2. Beyond smoke and mirrors? Discursive gaps in the liberalisation of South American immigration laws

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In their seminal work *Beyond Smoke and Mirrors* Massey and his co-authors show that restrictive US-American immigration policies enacted between 1986 and 1996 were passed largely for symbolic domestic political purposes. Despite restrictive policy discourses, the US government has for decades been accepting the entry and residence of substantial numbers of migrants who remain and work in its territory without authorisation. A similar discursive gap has been identified for European immigrant-receiving states.[1]

Such studies assume a global restrictive trend in immigration policy and law since the 1980s. This assessment, which mirrors a similar trend in asylum scholarship (see chapter 8, this volume),[2] goes back to the geographical bias of the immigration literature. Despite the fact that over half of all international migration is made up of south-south flows,[3] migration studies in general, and the literature on immigration policymaking in particular, have concentrated disproportionately on western immigrant-receiving states. This chapter discusses to what extent a reverse policy gap exists in South America.

In the last 15 years, the immigration discourses in many South American countries have become increasingly liberal, with a clear emphasis on migrants' rights and the promotion of free human mobility (see chapter 1, this volume).[4] These discourses focus on the universality of migrants' rights and on how these apply to all non-nationals irrespective of their origin and legal status. In some countries legislative liberalisation followed, as showcased in the unprecedented

1 Freeman, 'Models of immigration politics in liberal societies', pp. 881–902; Durand and Massey, 'The costs of contradiction: US border policy 1986–2000', pp. 233–52; Hollifield, 'The emerging migration state', pp. 885–912; Cornelius et al. (eds.), *Controlling Immigration: A Global Perspective*; Mayda, 'International migration: a panel data analysis of the determinants of bilateral flows', pp. 249–74; Czaika and de Haas, 'The effectiveness of immigration policies', pp. 487–508.

2 See also Freier, 'A liberal paradigm shift? A critical appraisal of recent trends in Latin American asylum legislation'.

3 IOM, *World Migration Report 2010*.

4 See also Mármora, 'Modelos de gobernabilidad migratoria. La perspectiva política en América del Sur', pp. 71–92; Ceriani Cernadas, 'Luces y sombras en la legislación migratoria latinoamericana, pp. 68–86.

incorporation of the 'right to migrate' in Argentinian, Uruguayan, Bolivian and Ecuadorian legislation. However, when analysed more closely, much of the South American immigration legislation in force lags well behind the region's discursive liberalisation.

Despite the important theoretical and political implications of this reverse policy gap, little academic attention has been devoted to it. Is this gap simply a result of a lag of statuses that have not moved as quickly as policy rhetoric (but eventually will) or is there a systematic gap that points to political hypocrisy? As will be seen below, there is no clear answer. The analysis rather presents South American immigration law as a complex canvas with liberalisation taking place in some countries and certain areas – such as facilitating mobility for regional migrants – and restrictive policies still prevailing in others, particularly extra-regional migrants. This is not much different from American and European immigration law where similar tensions between liberalism and restrictiveness persist – albeit against the background of restrictive discourses.[5]

The chapter begins with a short conceptual discussion of what we mean by immigration policies, policy liberalisation and discursive policy gaps and continues with a brief description of migratory movements in the region. The third section analyses the liberalisation of immigration discourses in Argentina, Brazil, Bolivia, Chile, Ecuador and Uruguay. The fourth part discusses to what extent these discourses have translated into liberal legislative reforms. The fifth section takes a closer look at the 'right to migrate' as a central piece of South American legislative liberalisation, and the conclusion links the study's main findings to different phases of the policymaking cycle.

The countries considered here were chosen because they represent a range of smaller and larger gaps between discursive liberalisation and legislative change. Thus, the case studies include countries with liberalised immigration laws, Argentina (2004), Uruguay (2008) and Bolivia (2013), and those with older legislation stemming from the military dictatorships of the 1970s and 1980s: Brazil (1981), Chile (1975) and Ecuador (1971). It is beyond the scope of this study to provide an exhaustive analysis of the national immigration legislation in each of our case studies. Rather, relevant aspects of current laws will be highlighted on a case-by-case basis.

Immigration policies, policy liberalisation and discursive policy gaps

In order to analyse any gaps between official immigration discourses and policies, we must first define immigration policies. Given that there is no

5 Peers, 'A fairy-tale ending? EU Justice and Home Affairs Law since the Treaty of Lisbon', pp. 17–37.

global migration management framework[6] (with the exception of the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families),[7] various governance mechanisms including instances of both 'hard' and 'soft' law,[8] such as regional consultative processes, human rights norms derived from international treaties or bilateral and regional agreements address migration at the international level.[9] That international governance can be defined as 'the norms, rules, principles and decision-making procedures that regulate the behaviour of states' in the area of migration.[10]

Domestically, immigration policies are the specific rules and procedures 'governing the selection, admission and deportation of foreign citizens'[11] into a state's territory, especially of non-nationals intending to remain and/or work in the country. This predominantly includes access policies establishing the means of issuing visas and residence permits and immigration control policies. But the umbrella of immigration policies can open more widely to include integration policies and citizenship law, and even measures in the areas of the labour market, welfare, trade and foreign policies. Our analysis includes immigration and integration policies[12] such as regularisation programmes. There is significant overlap between immigration and integration policies. As our analysis will show, integration measures are a central theme in the liberalised immigration policy discourses of South American states.

