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Immigration, Justice Remittances, and US Courts

RESEARCH NOTE

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Many immigrants to the United States are victims of crimes that occurred in their home countries. US courts usually will not rule on legal violations that occur outside of US territory. However, starting in 1980, US federal courts sometimes allow foreign nationals to use the Alien Tort Statute to seek civil remedies for international law violations on foreign territory. We argue that these civil remedies are justice remittances from the United States to the foreign countries where the violations occurred. We additionally argue that immigrants are a key driving force in generating the demand for these justice remittances. We identify the filing districts for legal complaints that yield Alien Tort Statute judicial opinions. We then use individual-level immigration data from the US Census that we aggregate to match federal judicial districts. We find compelling evidence that immigrants are agents of justice who demand justice remittances from US courts.

Muchos de los inmigrantes que residen en los EE. UU. son víctimas de crímenes que ocurrieron en sus países de origen. Los tribunales de EE. UU. generalmente no se pronuncian sobre violaciones legales que ocurren fuera del territorio de EE. UU. Sin embargo, a partir de 1980, los tribunales federales de EE. UU. permiten, a veces, a los ciudadanos extranjeros utilizar el Estatuto de reclamación por agravios contra extranjeros (ATS, por sus siglas en inglés) con el fin de buscar reparaciones civiles por violaciones del derecho internacional en territorio extranjero. Argumentamos que estas reparaciones civiles son remesas de justicia emitidas por EE. UU. a los países extranjeros donde ocurrieron estas violaciones. Además, argumentamos que los inmigrantes son una fuerza clave en la generación de demanda de estas remesas de justicia. Identificamos los distritos de presentación de demandas legales que generan opiniones judiciales en el marco del ATS. A continuación, utilizamos datos de inmigración a nivel individual del censo de EE. UU. que agregamos para que coincidan con los distritos judiciales federales. Encontramos evidencia convincente de que los inmigrantes son agentes de justicia que exigen remesas de justicia por parte de los tribunales de EE. UU.

De nombreux immigrants aux États-Unis sont victimes de crimes commis dans leur pays d'origine. Les tribunaux américains ne se prononcent généralement pas sur les violations de la loi commises en dehors du territoire américain. Cependant, depuis 1980, les tribunaux fédéraux américains autorisent parfois les ressortissants étrangers à invoquer la loi « Alien Tort Statute » pour demander des réparations civiles en cas de violation du droit international sur un territoire étranger. Nous soutenons que ces réparations civiles constituent des transferts de justice des États-Unis vers les pays étrangers dans lesquels les violations ont été commises. Nous affirmons en outre que les immigrants sont un moteur essentiel de la demande de ces transferts de justice. En identifiant les districts où sont déposées les plaintes judiciaires qui donnent lieu à des décisions judiciaires en vertu de l'Alien Tort Statute, nous pouvons ensuite agréger les données individuelles sur l'immigration issues du recensement américain pour les faire correspondre aux districts judiciaires fédéraux. Enfin, nous trouvons des preuves convaincantes qui montrent que les immigrants sont des agents de justice qui exigent des transferts de justice de la part des tribunaux américains.

Introduction

Globalization has led to the mass movement of goods, services, people, and ideas across borders. Many migration scholars have emphasized how migrants actively transmit social practices and political activism across borders (Levitt 2001; Guarnizo, Portes, and Haller 2003). At the same time, many human rights scholars have argued that domestic human rights groups can use transnational networks to help pass domestic policy reforms (Keck and Sikkink 1998). In a recent article, Johns, Langer, and Peters (2022) con-

nected these two related trends by arguing that “migrants—who move across [international] borders as economic migrants or refugees—serve as agents for transnational justice” (1184). They argued that when immigrants arrive in new countries, they file complaints with police and courts about crimes that occurred in their home countries. These complaints sometimes yield criminal trials, even though the crimes occurred outside the territory of the prosecuting country. Johns, Langer, and Peters (2022) argued that such universal jurisdiction trials serve as “justice remittances” (1186). They supported their argument using a cross-national time-series analysis of the impact of migration on universal jurisdiction cases.

We extend this argument about justice remittances to civil lawsuits. In the United States, the Alien Tort Statute (ATS) allows foreign nationals to use US federal courts to seek redress for many international law violations. The ATS was largely dormant until 1980 when a human rights lawyer successfully argued that the ATS could be used by an immigrant

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family to seek financial compensation for torture and killing in Paraguay.¹ Similar cases spread throughout US federal courts (and some are still ongoing) despite substantial restrictions on ATS reach that the US Supreme Court imposed through ATS interpretation.²

In these cases, we once again see that migrants are using foreign courts to get justice for harm abroad that they cannot get at home. In some cases, the defendant is a foreign government, in others it is a US or multi-national corporation, and in about 9 percent of cases, it is the US government for harm done abroad. These cases are brought to the United States for adjudication because the plaintiff cannot find justice at home because their home government is unwilling or unable to address the harm. Thus, it is only by moving the case abroad that individuals can get justice.

To support our argument, we identified the filing districts for all known legal complaints that yielded an ATS judicial opinion. We then created multiple measures of how ATS cases entered US federal courts. We next used US Census data to calculate the immigrant stock from every foreign³ country that resided in each federal judicial district from 1980 to 2020. Our control variables include atrocities in the sending country, various costs of seeking civil remedies, and judicial district attributes. Our analysis provides strong evidence that immigrants seek justice remittances: higher immigrant stocks from a sending country in a judicial district are associated with a higher likelihood of an ATS opinion that originated in that judicial district. This analysis provides yet more evidence that migrants who seek justice in a foreign state are engaged in a form of transnational activism.

Civil Remedies as Justice Remittances from the United States

Alien Tort Statute

Like most domestic courts, US courts are usually reluctant to rule on cases that involve events completely outside US borders (Putnam 2017; Raustiala 2011). The ATS is a legal text from 1789 that says:

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.³

In simple and modern language, the ATS allows a victim to file a civil complaint in US federal courts if the victim is a foreign national who was harmed by a tort committed in violation of international law.⁴ The ATS does not explicitly require that the violation occurred on US territory and it does not explicitly require that the perpetrator be a US citizen.

The ATS was largely overlooked by practicing lawyers and rarely invoked in court for most of its history (Ewell, Hathaway, and Nohle 2022). When a human rights lawyer successfully used the ATS in 1980 to seek redress for a kidnapping and killing in Paraguay, the ATS quickly became a major tool for challenging human rights violations committed by foreign governments, military and political leaders, and multinational corporations.

The ATS is applied and interpreted by US federal judges in the context of US doctrines. One relevant set of doctrines pertains to causes of action—i.e., the factual situations that entitle someone to sue under the ATS. The US Supreme Court held that the ATS does not create causes of action since it is a jurisdictional statute.⁵ But the Court added that the statute was passed expecting that courts would accept causes of actions already established by the law of nations that were part of common law. In the eighteenth century, these violations included safe conduct, infringement on ambassador rights, and piracy.⁶ Today courts may thus accept causes of action established by the “present-day law of nations” as long as they “rest on a norm of international character accepted by the civilized world and defined with specificity comparable to the features of the 18th-century paradigms.”⁷ This is how factual situations that constitute international crimes (like genocide and torture) can constitute a cause of action under the ATS.

