of European funds against social exclusion, partnerships between local governments and non-profit organisations have developed (Estivill, 2006). In Catalonia and Andalusia, the place of the public in the welfare system has been consolidated since the beginning of the 1980s and the Autonomous and local governments are now the main providers of welfare services and are in charge of immigrant integration. Both communities also designed policy plans which formalize their will to make no difference in the services they provide to authorized and unauthorized immigrants, but refuse to derogate to the legal framework. In the majority of the municipalities under study, there has been a progressive formalization of partnership, using the resources of informal grass-root
networks, especially religious organisations, which were the main providers of social protection for the most excluded persons (Estivill, 2006).

The development of immigrant services in Barcelona is an example of partnership between local and non-profit organisations, which was built on informal practices and networks. The city policy was designed at the beginning of the 1990s to provide services to immigrants in existing sectors (health, Education, social services...) but remain fragmented. It was also decided to create cross-sector policies and services. The SAIER (Reception service for immigrants, foreigners and refugees) is a model of integrated partnership between public and private institutions. It is administrated by the municipality and several non-profit organisations which provide services to immigrants (language, legal counselling, job counselling, refugee service, social support...). The expertise of trade-unions and non-profit organisations such as the Comisiones Obreras (workers' commissions), Red Cross or Caritas and the lack of resources at local level to provide such services have extended this kind of partnership and contract system.

The fragmentation and contractualisation is well exemplified by the health policy of the municipality. This sector pioneered in taking into account immigrants and undocumented immigrants as special users. An informal network providing health services to immigrants was settled during the 1980s on the basis of the experience of the Tropical disease unit and the elementary assistance team of the Drassanes health centre. Doctors provide free services and drugs to undocumented immigrants out of their working hours. In 1990 and 1991, major changes happen in the health policies of the city of Barcelona and in Catalonia. In reason of the expertise of non-profit organisations, conventions are signed with ACSAR (Catalan association for solidarity and support to refugees) and then with Salut i Familia (Health and family) to ensure intercultural mediation in the public health services and with Doctors without borders for mutual information and design of emergency winter care services. Other services associating public and private actors are created to provide psychological consultations. While maintaining this sub-contracting system, the city of Barcelona progressively aimed at integrating non-profit organisations in horizontal forms of coordination in the immigration policy process. Several networks, councils and issue groups are putting together representatives of the city, immigrant organisations and social organisations to define political orientations. But even if the expertise of social organisations grant them
important bargaining powers, undocumented immigrant issues remain secondary, except in times of crisis.

In the city of Málaga, contractual relations dominate the relations between non-profit and local governments. Contrary to Barcelona, the municipality only provided funding to social organisations for the delivery of services and did not create integrated partnership with non-profit organisations. These ones, such as ASPA and Málaga acoge, both emerging from the religious sector, pioneered in providing services to immigrants at the beginning of the 1990s. They also take part to advocacy coalitions for the legalisation of immigrants and against their detention. The services of the city of Málaga remain underdeveloped until 2000, when the city accepts a project of the association MPDL (Movement for peace, development and freedom). It creates the first municipal platform of services for immigrants, funded by the city. Contrary to the SAIER, the service is not a partnership but completed sub-contracted to MPDL. This situation remains until 2005 when the local government decides to stop the public funding and, after two years, to ensure immigrant reception through municipal services. Situations of exclusion of undocumented immigrants remain supported by basic social services of the city. Non-profit organisations are no longer formally associated to the policy but they remain in charge of providing many services, with public funding. In addition, the contentious relations between civic organisations and the public administration about the precarious legal situation of most immigrants and their detention creates unusual alliances between the city and the movements against state institutions.

Public-private collaboration in both contexts is not the result of managerial reforms, quite the opposite. As in most of local immigrant policy in Spain, the public is the one which has widening its competences over matters which were informally dealt with by social organisations and non-profit sectors. But this institutionalisation of welfare was never complete, and non-profit still ensure many services. This gives them some power to enter in the policy process and define policy orientations. But their dependence on the scarce public funding is also an important constraint on their programmes and their agency.

For the admission of undocumented immigrants in the services, this situation often presents some advantages. Encounters between undocumented immigrants and public
institutions are often motivated by legal procedures or in case of social and health emergencies, while they tend to avoid other procedures by fear of being spotted. The services and support lay primarily on the municipalities which are the more proximate level to address “extra-legal” cases. According to Lipsky and Smith (1993), sub-contracting welfare raises questions to the capacity of non-profit organisations to fulfil the same objectives as the state as these organisations have specific interests and not universalistic ones. They stress the possible discordance between the two actors in terms of values and principles and the danger of interdependence: non-profit organisations comply with specific missions that the state can no longer ensure, but they are dependent from public funds to do so. As for undocumented immigrants, the fact that non-profit organisations are providing the services mean that they are more likely to use the services and be attended. However, the lack of resources, especially for these residual services, put pressure on the organisations which ensure the services. For these ones, undocumented immigrants can only be perceived as secondary clients because their lack of authorization makes it impossible for them to join the “regular” welfare programmes until they are legalized. The procedures and tracks defined by social agencies to orient their clients toward self-support is rendered impossible in many cases.