We further understand policy liberalisation as policy change that expands individual rights and freedoms. Ultimate immigration policy liberalisation would equal the abolition of all restrictions to human mobility and settlement as well as the universal regularisation of migrants in an irregular situation.[13] Such ultimate liberalisation is highly unlikely and thus cannot serve as a benchmark (although, as we will see, Ecuador's President Rafael Correa claimed to make Ecuador's immigration policy subject to such drastic reforms). All legislative changes that increase migrants' rights can be termed liberalisation. This chapter does not apply a set benchmark to liberalisation, but compares relevant changes

6 See de Guchteneire et al. (eds.), *Migration and Human Rights. The United Nations Convention on Migrant Workers' Rights.*

7 UN, *Treaty Series*, vol. 2220, p. 3; Doc. A/RES/45/158.

8 Betts, 'Towards a "soft law" framework for the protection of vulnerable irregular migrants', pp. 209–36.

9 For a comparison of migration governance in the EU and Mercosur see Acosta Arcarazo and Geddes, 'Transnational diffusion or different models?, pp. 19–44.

10 Betts, introduction to Betts (ed.), *Global Migration Governance*, pp. 1–33.

11 Brochmann, 'The mechanisms of control', pp. 297–334.

12 For a discussion on immigration *v.* integration policies see Meyers, 'Theories of international immigration policy – a comparative analysis', p. 1246.

13 For a different conception see Carens, 'Aliens and citizens: the case for open borders', pp. 251–73.

on the constitutional level, in domestic legislation, and in the areas of visa and regularisation policies to the case countries' political immigration discourses.

Lastly, considerable theoretical confusion exists concerning the different types of policy gaps in immigration policymaking. This has had important implications for academic discussions about immigration policy effectiveness, that is, the relationship between publicly declared policy goals and immigration rates. Many authors speak of policy failure with regard to the restrictive objectives of western immigrant-receiving states because they compare policy outcomes to official discourses without taking into account the political processes and hidden agendas that lead to various discursive and implementation gaps along the way.[14]

This chapter builds on Czaika and de Haas's differentiation between 'discursive gaps' (the discrepancy between the objectives stated in official discourses and concrete policies and legislations, that is, *policy outputs*), 'implementation gaps' (the disparity between official laws, measures and regulations, and their actual implementation) and 'efficacy gaps' (the extent to which policies actually determine migratory movements, that is, *policy outcomes*).[15] The chapter focuses on discursive gaps in South American immigration policies and is less concerned with implementation and efficacy gaps, or policy effectiveness, which are related to institutional shortcomings and structural factors, such as labour market demands and social networks that may have much stronger influence on flows than policy.

Regional migratory context

In the past decades, Latin America has transformed from a migrant-receiving region – between 1500 and 1950 – into one of the leading migrant-sending regions of the world. Between 1800 and 1970, approximately 13.8 million immigrants entered Latin America, 60 per cent of whom originated from southern Europe (primarily from Italy, Spain and Portugal) and another 15 per cent from other European countries.[16] During the first century and a half after gaining independence in the early 19th century, most Latin American governments welcomed, or even actively promoted immigration. It was a widely held belief that Latin America lacked sufficient workers to realise the economic potential of its abundant resources, and that immigration was thus

14 Geddes, '"Il rombo dei cannoni"? Immigration and the centre-right in Italy', p. 350.

15 Although it is often argued that the actual implementation of policies is more important than their promulgation, it is extremely difficult to measure it. Therefore, official policies and laws are often used as a proxy for implemented policy. See Czaika and de Haas, 'The effectiveness of immigration policies: a conceptual review of empirical evidence', pp. 487–508.

16 Massey et al., *Worlds in Motion: Understanding International Migration at the End of the Millennium*.

a prerequisite for economic growth. It is important to point out that these early 'open door' policies were often intertwined with racist ideology. Many founding fathers of Latin American states sought both to import labour and to 'improve the race' of their freshly forged nations by facilitating the immigration of white Europeans.[17]

The last waves of European immigration to Latin America occurred after World War Two, abating in the 1950s and 1960s. In the 1970s and 1980s, dictatorial governments and military juntas came to power in the majority of Latin American countries, and commonly tried to limit population movements as a means of political control.[18] The intertwined political and economic crises of the 1980s generated increased pressure for Latin American emigration to destinations within and outside the region. This trend persisted despite the region's democratisation since the 1980s, and even picked up momentum with the economic crises of the early 2000s.

Between 2000 and 2010, emigration flows from Latin America surpassed immigration flows by 11 million people, the main destinations being the USA (receiving 68 per cent of all Latin American emigrants), followed by Argentina, Spain, Venezuela and Canada.[19] It is important to point out that South Americans make up just 3.8 per cent of all Latin American immigrants to the USA (while Mexicans alone represent 52 per cent).[20] Latin American migration to Europe, on the other hand, mainly originates in South America with almost 90 per cent of Spain's Latin American immigrants coming from that sub-region.[21] South American migration to the EU exploded in the 1990s, especially from people leaving countries whose citizens were not required to obtain a Schengen visa, such as Ecuador and Argentina, but drastically decreased after the 2008 economic crisis.[22] Contrary to initial speculations, a massive return of migrants to South America has so far not occurred.

In 2010, there were 7.5 million international migrants in Latin America,[23] of whom 57 per cent came from within the region.[24] Intra-regional migration is dominated by corridors between bordering countries – from Bolivia, Chile, Paraguay and Uruguay towards Argentina, from Colombia towards Venezuela,

17 Bastia and vom Hau, 'Migration, race, and nationhood in Argentina', 475–92.

18 Schindel, 'Refugiados sin refugio: migración y asilo político en Argentina tras el golpe militar (1976)'.

19 International Organization for Migration, *World Migration Report 2010*; see also Texidó and Gurrieri, *Panorama Migratorio de América del Sur 2012*, pp. 25–9.

20 Ibid.

21 Padilla and Peixoto, *Latin American Immigration to Southern Europe*.

22 Cordova, 'Migratory routes and dynamics between Latin American and Caribbean (LAC) countries and between LAC and the EU'.