A second relevant set of doctrines relates to immunity. Under international law, diplomats, consular officers, and other government officials may be exempted from the jurisdiction of foreign courts. Countries have accordingly protected these individuals from litigation in their domestic courts in a variety of situations (Johns 2022; Dodge and Keitner 2021, 158–61). Many ATS lawsuits that involve defendants who are government actors therefore involve complex arguments about immunity.

Finally, US courts generally adhere to a “presumption against extraterritoriality” when interpreting domestic laws. In contemporary lawsuits, this doctrine implies that unless a law explicitly says that it applies outside US territory or Congress’ intent in that regard is clear, judges should assume it does not (Dodge 2020). The ATS does not say anything about where the violation occurs. Yet in 1980, federal courts began using the ATS to rule on violations that occurred on foreign territory. This interpretation of the ATS remained common until 2013 when the US Supreme Court ruled that the presumption against extraterritoriality applies to ATS claims.⁸

Theoretical Mechanism

Every ATS case in our dataset is based on an alleged violation of international law that is committed by a perpetrator—which can be an individual or a corporation—and harms a victim in a non-US sending country. For example, the first major ATS case involved the torture and killing of 17-year-old Joelito Filártiga in Asuncion, Paraguay by members of the police.⁹ The underlying violations in most ATS cases are severe human rights and humanitarian law violations, like genocide and torture (Ewell, Hathaway, and Nohle 2022, 1241).

Successful ATS lawsuits require personal jurisdiction, which is established through minimum contact with the state in which the case proceeds. If the perpetrator is an individual, these minimum contacts may be established through immigration of perpetrators to the state in which the case ultimately proceeds. In the *Filártiga* case, the parents and sister of Joelito Filártiga moved to the United States and applied for asylum. They then learned that Américo Peña-Irala, the former Inspector General of Police in Asuncion, was living in Brooklyn, New York on an expired visa.

¹ *Filártiga v. Peña-Irala*, 630 F.2d 876 (1980).

² For interpretation, see *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013); *Jesner v. Arab Bank* 138 S.Ct. 1386 (2018); and *Nestlé v. Doe*, 141 S.Ct. 1931 (2021). On continued use, see: *Doe I v. Cisco Systems*, 9th Cir., No. 15–16, 909, July 7, 2023.

³ U.S. Code §1350.

⁴ For a more detailed analysis of the ATS, see Stephen P. Mulligan, *The Alien Tort Statute: A Primer*, Congressional Research Service, January 11, 2022.

⁵ *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004), 712–14, 724, 729.

⁶ *Id.* at 714–38.

⁷ *Id.* at 725.

⁸ *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013).

⁹ Details about the *Filártiga* case come from the 1980 opinion.

An ATS case begins when a victim files a complaint in US federal court. The Filártiga family wanted Peña-Irala to be held accountable for Joelito's painful death. They first reported Peña-Irala to the Immigration and Naturalization Services so that he would be held in detention while awaiting lengthy deportation proceedings. They then filed a civil complaint against him under the ATS in the Eastern District of New York, which has jurisdiction over Brooklyn.

An ATS complaint then triggers judicial proceedings that yield one or more opinions. These judicial proceedings do not require that the plaintiff reside in the United States. However, plaintiffs who are immigrants to the United States find it relatively easy to obtain legal assistance, provide evidence, and testify in trials. In the *Filártiga* case, the proceedings were relatively simple because both the Filártiga and Peña-Irala were physically present in New York. The case was heard by a district court, which dismissed the case. Then the Second Circuit Court of Appeals wrote the 1980 opinion that allowed the case to proceed under the ATS. A later 1984 opinion awarded the Filártiga family \$10 million in damages, which they never collected because Peña-Irala had no assets in the United States.¹⁰ More complex cases can include additional proceedings like the consolidation of multiple complaints and/or the transfer of a case across judicial districts. Additionally, both the US government and foreign countries often file legal submissions on topics like immunity and extraterritoriality, even if they are not litigants (Ewell, Hathaway, and Nohle 2022, 1224–7).

ATS cases are calculated risks. These cases are hard for plaintiffs to win. In our data, which we describe in more detail below, the judge issued an opinion finding a violation in about 19 percent of cases. So the chances that a plaintiff will ultimately prevail in a courtroom on the merits of a case are relatively low. However, when plaintiffs do succeed, they can receive astonishingly large verdicts. Recent ATS jury verdicts have been over a billion dollars.¹¹ Unlike the *Filártiga* case, contemporary ATS cases now routinely target multinational corporations so that plaintiffs can more easily seize assets and enforce judicial orders. The high stakes of ATS cases can lead defendants to settle. For example, Exxon finally settled in the *Doe v. Exxon Mobil* case with the Indonesian plaintiffs in 2023 after almost 20 years for an undisclosed amount of money.¹² Finally, even though ATS cases are difficult, plaintiffs often lack alternative legal remedies because the courts and authorities of their home country are often unwilling or unable to hear and adjudicate their legal claims. In this sense, the ATS is often the last legal option available to a plaintiff.

Empirical Hypotheses

This process suggests that higher immigrant stocks make ATS opinions more likely. If the victim is an immigrant, as a practical matter, he/she can more easily file a complaint, provide evidence, and testify in a trial. And if the perpetrator is an immigrant who has his/her home in the judicial district, that residence will make venue proper. In addition, the federal court is more likely to exercise personal jurisdiction because of the immigrant's contacts with the state of which the district is a part. An individual perpetrator is also more likely to be identified by other immigrants and to be

served with process. Finally, a successful trial is more likely to yield assets that can be seized by a victim. Overall, we expect:

Hypothesis 1: Higher immigrant stocks from the sending country in a judicial district make ATS opinions more likely.

The ATS process also suggests that more atrocities in a sending country will make ATS opinions more likely. When a sending country experiences more severe and more widespread violations of human rights and humanitarian law, there are more potential legal claims that foreign nationals can bring to US courts under the ATS. We argue that more abuse by governments allows individuals and corporations to get away with more violations that are alleged in ATS cases. In many ATS cases against corporations, the plaintiffs must show that the corporation was complicit in crimes committed by the government. For example, in the *Doe v. Exxon Mobil* case, the plaintiffs alleged that Exxon hired a unit of the Indonesian military to provide security for a pipeline and the military then carried out extrajudicial killings, kidnappings, sexual violence, and torture (Hutto and Jenkins 2010, 11). Similarly, in the *Xiaoning v. Yahoo* case, the plaintiffs alleged that Yahoo turned over emails and other documents that were used by the Chinese government to arbitrarily arrest the plaintiffs, torture them, and subject them to prolonged detention (Hutto and Jenkins 2010, 17). Finally, in the *South African Apartheid Litigation*, the plaintiffs alleged that corporations helped the South African government maintain apartheid and commit atrocities—including extrajudicial killings, torture, and unlawful detention—against its people (Hutto and Jenkins 2010, 28–9). All of these alleged international law violations would be covered by conventional political science measures of atrocities. We therefore expect:

Hypothesis 2: More atrocities in a sending country make ATS opinions involving that country more likely.