The place of private actors in the local governance of undocumented immigration vary greatly depending on the local contexts and type of policy. The systems of action at local level are structured differently in France and Spain but also between each city and region. The weight of the central state contrasts in France with the extensive devolution of powers in Spain. There are also important differences between rural and urban contexts, in which the lack of resources and networks at local level is a constraint for local authorities. Different factors affect the possibilities for private actors to enter the political process: the greater expertise and experience of these organisations; budget saving by sub-contracting services; a greater proximity with the clients; a greater flexibility of the organisations to implement programmes, especially in emergency care and housing; and its subsidiarity, which means that these organisations ensure missions which are not addressed by public policies.

However, in their relations with public administrations social organisations are constantly torn between two main repertoires. On the one side, the «management» repertoire obliges social organisations to search for cooperation and sub-contracting relations with public authorities or funding for their programmes. On the other side, an
«advocacy» repertoire, lead them to exercise a role of critique and pressure group to improve the situation of unauthorized migrants and change migration policies. The combination of both repertoires in the majority of third-sector organisations bring dilemmas and create a gap between practices and discourses. This leads non-state actors to oscillate between cooperation and contentious relations with local authorities. In both ways, they have become important actors for the definition and implementation of policies, especially as they provide safer spaces for undocumented immigrants.

In the cases studied, four main variables seem to orient choices in terms of local governance for designing and implementing programmes for undocumented immigrants. The first one is relative to the sectors of policy and opposes the creation of specialised programmes to the choice of normalisation, which uses already existing services and programmes. The second one is relative to the territorial organisation of policy-making. It opposes policies in which the state remain the central actor in command, and policies devolved to local authorities. The third one stresses the temporal dimension and opposes planning and pro-active policies to the reactive resolution of problems. Finally, the fourth dimension has to do with the place given to non-state actors in the conception and implementation of programmes. In this case, four different relations can be identified: the domination of public institutions, the co-production of policies and network integration, the sub-contracting of implementation to non-state actors and the coexistence of two separated systems ruled by public and non-state actors.

I sum up the combination of these policy orientations in the following table:

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<th>Sector</th>
<th>Normalisation/ equality</th>
<th>Specialisation / pluralism</th>
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<tr>
<td>Centre/periphery</td>
<td>Monopolisation</td>
<td>Devolution</td>
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<tr>
<td>Time</td>
<td>Planning – Proactive - Mid-term</td>
<td>Urgency-Reactive-Short-term</td>
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<tr>
<td>Place of non state actors</td>
<td>Public service only</td>
<td>Co-production/ policy network</td>
</tr>
</tbody>
</table>
The combination of these different options for policy-makers defines patterns of local policies, mainly:

- An absence of local policy, which is marked by a normalisation by default of the services. This is often due to the domination of another level of government (in France) or to avoidance strategies (in some rural regions of Andalusia for example).

- A « partial policy » which privileges the integration into existing devices and the development of specific programmes (for example language classes, legal advising). It is the case in cities like Barcelona or Málaga in Andalusia.

- An autonomous policy which keeps the normalisation to local services and programmes when possible and develop specialised services to grant unauthorized immigrants the same rights as other residents. This has not been the model followed by the municipalities studied in France and Spain. However, it corresponds to an ideal model for some local officers and social organisations.

This diversity in policy-making at local level, in addition to ethical positions on the inclusion and exclusion of unauthorized immigrants, has an influence on undocumented immigrants' membership and change the State-defined exclusionary regime for undocumented immigrants. In addition to these logics of policy-making, local authorities in the three cases studied also pledged explicitly for political membership based on residency.

**Conclusion**

The initiatives taken by local authorities in migration-related issues are emblematic of cross-sector and multi-level policy-making. The progressive and generalised devolution of power to local authorities - with differences among France and Spain - has opened a field for policy-making at a local level even in matters that are seemingly monopolised by the national level such as undocumented immigration. The “back-door” policies of local authorities rely on its relations with private and non-profit actors. These interactions they maintain are shaping the local policies’ interstices in which unauthorized immigrants can insert themselves.
Contrary to other contemporary developments of multi-level governance systems, in the case of undocumented immigration policy interoperability, understood as “reciprocal channels of communication and accommodation” (Jenkins, 2006) is not a goal for the actors involved. Open coordination on this matter does not exist and the different types of actors (central agencies, local authorities, non-profit organisations and social movements) have no interest in promoting interoperability. On the one hand, this could discourage undocumented immigrants to approach public and private services. On the other hand, non-profit and certain local services are filling gaps in the welfare system and provide residual services. Central agencies and even local governments have more interest in turning a blind eye on these extra-legal services, as they prevent emergency issues and social unrest.

This situation nevertheless contributes to modify the status of undocumented immigrants. Each policy network and actors involved in the policy process pursue different goals with the same target group, the undocumented immigrants. While the alien administration seeks to control and deport immigrants who do not have authorizations, these ones are partially included in the welfare and education systems. Multi-level policy settings and the diversity of actors involved in the design and implementation of policies contribute to incorporate gradually undocumented immigrants into the administrative system and the polity. Proofs of residency, of social and family ties, community engagement but also health certificates have become important pieces to be legalised. Often the inclusion of immigrants in local programmes of public institutions and non-profit organisations become proofs of such local accommodation. In that sense, the local governance of undocumented immigration does not only allow immigrants to have different statuses in function of their encounters with the administration, it also gives them possibilities to change their status and citizenship by being legalised.

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