23 IOM, *World Migration Report 2010.*

24 Cordova, 'Migratory routes and dynamics'.

and from Nicaragua towards Costa Rica. Significant differences exist in the proportions of foreign-born populations, and in the past decade intra-regional migration patterns have shifted. In South America, the immigrant populations of traditional immigrant-receiving countries, such as Argentina, Venezuela and Brazil, have been stagnating or slightly decreasing at the same time as new receiving countries, such as Chile and Ecuador, are emerging.[25] There is certain evidence for a new European migration to South American countries, specifically from Spain and Portugal.[26] Meanwhile, immigration flows from Africa, Asia and the Caribbean to the region have also increased in the past ten years.[27]

Liberal immigration discourses in South America

During the past 15 years, South American governments have embarked on remarkably liberal discourses on immigration and migrants' rights, which mark an important turning point from a historical perspective. Securitised discourses of deterrence had already translated into restrictive policies in South America in the 1970s, before the same restrictive shift in discourse took hold in the USA and Europe in the early 1980s. South American military dictatorships tried to limit population movements as a means of political control, completely disregarding migrants' rights.[28] Although the last military dictatorships in the Southern Cone subsided in the 1990s, the official immigration discourses remained securitised, restrictive and often openly racist.[29]

In the past 15 years, however, a liberal tide has swept across South American immigration policy discourses. Beyond domestic contexts, this discursive paradigm shift is also apparent on the regional level – in documents such as the declarations of the summits of the consultative process, the Conferencia Sudamericana de Migración (South American Conference on Migration – SACM), and the work of the Mercosur Specialized Migration Forum and the Andean Community Migration Forum. In fact, it may be argued that South America, through the SACM and national government declarations, has the most advanced official discourse in comparative perspective in terms of the wide recognition of rights for all migrants, including those in an irregular situation.

25 IOM, *World Migration Report 2010.*

26 Cordova, 'Migratory routes and dynamics'.

27 Freier, 'Migrantes extracontinentales en América del Sur: estudio de casos'.

28 Schindel, 'Refugiados sin refugio'; Durand and Massey, 'New world orders: continuities and changes in Latin American migration', pp. 20–52.

29 Oteiza and Novick, 'Inmigrantes y refugiados'; Bastia and vom Hau, 'Migration, race, and nationhood in Argentina'; Domenech, *Migración y política: el Estado interrogado. Procesos actuales en Argentina y Sudamérica*.

In Argentina, a more liberal discourse took shape after Néstor Kirchner of the Partido Justicialista (Peronist Justicialist Party) won the presidential election in 2003. A liberalisation of immigration policies seemed extremely improbable before the 2001 economic crisis and Kirchner's rise to power. As late as 1999 and amidst widespread xenophobic governmental discourse, the Argentine government proposed an immigration law, which would have deepened the discrimination against non-nationals.[30] Kirchner, however, had himself been a persecuted victim of the last dictatorship and left no doubt that human rights, including those of migrants, would be central to the agenda of his new government.[31]

In addition, Néstor Kirchner openly criticised the immigration policies of the USA and Europe and asked for political solidarity and reciprocity in international migration management. His administration repeatedly called on Spain to remember the historic 'solidarity' Argentina had shown towards thousands of Spanish emigrants at the turn of the 20th century, and to regularise Argentinian immigrants based on the logic of historic reciprocity.[32] Bolivian president Evo Morales of the Movimiento al Socialismo-Instrumento Político por la Soberanía de los Pueblos (Movement for Socialism), similarly demanded that all Bolivian citizens in Spain be regularised, emphasising that 'when the Spanish came [to Latin America], our grandparents didn't call them illegals'.[33]

Néstor's successor Cristina Kirchner (Peronist Justicialist Party) went even further and, in sharp contrast to Argentina's historic aspirations of 'whitening' its population through northern European immigration,[34] discursively constructed historic immigration analogies between former European and more recent regional and extra-continental immigration. In the context of adopting the 2004 Immigration Law's regulating procedures in 2010, she publicly declared a historic continuity between European immigrants and newer waves of Latin American and Asian migration to Argentina. Rejecting the 're-emergence of xenophobic sentiments' in western liberal democracies, she described Argentina as part of a worldwide, morally superior, 'avant-garde' in immigration policy-making.[35]

Brazilian President Lula da Silva from the Partido dos Trabalhadores (Workers' Party) adopted a similar position by vehemently criticising restrictive immigration policies in Europe and the USA as inadequate during the

30 Oteiza and Novick, 'Inmigrantes y refugiados'.

31 Maurino, 'Los nuevos derechos humanos en la Argentina reciente', pp. 66–78.

32 www.lanacion.com.ar/532881-proyectan-en-el-gobierno-un-acuerdo-migratorio-con-espana/ (accessed 17 Aug. 2014).

33 http://elpais.com/diario/2009/09/14/espana/1252879209_850215.html (accessed 17 Aug. 2014).

34 Bastia and vom Hau, 'Migration, race, and nationhood in Argentina'.

35 www.migraciones.gov.ar/pdf_varios/periodico/periodico_201005.pdf (accessed 17 Aug. 2014).

adoption of the legislation establishing a regularisation procedure in 2009. At the same time, he stressed Brazil's more liberal approach to immigration and the country's respect for migrants' human rights (see chapter 6, this volume). He also presented Brazil as a country that is proud of its diverse immigration history.[36] The emphasis on migrants' rights is also evident in the proposal for an immigration policy plan elaborated in 2010 by the Conselho Nacional de Imigração (National Immigration Council – CNIg) [37] and in the official statements of its president, Paulo Sérgio de Almeida.[38]

In Chile, the official immigration discourse of newly re-elected Michele Bachelet's Partido Socialista (Socialist Party) has likewise focused on Chile as an immigrant-receiving country, on non-discrimination and on migrants' integration and human rights. After Bachelet's first term in office (2006–10), Miguel Piñera from the centre-right political coalition Alizanza por Chile (Alliance) won the presidency. During Piñera's time in office (2010–14), the official immigration discourse shifted back to a restrictive perspective of 'avoiding illegal immigration' which was 'hurting Chileans'.[39] Based on her party's election manifesto, Michele Bachelet's return to power (2014–18) once again suggests a more open approach to migration in line with her first mandate.