Finally, we believe that victims are motivated primarily by a desire for justice, rather than monetary rewards. Yet we nonetheless expect victims to be rational, meaning that we expect that higher costs, which increase the difficulty of filing a complaint, should be associated with fewer ATS complaints. We accordingly expect:

Hypothesis 3: Higher costs for filing a complaint make ATS opinions less likely.

Because it takes time for individuals to physically move across international borders and for cases to be heard by US judges, we include time lags in our empirical tests.

Measuring Judicial Opinions and Immigration

Judicial Opinions

To code ATS opinions, we began with the best available data, which is Ewell, Hathaway, and Nohle (2022).¹³ This data identifies 638 opinions from 1793 to July 2021. We removed opinions issued before the 1980 *Filártiga* opinion because they did not demonstrate that the ATS could be used to seek redress for international law violations in foreign countries. In their dataset, Ewell, Hathaway, and Nohle (2022) code both the opinion year and the location of the alleged harm(s) addressed by each opinion. We use this information to create separate observations for each sending country in which an alleged tort occurred.¹⁴ For example, in the

¹⁰See Edward Wong, "FOLLOWING UP: Still Seeking Justice In a Brother's Death," *New York Times*, October 1, 2000, P. 33.

¹¹See *Kiobel*, Second Circuit Court of Appeals, opinion from September 17, 2010.

¹²See <https://www.cohenmilstein.com/case-study/exxonmobil-aceh-indonesia/>. Accessed July 15, 2024.

¹³Available on Dataverse.

¹⁴We did not include alleged torts that occurred within the United States, on the high seas, or lacked information. We treated the Guantanamo Bay Naval

Hwang Geum Joo case, the plaintiffs sued Japan for alleged crimes committed during World War II in China, the Philippines, South Korea, and Taiwan, resulting in four different sending countries and hence four separate observations.

One issue with these data is that they are opinions and not cases. All studies of US courts must contend with observability problems, which we also face. We do not know what cases should be filed but aren't. We also don't know what cases are filed but then settled or abandoned prior to an opinion. We also don't know which cases yield opinions that are lost to researchers (a common problem in judicial politics research). These challenges introduce bias about what we infer from observed opinions. They suggest that migration and atrocities don't matter because there was no attempt to use a US court to secure justice. This bias means that any statistical effect that we identify of the effects of migration and atrocities on observed ATS opinions is likely to underestimate the true effect of these variables on actual cases.

Despite these challenges, we use the best available data on ATS opinions. We then examined the case history of each opinion to identify where the plaintiff(s) originally filed the complaint(s) that resulted in each opinion.¹⁵ Unfortunately, it is not possible to code all complaints filed under the ATS for the period under observation. For most of the history of the US federal judiciary, complaints were filed on paper and periodically destroyed by federal courthouses. The transition to electronic record-keeping occurred at uneven start dates across federal judicial districts.¹⁶ Legal service providers (like Bloomberg Law, Westlaw, etc.) can sometimes retrieve specific court records. However, these service providers do not yield comprehensive search results of all complaints for all court cases, particularly for cases that did not yield opinions and particularly during the 1990s and 2000s, when the federal judicial system transitioned to electronic record-keeping at irregular intervals.¹⁷

Because ATS cases sometimes involve multiple plaintiffs and multinational corporations, cases can move across judicial districts and be consolidated with other cases making similar legal arguments. For example, the *Chiquita* case originated in complaints that were filed in five judicial districts across the country.¹⁸ These complaints were then consolidated and adjudicated in Florida at the request of the Chiquita Brands International, which is based in Miami. We treat such complaints as separate observations because it is unclear whether plaintiffs in the different districts were acting in coordination or even if they were acting in coordination, which district would be the "first" district. It is possible that individuals who were harmed separately filed in different districts, not knowing that others had or were planning on filing a similar complaint elsewhere. In this case, the filings are separate observations. In other instances, it could be that individuals filed in multiple different districts as a court-shopping strategy, in which case they may not be separate observations. Unfortunately, these are observationally equivalent, given the lack of comprehensive records on these complaints.

Base in Cuba as US territory because it was under US control during the relevant period.

¹⁵Detailed coding notes on the filing districts are available in our replication materials. We consulted the text and footnotes of the opinions, court records for multidistrict litigation proceedings, and court dockets available from PACER using Bloomberg Law.

¹⁶Limited Congressional funding ensured that different courthouses adopted technologies at different time-periods.

¹⁷For example, see [Henderson and Hubbard \(2015, S102\)](#) on missing judicial records.

¹⁸The *Chiquita* complaints were filed in S.D. Oh., S.D. N.Y., D.D.C., D.N.J., and S.D. Fla.

Yet, such cases are uncommon: only about 12 percent of opinions generate more than one observation in our dataset. About 5 percent of opinions address harm in multiple sending countries. And about 7 percent of opinions correspond to complaints filed in multiple districts alleging harm in a single sending country.

After coding this information for every ATS opinion, we constructed a series of three outcome variables that we use in our main analysis. Each outcome variable was constructed at the level of an (ijt) -triple where i represents the federal district court, j represents the sending country, and t represents the year under observation. First, Any Opinion is an indicator variable that equals 1 if any ATS opinion was issued in the specific year that: (1) addressed alleged torts committed in the sending country and (2) resulted from a complaint that was originally filed in the territory covered by the federal district court. Otherwise, the variable equals 0. Second, Opinion Count is a count variable for the total number of ATS opinions that meet the criteria. Third, First Opinion is an indicator variable that equals 1 only for the first ATS opinion in a given district that meets the criteria, and equals 0 otherwise. We examine only if there is a case and not if the plaintiffs are successful on the merits because, as noted above, "success" in finding a violation is an even more rare event. In many cases, settlements are reached before the judge issues an opinion on the merits.¹⁹ Thus just because there is not an opinion on the merits does not mean that the plaintiffs do not get some compensation.

To account for the fact that some opinions were generated by multiple complaints, we created an additional version of these variables to conduct robustness checks. For each opinion, we compiled the set of complaints that generated that opinion. *Variable Random* assigns the opinion to a randomly chosen judicial district from the set. This process yields three additional versions of our outcome variable.

Immigration

To assess the impact of immigration on ATS opinions we must first measure the movement of immigrants to judicial districts. Our raw immigration data comes from the individual data samples of 1960, 1970, 1980, 1990, and 2000 Censuses and the 2005–2019 American Community Surveys (ACS), downloaded from [Ruggles et al. \(2023\)](#). [Ruggles et al. \(2023\)](#) provides stratified samples of the individual-level data from the surveys, along with weights.²⁰ We define immigrants as those born in a country other than the United States and use the country of birth as the sending country.

The Census Bureau counts all individuals who regularly reside in the United States at their regular residence regardless of legal status. Thus, our measure of immigrants includes naturalized immigrants; legal permanent residents ("Green Card" holders); individuals who plan to live permanently in the United States but do not yet have a Green Card; temporary migrants, such as H-1B workers; and undocumented immigrants. It does not include individuals who are in the United States for tourism or a short-term business trip. The data includes the county in which each individual lives.

¹⁹For example, see *Kiobel*, Second Circuit Court of Appeals, opinion from September 17, 2010: "complexity and uncertainty—combined with the fact that juries hearing ATS claims are capable of awarding multibillion-dollar verdicts—has led many defendants to settle ATS claims prior to trial."

²⁰We used a 5 percent sample of the 1960, 1980, 1990, and 2000 censuses and the 1 percent metro 1970 sample; and a 1 percent sample from the 2005–2019 ACS. The 2001–2004 ACS only includes data at the state level and thus cannot be allocated to court districts.

Using the county data, we allocate each individual to the appropriate federal court district. Using the weights, we then aggregate the data to come up with a measure of the total number of immigrants from a given sending country in each of the 94 federal judicial districts. For the years between the censuses, we linearly interpolated the data to create our main explanatory variable, Immigrant Stock, which is the number of immigrants from a sending country that reside in a federal judicial district in a given year. Because we do not know when every complaint was filed, we lag this variable in our main analysis by 5 years.

Patterns in the Descriptive Data

We begin by examining the data from the perspective of US judicial districts. [Figure 1a](#) shows the average immigrant stocks for 1980–2020 for each federal judicial district. Meanwhile, [figure 1b](#) shows the number of ATS opinions that resulted from complaints filed in each judicial district. Darker colors indicate higher levels of immigrant stock and more opinions, respectively. Finally, [figure 1c](#) plots the average number of immigrants by the number of ATS opinions. We include some district labels to help illustrate variation.

From these figures, there is clearly a positive relationship between immigration and ATS opinions, although the relationship is not a perfect one. We find that most opinions are generated by cases that originate in the Southern District of New York, which includes Manhattan. The Central District of California, which covers Los Angeles and Orange County, accounts for the second-highest number of ATS opinions. The Northern District of California, which contains San Francisco, follows close behind. All three of these districts attract large immigrant populations and so we would expect that they would also generate many ATS opinions. That said, we do have outliers: the District of South Carolina and the Southern District of Ohio, which includes Cincinnati, both have relatively low levels of migration yet relatively high numbers of ATS opinions compared to other judicial districts. Thus, more immigrants do not mechanically lead to more ATS opinions.

Next, we examine the data from the perspective of the sending countries. [Figure 2a](#) shows average immigration to the United States from each sending country for 1980–2020. In contrast, [figure 2b](#) shows the total number of ATS opinions for torts alleged to have occurred in each sending country. As in earlier maps, darker colors indicate higher levels of immigrant stock and more opinions, respectively. Finally, [figure 2c](#) plots the average amount of migrants from each sending country by the number of ATS opinions involving those countries, plotted from least to most (with countries with zero cases excluded). Once again, we include some illustrative labels of state names.

We see less of a clear relationship between migration and ATS opinions when we look only at the stock of migrants from these states. Some states, like Colombia and Mexico, have both high levels of migration to the United States and large numbers of ATS opinions. Other states, like Israel and South Africa, have relatively low levels of migration but nonetheless have a large number of ATS opinions. Clearly, there are other factors besides migration that matter when explaining ATS opinions. Nonetheless, it does appear that states with less migration to the United States typically have fewer or no ATS opinions, and states with more migration to the United States tend to have more ATS opinions.

Thus, from the descriptive data, it appears that migration matters, but likely other factors affect ATS cases as well.

Evidence that Immigrants Matter

Other Variables

ATROCITIES

To file an ATS case, a perpetrator must allegedly commit a tort against a victim. This is more likely to occur in a country with more atrocities. To measure the level of atrocities in the sending country, we use the political terror score (PTS) of the sending country from [Gibney et al. \(2020\)](#) labeled as the variable PTS. This is a well-known and commonly used metric that ranges from 1 (for countries under secure rule of law) to 5 (for countries in which leaders routinely murder, disappear, and torture the general population). This data has full coverage from 1976 to 2017.²¹

This variable was used by [Johns, Langer, and Peters \(2022\)](#) as one of the baseline measures of atrocities. As robustness checks, we also use several measures from the V-Dem and Polity dataset ([Coppedge et al. 2024](#); [Marshall, Gurr, and Jaggers 2016](#); [Pemstein et al. 2024](#)).²² Recall that our outcome variables are indexed by the date of a court opinion. To account for the time it takes for individuals to move across international borders and for cases to be heard by US judges, we use the rolling average of the PTS variable over the last 10 years in our main analysis.

COSTS

We also control the political and legal costs that a victim faces when filing a complaint. Victims may fear that US judges will be influenced by the US's political relationship with the sending country ([Langer 2011](#)). After all, many ATS lawsuits are filed against public officials, like prime ministers and military officers, and the US Executive Branch often expresses its opinion on ATS cases. To account for fears that power politics may influence ATS complaints, we include indicator variables for whether the United States and the sending country have an Alliance and whether the sending country is a Major Power ([Correlates of War Project 2013](#)). We expect that both of these variables will be associated with negative effects on the likelihood of ATS opinions.

Legal costs can also influence litigation decisions. We accordingly include an indicator variable for whether the sending country is English Speaking ([Melitz and Toubal 2014](#)). Knowledge of English greatly eases access to US courts for victims and also makes it easier to provide evidence, such as documents and witness testimony. We therefore expect that knowledge of English will lower the cost of ATS complaints and increase the likelihood of ATS opinions.

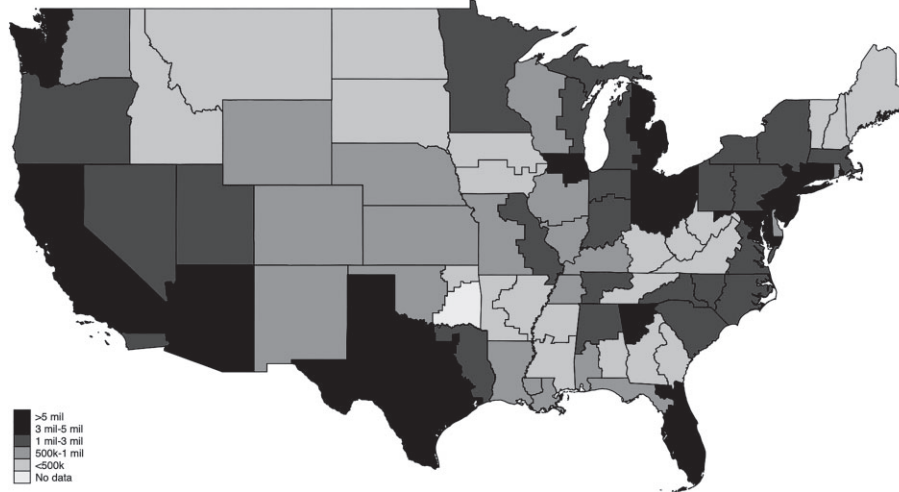
We also expect that local knowledge about the ATS should lower the cost of filings and increase ATS opinions. While local populations are unlikely to closely watch developments in their local federal courthouses, ATS opinions with effects on local immigrant populations may facilitate the spread of legal knowledge about the ways in which the ATS can be used to uphold international human rights law and lawyers should take notice of prior opinions in a given district. We accordingly include an indicator variable for whether there has been a Prior ATS Opinion. We expect that both of these variables will be associated with positive effects on the likelihood of ATS opinions.