In Ecuador, the official discourse on immigration has shifted since leftist Rafael Correa's 2006 electoral campaign, in which he promised that he would lead a 'migrants' government'.[40] After his ascension to power, the political migration discourse was increasingly framed around human rights.[41] In 2008, the Ecuadorian Foreign Ministry published an open letter, signed by Correa, addressing 'all Ecuadorian citizens of the world'. It invites emigrants to return home, laments that the policies of past governments forced them to leave their 'beloved home country', and criticises the discriminatory immigration policies of northern receiving countries. The letter also addresses Ecuador's policies in declaring that there are no 'illegal citizens, only practices that violate the rights of persons' and that Ecuador, in demanding rights for its citizens abroad, promotes these same rights for immigrants at home. In addition,

36 Discurso do Presidente da República, Luiz Inácio Lula da Silva, durante cerimônia de sanção da lei que anistia estrangeiros em situação irregular no Brasil. Ministério da Justiça – Brasília-DF, 2 July 2009, available at www.imprensa.planalto.gov.br (accessed 17 Aug. 2014).

37 Proposal from the Conselho Nacional de Imigraçao: Política Nacional de Imigração e Proteção ao(a) Trabalhador(a) Migrante.

38 de Almeida, 'Conselho Nacional de Imigração (CNIg): políticas de imigração e proteção ao trabalhador migrante ou refugiado', pp. 15–25.

39 www.latercera.com/noticia/politica/2013/06/674-528474-9-pinera-compromete-nueva-ley-migratoria-y-asegura-que-inmigracion-ilegal-esta.shtml (accessed 17 Aug. 2014).

40 Margheritis, 'Redrawing the contours of the nation-state in Uruguay? The vicissitudes of emigration policy in the 2000s'.

41 Margheritis, 'Todos somos migrantes' (We are all migrants): the paradoxes of the innovative state-led transnationalism in Ecuador', p. 207.

Correa publicly renamed the European Returns Directive[42] as the 'Directive of Shame'.[43]

In Uruguay, a clear-cut emigration policy emerged after the mobilisation of Uruguayans abroad around the time of the 2004 elections.[44] Former President Tabaré Vázquez of the leftist coalition Frente Amplio (Broad Front) firmly rejected the restrictive shift in European and North American immigration policies – at the second *Ibero-American Parliamentary* Forum in 2006, for example.[45] In 2008, Vázquez and his Chilean counterpart Michelle Bachelet, signed a joint declaration rejecting EU immigration policies, declaring that the Returns Directive disregarded international human rights norms and threatened the friendship between Europe and Latin America.[46]

After gaining power in 2010, Vázquez's successor, President José Mujica (Broad Front), emphasised his intention to implement policies which would attract return migration. Uruguay's official immigration discourse has since been amplified and not only addresses the return migration of Uruguayans, but immigration more generally. In the context of the campaign 'Immigration is positive' (*La inmigración es positiva*), Foreign Minister Luis Almagro declared in 2013 that 'Uruguay's demographic development is built on immigration. Immigration waves have marked our country and have been a characteristic of Uruguayan society since the country's independence'.[47] Meanwhile, Almagro criticised discrimination against immigrants (and Uruguay's Afro-descendant population).[48]

The above examples show how official migration discourses in South America since the early 2000s emphasise migrants' human rights, non-racism, and non-criminalisation of migrants in an irregular situation, often striking populist notes. Indeed, this new and more 'humane' approach to migration has to be understood in the context of the region's left turn and leftist governments'

42 The Returns Directive (2008/115) is an EU law which establishes the procedure for expelling migrants who do not have authorisation to remain in Europe's different member states. See Acosta Arcarazo, 'The Returns Directive: possible limits and interpretation', pp. 7–24.

43 www.ecuadorinmediato.com/index.php?module=Noticias&func=news_user_view&id=83481&umt=presidente_correa_critica_falta_voluntad_regional_para_protestar_contra_directiva_retorno/ (accessed 17 Aug. 2014).

44 Margheritis, 'Redrawing the contours of the nation-state in Uruguay?'.

45 www.cumbresiberoamericanas.com/historico/principal.php?p=428 (accessed 17 Aug. 2014).

46 www.emol.com/noticias/nacional/2008/07/07/312007/bachelet-y-vazquez-preocupados-por-politica-de-inmigracion-de-ue.html (accessed 17 Aug. 2014).

47 www.elobservador.com.uy/noticia/251129/-34la-inmigracion-es-positiva34-nueva-campana-de-cancilleria/ (accessed 17 Aug. 2014).

48 www.elpais.com.uy.demo.oonair.net/informacion/migrantes-almagro-pide-no-discriminar.html (accessed 17 Aug. 2014).

(discursive) commitment to egalitarian values.[49] In almost all cases, centre-left or leftist governments developed such liberalised immigration discourses in the context of their emigration and diaspora polices. These governments counterpose themselves with the restrictive immigration rhetoric in the USA and Europe, from which they demand solidarity and political reciprocity, that is, the regularisation of their citizens abroad. In some cases, proclaimed values of the universality of migrants' rights and the necessity for regularisation measures fed back into the regions' immigration discourses based on the logic of political reciprocity.