All of these cost variables affect the decision of victims about whether to file a complaint. To account for the time it

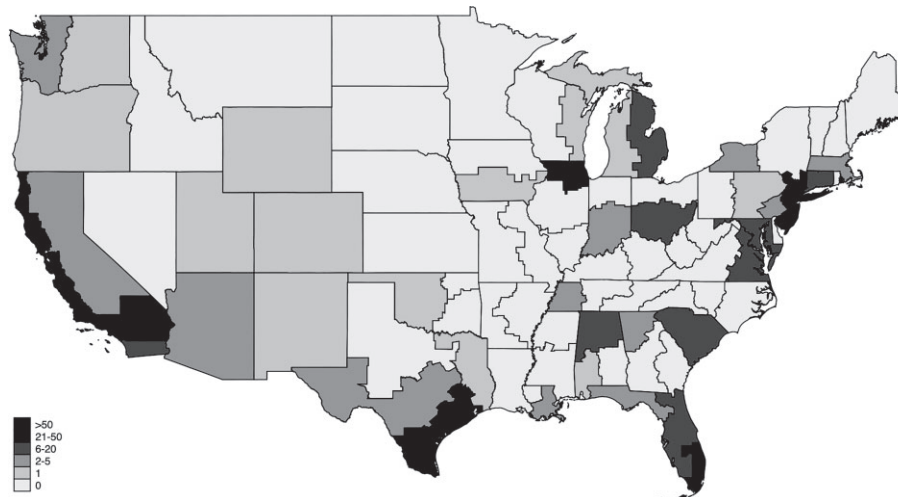
²¹As a robustness check for PTS scores, we also use the [Fariss, Kenwick, and Reuning \(2012\)](#) measure of one-sided killings, which is constructed using a latent variable model. See Online Appendix [Table A12](#).

²²See Online Appendix [Tables A13–A16](#).

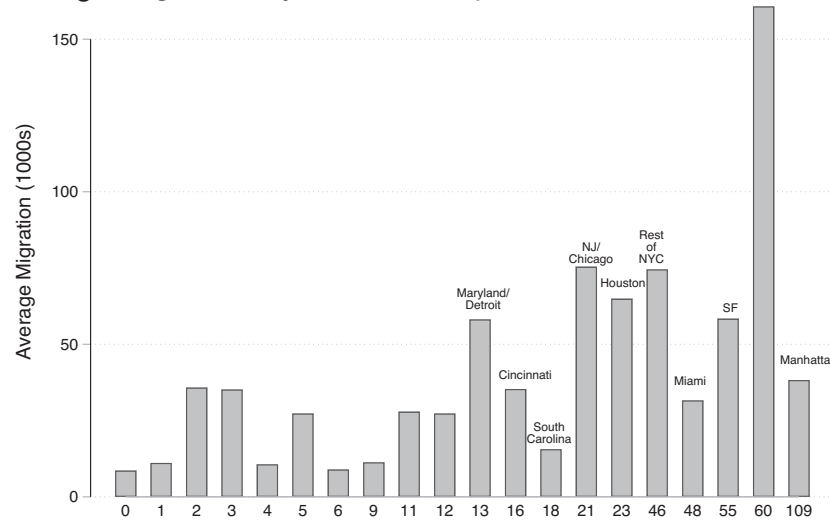
(a) Average Immigrant Stocks by Judicial District



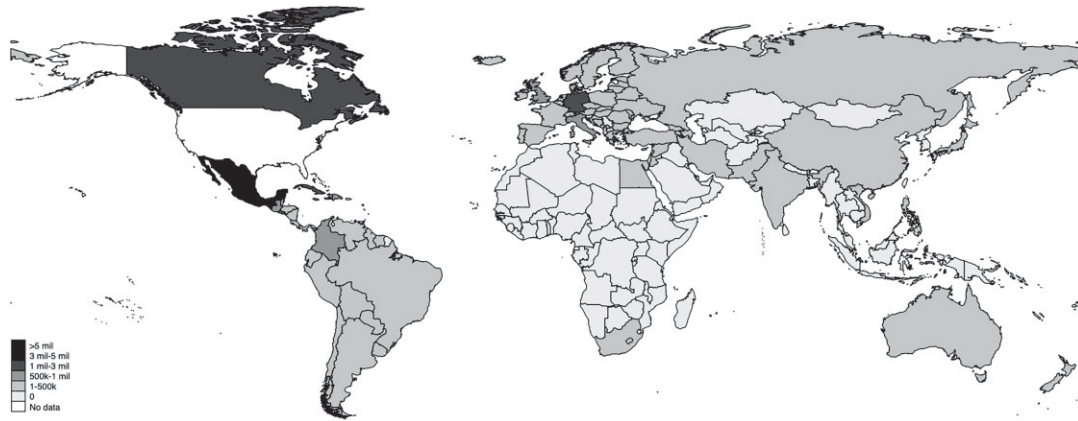
(b) Total ATS Opinions by Filing District



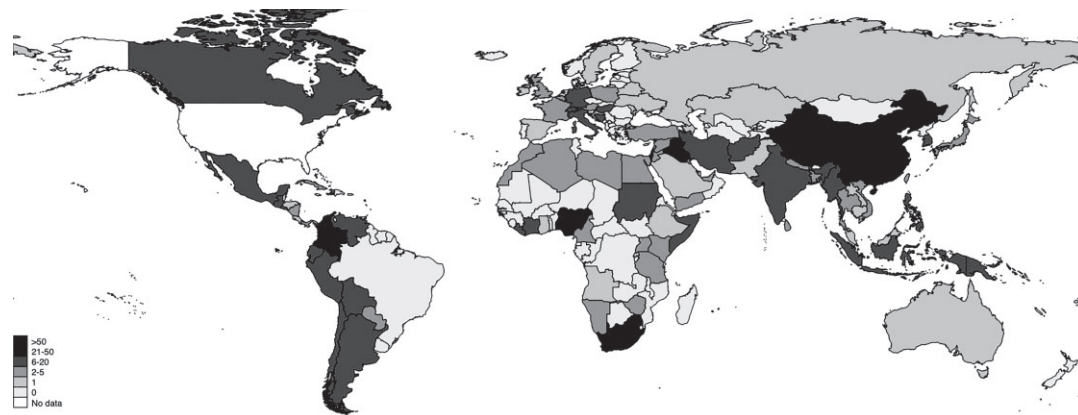
(c) Average Migration By Total ATS Opinions for Each District