In the cases of Argentina and Brazil, an additional explanation for the liberalisation of immigration discourses is their competition for ideological 'post-neoliberal regional leadership' within the Mercosur integration process.[50] Intriguingly, Mercosur's original goals did not include the free movement of workers, let alone citizens in general.[51] This only changed at the turn of the century with the relaunching of Mercosur, following profound economic and political crises in the region, which facilitated the incorporation of new items into the regional agenda, including free movement of labour, which was now conceptualised as a socio-political issue rather than in purely economic terms (see chapter 3, this volume).[52] The dramatic increase in the number of South American emigrants in the early 2000s was coupled with a significant increase in (irregular) intra-regional migration.[53] Against this background, discussions within Mercosur were guided towards the situation of South American migrants in an irregular situation, both outside and inside the region, the rejection of their criminalisation and the search for regional solutions.[54]

Furthermore, the role of the South American Conference on Migration (SACM) in the development of a new liberal immigration discourse needs to be highlighted. Its work has served to build consensus around three main issues: the need to encourage regional integration; a critique of restrictive immigration policies in Europe and the USA; and the focus on human rights with an emphasis on migrants' rights, regardless of migrants' legal situation. This discourse has been extended, in line with principles of coherence and non-discrimination, to extra-regional migrants in South America.[55]

49 Phillips, 'Regionalist governance in the new political economy of development: "relaunching" the Mercosur', pp. 565–83.

50 Margheritis, 'Piecemeal regional integration in the post-neoliberal era: negotiating migration policies within Mercosur', pp. 541–75.

51 Pérez Vichich, 'El Mercosur y la migración internacional'.

52 Also see Cameron, 'Latin America's left turns: beyond good and bad', pp. 331–48.

53 Maguid, 'La migración internacional en el escenario de Mercosur', pp. 249–85; Pellegrino, 'La migración entre los países del Mercosur', pp. 21–30.

54 Colombo et al., 'Las migraciones internacionales en la agenda de América del Sur', pp. 11–30.

55 See Declaración de Quito, IX SACM, Quito 21–22 Sep. 2009, www.acnur.org/biblioteca/pdf/7252.pdf?view=1 (accessed 19 Jan. 2015).

Beyond smoke and mirrors? Immigration law reforms in South America

This section assesses how far liberalising official immigration discourses in South America, as described in the previous section, has translated into the adoption of concrete policies and laws. Most countries in the region inherited restrictive legislative migration frameworks, mostly adopted by military dictatorships in the 1970s and 1980s. Such laws were concerned with population control as embedded in governments' security agendas. As will be seen, recent migration policy and legislative reforms on the international and domestic level reflect liberal political discourses to different degrees.

Within the international legal framework, two important developments have emerged. First, most countries in South America, except for Brazil, Suriname and Venezuela, have ratified the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, the Committee on Migrant Workers'[56] reports and recommendations show that there is often a considerable gap between the convention's formal ratification and its implementation in legislation and administrative practice.[57] The Committee has also called on South American countries to ratify the two most important International Labour Organization (ILO) conventions on migrants. However, a mere five countries have ratified the Migration for Employment Convention, 1949 (no. 97),[58] and only Venezuela has participated in the Migrant Workers (Supplementary Provisions) Convention, 1975 (no. 143).

Secondly, another important international instrument at the regional level is the Mercosur Residence Agreement. As its preamble clearly states, the main objective of the agreement, which entered into force in 2009, is to resolve situations of irregular intra-regional migration.[59] The agreement provides that any national of a Mercosur or associate member state may reside and work for a period of two years in another member state, as long as they have an

56 Participating countries are requireded to submit reports to the Committee on Migrant Workers one year after acceding and every five years thereafter. The Committee then proposes recommendations and observations regarding correct the convention's national implementation, which then feed into national legislative frameworks and lead to their amendment.

57 See for example on Bolivia CMW/C/BOL/CO/2, 15 May 2013; on Chile CMW/C/CHL/CO/1, 19 Oct. 2011; on Colombia CMW/C/COL/CO/2, 27 May 2013; on Paraguay CMW/C/PRY/CO/1, 16 May 2012; on Argentina CMW/C/ARG/CO/1, 2 Nov. 2011; on Ecuador CMW/C/ECU/CO/2, 15 Dec. 2010.

58 Brazil, Ecuador, Guyana, Uruguay and Venezuela.

59 There have also been various regularisation procedures in South American countries over the last ten years. See Texidó and Gurrieri, *Panorama Migratorio de América del Sur 2012*, pp. 22–3.

identification document and a clean criminal record.[60] This temporary permit can be transformed into a permanent residence permit after two years and implies a number of rights, such as the right to work and equal working conditions, the right to family reunion and the right to education.

The implementation of the Mercosur Residence Agreement varies greatly. Some countries apply it without restrictions, such as Argentina, whereas others only implement it for the nationals of certain countries – Chile, for example. Others still, such as Ecuador in 2014, have only recently internalised the agreement. Ecuador imposes very high fees to obtain residence permits (US$230 and US$350 respectively for a temporary or permanent residence permit), which is likely to be a deterrent considering that the minimum monthly wage in Ecuador is US$340. Due to there being no supranational oversight of the agreement's implementation, migrants still largely depend on national laws and procedures. Difficulties in advancing citizens' free movement in South America go back to the intergovernmental character and institutional weaknesses of the region's integration processes. No coercive intra-regional mechanisms exist to ensure implementation and impose sanctions for the violation of agreements, and there is no independent supranational judicial body either.[61]

On the national level, a significant gap between liberal immigration discourses and outdated immigration laws persists in many countries. For example, Brazil (1981), Chile (1975) and Ecuador (1971) still have restrictive legislation in force, many details of which contradict their national constitutions and international commitments. Brazil's Immigration Law, in force since 1980,[62] was adopted in under three months by means of an urgent procedure imposed by a military dictatorial regime that prioritises national security.[63] A legislative proposal for a new immigration law[64] reached Congress in 2009 but falls short of what would be expected from the government's liberal discourse. In fact, the current legislative framework forms its backbone, and in some respects it is

60 Mercosur includes Argentina, Brazil, Paraguay, Uruguay and, since 2012, Venezuela. The latter country still needs to incorporate the Residence Agreement into its legislation before it enters into force. The associate states that benefit from the agreement are Bolivia, Chile, Colombia, Peru and Ecuador (although Ecuador still needs to implement the agreement internally). As of 11 July 2013, Guyana and Suriname are also associate states but have not yet internalised the Residence Agreement.