**Figure 1.** Comparing immigrant stocks and filing districts for ATS opinions, 1980–2020.

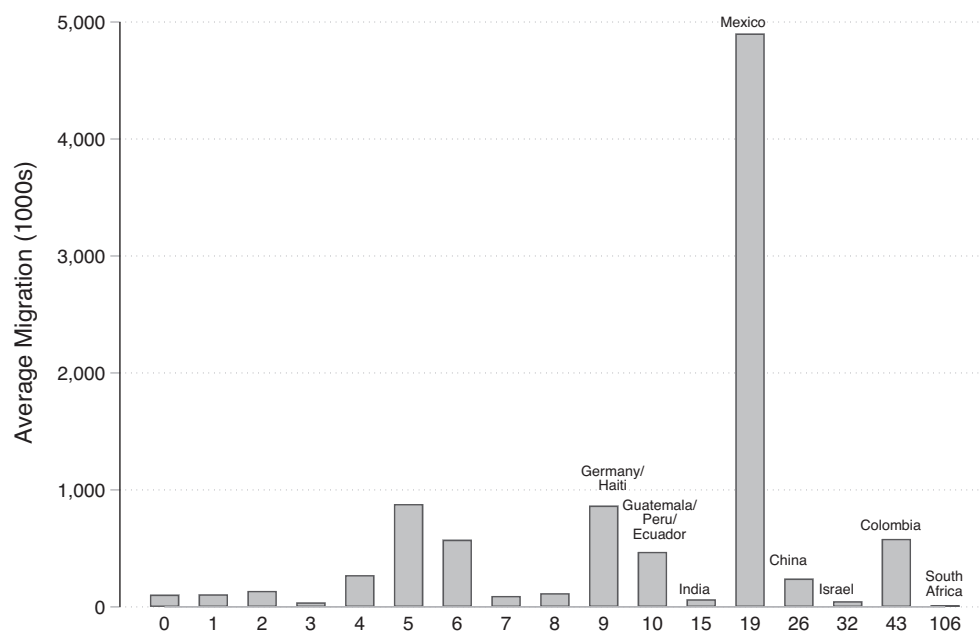
(a) Average Immigration to US from Each Sending Country



(b) Total Opinions for Alleged Torts in Each Sending Country



(c) Average Migration By Total ATS Opinions from Each Country

**Figure 2.** Comparing the *Sources* of US immigration and ATS opinions, 1980–2020.

takes for cases to be heard by US judges, we lag all of these measures in our main analysis by 5 years.²³

DISTRICT ATTRIBUTES

Finally, we control for district attributes. We collect two measures of federal district courts. First, we control for each judicial district's Caseload, which is a measure of average number of cases per sitting judge from [Habel and Scott \(2014\)](#). Higher caseloads generally indicate delays and higher litigation costs, which can affect initial decisions about both whether to file and whether to settle cases after filing ([Gilligan, Johns, and Rosendorff 2010](#)). All else equal, we expect that litigants are less likely to file cases in district-years with a larger Caseload because they expect longer delays from litigation.

Second, we measure each district's Democratic Appointees, which indicates the percentage of sitting judges, including those with senior status, in a given year in given district who were appointed by a Democratic president. Data on the judges is from the Federal Judicial [Federal Judicial Center \(2024\)](#). While all judges are expected to decide cases on the law and the merits, some legal scholars and practicing lawyers believe that judges appointed by Democratic presidents are more likely to support ATS cases than judges appointed by Republican presidents based on their underlying judicial approaches and philosophies (e.g., [Nzelibe 2013](#)). If this argument is true (or, at least, if it is *believed* to be true), then litigants should be more likely to file cases in district-years with a larger share of Democratic Appointees.

We also control for demographic attributes of judicial districts. To construct these measures, we rely on the individual-level Census/ACS data from [Ruggles et al. \(2023\)](#), which we aggregate to the level of judicial districts and linearly interpolate to construct annual measures. These measures include the weighted median Education, weighted median Income, and weighted sum of the Population in each district.

Once again, all of these district attributes affect the decision of victims about whether to file a complaint. So we accordingly lag all of these measures in our main analysis by 5 years. Due to data coverage, our main estimates examine the years 1980 through 2012.

Estimation

To estimate the effect of immigration and other explanatory variables on whether there is Any Opinion and the Opinion Count in a given year, we use Ordinary Least Squares (OLS) with robust standard errors clustered by the District-Sending Country dyad. Despite the non-continuous outcome variable, OLS offers a "well-defined conditional expectation function" and simplifies interpretation because the coefficients reflect differences in conditional means ([Angrist and Pischke 2009, 197](#)).²⁴ We standardize all continuous variables, which allows us to interpret the coefficients below as the change in the dependent variable of a one-standard-deviation change in a continuous explanatory variable or the change from 0 to 1 in a dichotomous explanatory variable.

²³The language of the sending country does not change over time and this variable is not lagged.

²⁴In the Online Appendix, we use logit to estimate the regression for Any Opinion and a zero-inflated negative binomial to estimate the regression for Opinion Count and find similar results. We prefer OLS because of its ease of interpretation and the ability to include district-fixed effects without dropping districts with no cases.

For First Opinion, we follow the common practice in the International Relations literature of using a logit model with robust standard errors clustered by the District-Sending Country dyad and including years since the start of the dataset, its square and cube, and dropping the years after the first opinion ([Carter and Signorino 2010](#)). This method is equivalent to a hazard model but easier to interpret ([Beck, Katz, and Tucker 1998](#)). All continuous variables are again standardized, meaning that the coefficients are equal to the change in the log-odds of a one-standard-deviation change in a continuous explanatory variable or the change from 0 to 1 in a dichotomous explanatory variable. In Models (4)–(6), we then estimate the same models as before but with an interaction between Immigrant Stock and PTS. We expect that immigrants from countries with a greater number of atrocities will be even more likely to file an ATS case.

Main Results

[Table 1](#) provides the results of our main regression models, [table 2](#) summarizes the evidence for each hypothesis, and [figure 3](#) shows the marginal effect of Immigrant Stock both with and without interacting it with the PTS score. First, the coefficient on Immigrant Stock is positive and statistically significant (at various levels of significance) across all three regression models. Because Immigrant Stock is standardized, the coefficient can be interpreted as the effect of a one-standard-deviation change in the stock of immigrants from the sending country to the judicial district. ATS opinions occur in only about 0.1 percent of the observations. While Immigrant Stock has a small marginal effect on the likelihood of an ATS opinion (0.04 percent), its effect is, nonetheless, about one-quarter of the likelihood of any opinion. If the number of immigrants increases from 0 to about 5,000, we get a doubling of the probability of a case to 0.02 percent. There are decreasing marginal returns of migrants, though; increasing from 5,000 to 50,000 only increases the probability to 0.022 percent, and increasing to two million increases the probability to 0.03 percent.