61 Santestevan, 'Free movement regimes in South America: the experience of the MERCOSUR and the Andean Community', p. 384.

62 Ley no. 6.815/1980 and Decreto no. 86715/81, which implements the regulations.

63 IOM, *Perfil Migratorio Brasil*.

64 Projeto de Lei no. 5655, Dispõe sobre o ingresso, permanência e saída de estrangeiros no território nacional, o instituto da naturalização, as medidas compulsórias, transforma o Conselho Nacional de Imigração em Conselho Nacional de Migração, define infrações e dá outras providências.

more restrictive, for example, in extending the number of years that a migrant has to reside in Brazil before naturalization from four to ten. The proposed bill has been in Congress since 2009 without being adopted. There were three new proposals in the 2013–14 period; one by a commission of experts established by the Ministry of Justice, another by the Ministry of Interior itself, and a third by Senator Aloysio Nunes Ferreira of the Partido da Social Democracia Brasileira (The Brazilian Social Democracy Party – PSDB),[65] which is being discussed in the Senate at the time of publication.

In Chile, a proposal for a new immigration law entered Congress on 20 May 2013 under conservative President Sebastián Piñera. It would have replaced the current Decree no. 1094 from 1975 as well as its implementing regulations, Decree no. 597 from 1984. Whereas the project advanced and improved the rights of migrants in many different areas, such as labour rights or access to education, it was problematic in other respects such as access to healthcare or social security.[66] Under the administration of re-elected President Bachelet of the Partido Socialista de Chile (Socialist Party of Chile) a new draft law is being prepared at the time of publication that is expected to better fit the focus on migrants' rights embedded in her party platform mentioned above.

To date, Ecuador has not reformed its 1971 migration law, despite National Secretariat on Migrants (SENAMI) proposals to expand a Human Mobility Code in 2009 and the recommendation made by the UN Committee on the Protection of the Rights of Migrant Workers in 2010.[67] Nevertheless, the liberalisation of its migration policy discourse found representation at the legislative level by means of its 2008 Constitution, which enshrines the state's commitment to define and implement migration policies that will support migrants' universal rights, combat discrimination and proclaim the ideal of universal citizenship. Article 40 recognises the right to migrate and provides that no human being will be considered as 'illegal' due to his or her migratory status. This represents a remarkable innovation in comparative perspective, since it is the first constitution in the world to enshrine the right to migrate. These constitutional ideals are, however, severely limited by the country's outdated legislative framework. As in the case of Brazil and Chile, Ecuador has embarked on political discussions to change its legislative migration framework and at the time of publication a proposal was expected to reach the National Assembly.

Other countries have, however, been successful in adopting new immigration legislation, which is more in line with their governments' political immigration

65 Projeto de Lei do Senado (PLS) no. 288, 2013, do Senador Aloysio Nunes Ferreira.

66 Vial (ed.) *Informe Anual Sobre Derechos Humanos en Chile* 2013, pp. 139–40.

67 Hurtado Caicedo and Gallegos Brito, *Informe Ecuador*.

discourses. First and foremost, the 2004 Argentinian Immigration Law[68] represents a remarkable paradigm shift towards policy liberalisation. The most noteworthy innovation in Argentina's migration law recognises the right to migrate as essential and inalienable to the person. According to Article 4, Argentina guarantees this right, which at the time of its adoption did not exist in any other legislation, on the basis of the principles of equality and universality.

The right to migrate may be understood in different ways. For example, there are no quotas on the number of non-Argentinians who may enter the country each year, or any sectorial restrictions on where they can work. The law also provides temporary or permanent residence for humanitarian reasons.[69] Decree no. 616/2010 states that people affected by natural disasters, once in Argentine territory, may obtain a transitory residence. Most importantly, the Argentinian legislation is groundbreaking because it dramatically shifts the balance from expulsion to regularisation. Article 17 establishes that the government shall provide the adoption and implementation of measures aiming at regularising the migratory status of non-nationals.[70] Indeed, the law provides that once the irregular situation of a migrant is established, the National Directorate for Migrations is obligated to request him to regularise his migratory status within 30 to 60 days.[71] During that period, migrants may invoke one of the reasons under Article 23 of the law, out of which the one most applied is possessing a binding job offer. This mechanism reflects closely the concept of the right to migrate.

However, the law has a significant flaw, which impedes certain migrants from obtaining residence. Article 29 sets out that those who have entered into Argentina clandestinely do not have a right to stay. The burden of the proof falls on to the migrant who has to certify his regular entry, for example as a tourist, in order to regularise.[72] While its legislative reform largely mirrors the liberalised Argentinian immigration policy discourse, a discursive policy gap exists between the promised universal right to migrate and its translation into law. Those citizens who have entered the territory irregularly cannot avail themselves of the possibilities enshrined in the law and need to wait for potential regularisation procedures. Although the Argentinian government launched two regularisation procedures for nationals from Senegal and

68 Ley de Migraciones no. 25,871. It is regulated by Decreto no. 616/2010.

69 Ley de Migraciones no. 25,871, Arts. 23, 29, 34.

70 Art. 17 Decreto no. 616/2010.

71 See Art. 61 of the Ley de Migraciones no. 25.871 and Decreto no. 616/2010.

72 Morales, 'Política migratoria y derechos humanos: consolidación de una agenda para proteger los derechos de los migrantes', p. 330.