Next, we see that atrocities in the sending country increase the likelihood of ATS opinions, as expected by Hypothesis 2 of our theoretical argument. The PTS coefficient is positive and always highly statistically significant. Even though the coefficients on both Immigrant Stock and PTS are positive and significant, the interaction between the two, which is usually positive, is not statistically significant.

Third, we see mixed evidence regarding Hypothesis 3 of our argument, which pertained to costs. If political costs matter, then the coefficients on Alliance and Major Power would be negative. But, we see the opposite. However, ATS opinions are significantly more likely to involve English-Speaking sending countries and are more likely after a Prior ATS Opinion in the judicial district.

Finally, our analysis provides many findings about the impact of district attributes. We find that districts with more Democratic Appointees are more likely to have a case filed in any given year and are more likely to have more of these cases. However, Democratic Appointees have no effect on whether the first case is filed. We also find that districts with a larger Caseload are less likely to have a case in any given year and see fewer cases filed. However, districts with a larger Caseload are more likely to have their first case. Surprisingly, higher Education significantly decreases the likelihood of ATS opinions in many of the models. However, as expected,

Table 1. Regression of opinions on explanatory variables.

<i>Measure of opinion</i>	(1) Any	(2) Count	(3) First	(4) Any	(5) Count	(6) First
Immigrant Stock (5 yr lag)						
IMMIGRANT STOCK (log)	0.00041** (0.00015)	0.00038* (0.00017)	0.70*** (0.18)	0.00047* (0.00018)	0.00045* (0.00021)	0.75*** (0.2)
Atrocities (10 yr average)						
PTS	0.00083*** (0.00011)	0.00098*** (0.00014)	0.98*** (0.17)	0.00082*** (0.00011)	0.00097*** (0.00013)	1.08*** (0.21)
IMMIGRANT STOCK (log) * PTS				0.0003 (0.00021)	0.00033 (0.00025)	-0.077 (0.11)
Costs (5 yr lag)						
ALLIANCE	0.00034+ (0.00018)	0.00035+ (0.0002)	0.80+ (0.41)	0.00030+ (0.00018)	0.0003 (0.0002)	0.81+ (0.41)
MAJOR POWER	0.0021* (0.0009)	0.0022* (0.00097)	1.26+ (0.65)	0.0024** (0.00089)	0.0025** (0.00096)	1.13+ (0.64)
ENGLISH SPEAKING	0.00088*** (0.00025)	0.0014*** (0.00038)	1.16** (0.38)	0.00093*** (0.00025)	0.0015*** (0.00038)	1.10** (0.4)
PRIOR ATS OPINION	0.0048*** (0.00052)	0.0055*** (0.00065)		0.0048*** (0.00051)	0.0055*** (0.00065)	
District Attributes (5 yr lag)						
DEMOCRATIC APPOINTEES	0.0017*** (0.00031)	0.0018*** (0.00037)	-0.9 (0.84)	0.0017*** (0.00031)	0.0018*** (0.00037)	-0.89 (0.85)
CASELOAD	-0.0000012** (0.00000043)	-0.0000014** (0.0000005)	0.0016** (0.00051)	-0.0000012** (0.00000043)	-0.0000014** (0.0000005)	0.0016** (0.00051)
EDUCATION	-0.00034*** (0.000091)	-0.00047*** (0.00012)	0.88 (0.93)	-0.00033*** (0.00009)	-0.00046*** (0.00011)	0.87 (0.93)
INCOME	0.00056*** (0.00011)	0.00076*** (0.00016)	0.12 (1.05)	0.00057*** (0.00011)	0.00077*** (0.00016)	0.13 (1.05)
POPULATION (LOG)	0.00027** (0.000098)	0.00041** (0.00013)	0.83*** (0.23)	0.00028** (0.000098)	0.00041** (0.00013)	0.82*** (0.23)
CONSTANT	-0.00025 (0.00018)	-0.00028 (0.00022)	-10.6*** (1.23)	-0.0002 (0.00018)	-0.00023 (0.00021)	-10.7*** (1.21)
Observations	412,267	412,267	318,251	412,267	412,267	318,251
R^2	0.0048	0.0037		0.0049	0.0038	
Pseudo R^2			0.16			0.16
Dependent Variable Mean	0.00099	0.0012	0.00012	0.00099	0.0012	0.00012

Notes: Robust standard errors clustered by district-sending country dyad in parentheses. All continuous variables have been standardized. Models (1), (2), (4), and (5) are OLS models. Models (3) and (6) are logit models with years after the first opinion dropped, which prevents the inclusion of the Prior ATS Opinion variable. Model (3) also includes years since 1980, its square, and cube.

+ $p < 0.10$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$.

Table 2. Connecting theoretical expectations to empirical results.

Dependent Variable: Opinions				
Hypothesis Number	Theoretical Concept	Empirical Measure	Expected Impact	Empirical Support?
H1	Immigrant Stock	Immigrant Stock	Positive	Yes
H2	Atrocities	PTS	Positive	Yes
H3	Cost	Alliance	Negative	No
		Major Power	Negative	No
		English Speaking	Positive	Yes
		Prior ATS Opinion	Positive	Yes

ATS opinions are more likely to originate in districts with a larger Population and higher Income.

Sensitivity Analysis

To examine the sensitivity of Immigrant Stock, we examine how large an unobserved confounder would need to be to change our results using the procedure in [Cinelli and Hazlett \(2020\)](#). Assume that there is an unobserved confounder such that our estimate of the effect of Im-

migrant Stock is greater than 0 but the true effect is 0. In this case, our estimated coefficient would be biased. [Cinelli and Hazlett \(2020\)](#) show that this bias can be calculated from the amount of variation (R^2) that the confounder explains in both the outcome and explanatory variables. Their procedure allows us to calculate how much variation this confounder must explain such that the bias in our estimate is large enough that the true estimate is 0. It also allows us to examine how large a hypothetical confounder would need to be in comparison to other variables.

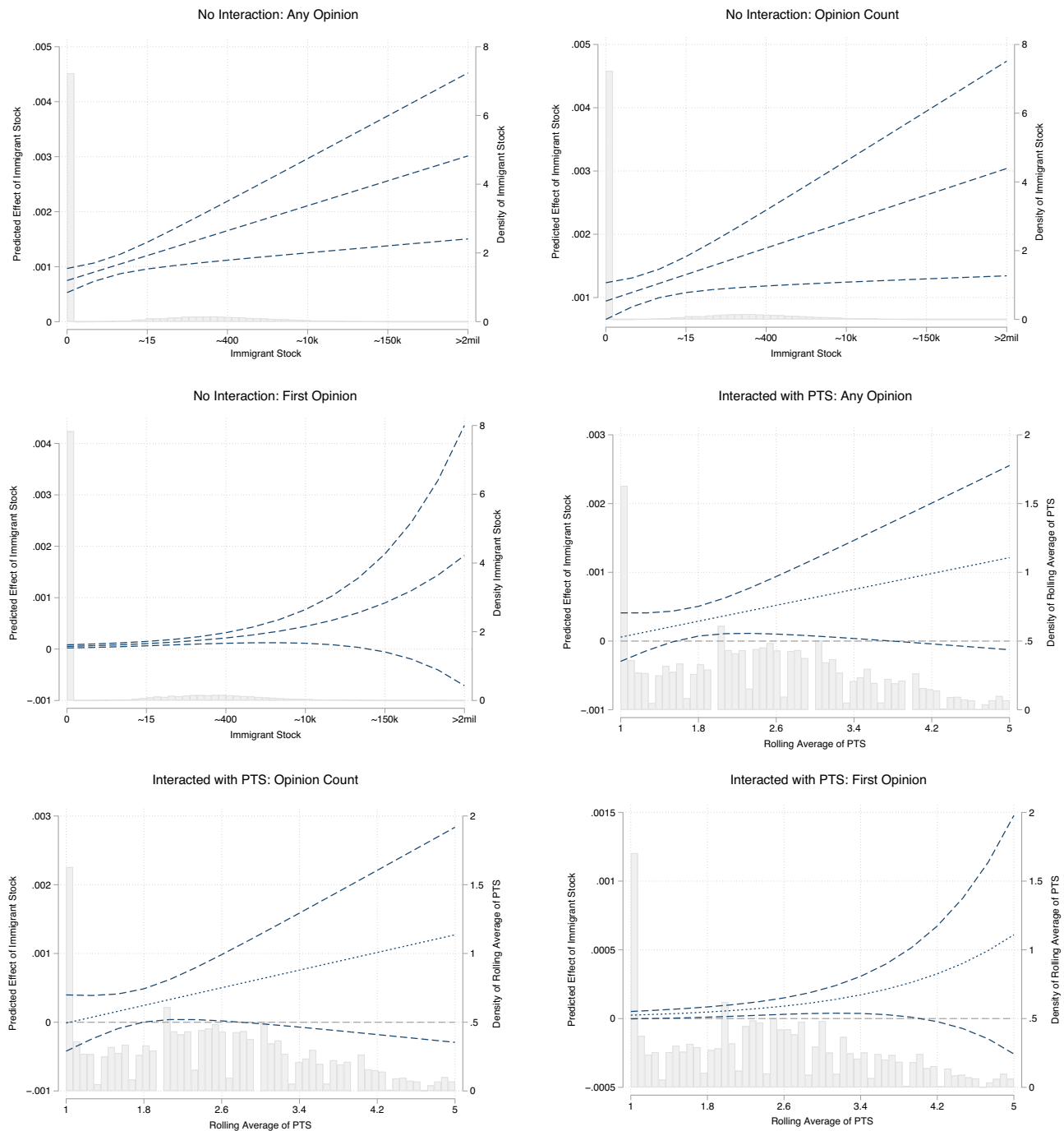


Figure 3. Effect of immigrant stock alone and interacted with PTS.

We show in the Online Appendix that an unobserved confounder must have at least the effect of PTS to bring the coefficient on Immigrant Stock in Model (1) to 0. Similar findings hold for Models (2) and (3), showing that our results are not sensitive to confounding variables.

Robustness Checks

We also performed a variety of robustness checks.²⁵ First, we performed the Any Opinion and Opinion Count analysis using logit and zero-inflated negative binomial models,

²⁵See the Online Appendix for all documentation.

respectively. Next, we used different lag structures for our explanatory variables. Third, we used the alternative dependent variables, in which opinions that originated from multiple complaints were randomly assigned to a filing district. Fourth, we checked the robustness of results to influential judicial districts (D.D.C., S.D.N.Y., N.D.Ca., and C.D.Ca.) and sending countries (Canada, Mexico, and China). Fifth, we drop all years except the decadal census years and calculate whether there is Any Opinion in the next 10 years, the Opinion Count over the next 10 years, and if there is a First Opinion in the next 10 years. Sixth, we include sending country, district, and year fixed effects to control for

time-invariant factors of the sending state or district and geographical-invariant factors each year.²⁶ Finally, we use various measures of democracy as a proxy for atrocities. This allows us to replicate the design in [Johns, Langer, and Peters \(2022\)](#). Throughout, we see similar results.

Conclusion

Previous research argues that domestic courts can create “justice remittances” ([Johns, Langer, and Peters 2022](#), 1186). When immigrants arrive in a new country, they can access local courts and law enforcement agencies in their new home country. These domestic institutions can be used to seek redress for severe violations of international law that occurred in their sending countries. This previous research focused on global patterns of criminal prosecutions using universal jurisdiction cases.

Our empirical analysis of ATS opinions provides strong empirical support for the theoretical claims that both higher immigrant stocks and higher levels of atrocities will lead to more ATS opinions in the United States. Additionally, while ATS litigants do not appear to be influenced by political costs, litigants do appear to be influenced by factors that reduce the legal costs of bringing an ATS case, like whether the case originated in an English-speaking state or whether the district has previously generated an ATS opinion.

Additionally, we make three major contributions to this important and nascent area of interdisciplinary research: justice across borders. We provide the first known subnational evidence that migrants drive transnational litigation. Second, we provide compelling evidence that justice remittances extend to civil remedy lawsuits, not just criminal prosecutions. And finally, we provide micro-level evidence from a country that is notorious for opposing the use of international law by domestic courts (and hence makes a “tough” case for transnational justice arguments): the United States. While the US Supreme Court has tried to limit the use of the ATS in recent years, pushback has come from lower courts, human right lawyers, and even the US Congress and President, who have created new pathways for transnational justice.²⁷ Our evidence suggests that key drivers of justice remittances are at work within the United States: immigrant stocks, atrocities in sending countries, and the legal costs of pursuing justice. The United States may not be so exceptional after all.

Supplementary Information

Supplementary information is available in the [International Studies Quarterly](#) data archive.

²⁶We use an OLS model for First Opinion to be able to estimate the model with fixed effects.

²⁷For example, other US laws that allow justice remittances for foreign nationals include the Torture Victim Protection Act (1991), the Justice Against Sponsors of Terrorism Act (2016), and the Justice for Victims of War Crimes Act (2023). Human rights lawyers have also tried to use common law doctrines like the transitory tort doctrine. For example, see Jason P. Hipp, Alyssa Bernstein and Aimee Grainer, “The *Chiquita* Verdict Expands International Human Rights Liability for Corporate Conduct Abroad,” *Just Security*, July 26, 2024. Available at: <https://www.justsecurity.org/98093/chiquita-verdict-human-rights/>. Last accessed: July 29, 2024.

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