Dominican Republic in January 2013,[73] all other nationals who have entered Argentina without a valid visa, or Senegalese and Dominican Republicans who entered after 4 January 2013, will not be able to regularise their situation. This is a poor reflection of the concept of the right to migrate.

In Uruguay, the 2008 Immigration Law also represents a significant improvement when compared to the country's previous framework. Law no. 18.250 from 2008 derogates the previous restrictive laws from 1890, 1932 and 1936. The law follows the Argentinian example and recognises the following rights as inalienable, regardless of the migratory status of the person concerned: the right to migrate, the right to family reunion and the right to equal treatment as nationals (Art. 1). As with the Argentinian example, the National Migration Directorate is obligated to allow the migrant in an irregular situation a certain length of time to regularise his/her status (Art. 52). However, the regularisation depends on whether the person is a family member of a national, and on the migrant's personal and social conditions. Furthermore, the regularisation can only be obtained when the person has resided in the country for seven years.[74] In August 2014, Uruguay passed an amendment to its immigration legislation by which Mercosur nationals and associate states can obtain permanent residence in Uruguay directly, simply by proving their citizenship.[75] This project significantly deepens the implementation of the Mercosur Residence Agreement.

Most recently, Bolivia passed its new Immigration Law no. 370 on 8 May 2013, replacing its previous Supreme Decree no. 24423 (1996), which had been described as 'inadequate' and outdated by the UN Committee on Migrant Workers.[76] With the implementation of the regulations having taken place with the adoption of Supreme Decree no. 1923 in Bolivia in 2014,[77] the new law can be considered an important advancement, when compared to the previous legal regime, and an important step towards coherence with the political discourse in terms of migrants' rights. For example, the new law is based on the principle of non-discrimination (Art. 2) and provides an extensive catalogue of rights for non-nationals (Art. 12), most notably the right to migration based on the principles of equality, universality and reciprocity, but also the right to family reunion, to education and healthcare. Bolivia's new law also provides the possibility of obtaining permanent residence or citizenship after only three years (Arts. 31 and 41). The Bolivian law is furthermore unique in including a provision on migration due to climate change (Art. 65), by

73 Disposición 001 and 002 Dirección Nacional de Migraciones, 4 Jan. 2013.

74 Decreto no. 396/2009, Art. 6.

75 Ley 19,254, publicada D.O. 4 set/014.

76 See CMW/C/BOL/CO/2, 15 May 2013, p. 2.

77 Reglamento de la Ley de Migración, Decreto Supremo no. 1923, 13 March 2014.

which the government commits itself to coordinating public policies for the admission of displaced people due to climate changes effected by natural causes or environmental disasters (Art. 65). The regularisation procedure, Supreme Decree no. 1800, was adopted on 20 November 2013, within the stipulated 90-day period after the promulgation of the law.

The right to migrate – merely smoke and mirrors?

The most significant innovation and potential flagship of South American immigration legislation is the stipulation of a right to migrate, or a right to migration, as provided by the Argentine, Uruguayan and Bolivian migration laws and Ecuador's 2008 Constitution. Are these countries in fact aiming at ultimate immigration policy liberalisation, in the sense of open borders and universal regularisation of irregular immigrants, as discussed in this chapter's first section? The circumstances of migrants in an irregular situation are ideal for testing the meaning of these provisions. If in fact a right to migrate exists, those who, for one reason or another, irregularly reside in a country should have ample possibilities to regularise their status.

As suggested above, even in the countries that have introduced the right to migrate into their domestic legislation, the possibility to regularise does not extend to all migrants. In the case of Argentina, the regularisation procedure enshrined in the law is only applicable to nationals who have obtained or do not need a visa to enter the country. A quick glance at the list of countries whose nationals are in need of a visa[78] reveals little difference between it and the European visa list.[79] For example, nationals of all African countries (except South Africa) need a visa for legal entry, and face severe obstacles to regularising if they enter without. In the case of Uruguay, an immigrant in an irregular situation depends on a case-by-case assessment before being able to regularise. In comparable European cases, such as Spain, the regularisation periods are shorter.[80] In the case of Bolivia, the law does not provide any mechanism other than the regularisation procedure mentioned above.

Finally, in the case of Ecuador, it at first seemed that the Correa administration would live up to the new constitutional right to migrate (Art. 40). On 20 June 2008, the country adopted a policy of open borders, withdrawing visa requirements for every single country. This unprecedented policy of universal visa freedom allowed any foreigner to enter Ecuador for up to 90 days. However, in order to extend the permitted period, the individual needs to apply for a residence permit, with limited possibilities of success

78 www.migraciones.gov.ar/accesible/?visas (accessed 17 Aug. 2014).

79 See EU Regulation 539/2001 and subsequent amendments.

80 See Acosta Arcarazo, 'The Returns Directive: possible limits and interpretation', pp. 7–24.

and almost no chance of posterior regularisation. Furthermore, universal visa freedom to Ecuador was short-lived. Only six months after its introduction, visa requirements were reintroduced for Chinese citizens, and 18 months later for citizens of Afghanistan, Bangladesh, Eritrea, Ethiopia, Kenya, Nepal, Nigeria, Pakistan and Somalia. State Secretary of Migration, Leonardo Carrion, linked the decision to partially reintroduce visas to emerging 'unusual immigration flows' from these countries. The restrictive reaction to tiny inflows of extra-continental immigrants is inconsistent with the ideal of a universal right to migrate.[81]

Conclusion

For a long time, even after the region's return to democracy, a liberal turn in South American immigration frameworks seemed extremely unlikely.[82] Against the odds, the majority of South American countries have liberalised their official immigration discourses in the last 15 years, with a strong emphasis on migrants' rights. A comparison of newer legislations with older immigration frameworks reveals many other instances of liberal advances. However, inconsistencies persist between liberal discourses and outdated immigration laws in some countries, and between discourses and certain legislative provisions of newer laws in others. In South America a reverse immigration policy gap therefore prevails similar to that described in the literature focusing on the USA and Europe: liberal immigration discourses but comparatively restrictive laws and policies.

When attempting to understand the liberalisation of official immigration discourses, immigration law reforms and persisting policy gaps in South America, different policy phases should be taken into consideration. Following Hansen, governance can be considered as a process made up by three interrelated phases: 1) agenda setting and issue definition; 2) consensus building and potential position convergence; and 3) changes to migration legislation, policy and practice.[83]

Looking at the first of these phases – agenda setting – it is clear that the emigration of hundreds of thousands of South American nationals, mostly to the USA and Spain, at the turn of the century was key in moving migration policies into the political spotlight.[84] The situation of the large number of

81 It should be pointed out that the immigration of the nationalities concerned increased only on an extremely small scale after the introduction of visa-free access. With the noteworthy exception of Chinese, Cubans and Haitians, the yearly immigration rates for other African and Asian nationals, for whom visas were reintroduced, averaged just above 300 per year from 2008–10. See Freier, 'Open doors (for almost all): visa policies and ethnic selectivity in Ecuador'.

82 Mármora, 'Las leyes de migraciones como contexto normativo', pp. 59–65.

83 Hansen, *An Assessment of Principal Regional Consultative Processes on Migration*.

84 See Texidó and Gurrieri, *Panorama Migratorio de América del Sur 2012,* pp. 25–9.

South American emigrants in an irregular situation, both outside and inside the region, and the rejection of the criminalisation of South Americans, especially in Europe and the USA, were central to domestic discussions on migration management.[85] Official migration discourses shifted from restrictiveness and securitisation to emphasising migrants' human rights, non-racism and non-criminalisation. Although the specific political context of liberalised discourses was South American *emigration* to the EU and the USA, proclaimed values of the universality of migrants' rights and the necessity for regularisation measures fed back into the country's *immigration* discourses based on the logic of political reciprocity.

This phenomenon took place at the same time as Mercosur was relaunched in the early 2000s, based on the same profound economic and political crisis that had led to the steep increase in emigration rates.[86] The rethinking of regionalism put into question prevalent neoliberal paradigms and facilitated the emergence of new modes of market governance and the incorporation of new items into the regional agenda, including free movement of labour, conceptualised as a socio-political issue rather than in purely economic terms (see chapter 3, this volume). After migration policies had been placed on the regional agenda, the second phase of migration governance – consensus building – started to take place through the work of the SACM, as well as Mercosur's and Andean Community's migration forums.

The SACM is composed of countries characterised by the triple condition of being countries of origin, transit and destination, with relatively low immigration and high emigration rates.[87] All states represented in the SACM are also members of Mercosur. Hence, the principles adopted in the SACM declarations act as 'soft law', which then feeds back into the work of the Mercosur Specialized Migration Forum. Consensus on difficult political issues is achieved with less effort at the SACM, within which resolutions are non-binding.

Despite the importance of the regional processes, the actual reform of migration laws, that is, the third phase of migration governance, is subject to national parliaments. Here we can see how in some countries, such as Chile, Brazil or Colombia, immigration reforms have not been a political priority (for Colombia, see chapter 4, this volume). In other cases, such as Ecuador, bold immigration reforms, such as Correa's visa policy of open doors, had to be reversed because of domestic and international political pressure. Very often, there is a lack of consensus on immigration policy liberalisation between the

85 Colombo et al., 'Las migraciones internacionales en la agenda de América del Sur'.

86 Phillips, 'Regionalist governance in the new political economy of development'.

87 Gurrieri, 'El proceso consultivo en América del Sur. La Conferencia Sudamericana de Migraciones'.

responsible ministries and departments. Not least, racist considerations, with a view to increasing extra-continental immigration from Africa and Asia, seem to persist and hamper policy liberalisation in some countries.[88]

Thus, looking back at the liberalisation of South American immigration discourses and laws since the early 2000s, there have been significant advances at the level of agenda setting and consensus building, but a mixed picture emerges when assessing actual legislative change. Despite having mainstreamed immigration and migrants' rights in their political agendas over the past 15 years, a significant gap between discourse and legislative frameworks persists in many countries. This leaves their governments in the position of publicly proposing and internationally demanding progressive immigration policies, based on universal citizenship and migrants' human rights, without passing and implementing such policies at home. In these cases, discursive liberalisation presents not much more than 'smoke and mirrors'.

Meanwhile, as this chapter has shown, some of the region's new immigration laws are indeed pioneering in expanding migrants' rights. In order to consolidate a true liberal tide in the region, there is a need for more widespread legislative reform, effective implementation of already-adopted laws and a thorough discussion of the meaning of two central concepts: the right to migrate and South American, or Mercosur, citizenship. A wide array of actors, including national governments and courts, practitioners, academics, NGOs, migrant organisations, international organisations and the SACM will play a role in deciding whether South American immigration reforms can credibly challenge established immigration policy paradigms in the EU and the USA in the near future.

References

D. Acosta Arcarazo (2011) 'The Returns Directive: possible limits and interpretation', in K. Zwaan (ed.), *The Returns Directive: Central Themes, Problem Issues, and Implementation in Selected Member State* (Nijmegen), pp. 7–24.

— and A. Geddes (2014) 'Transnational diffusion or different models? Regional approaches to migration governance in the EU and MERCOSUR', *European Journal of Migration and Law* 16 (1), pp. 19–44.

T. Bastia and M. vom Hau (2014) 'Migration, race, and nationhood in Argentina', *Journal of Ethnic and Migration Studies* 40 (4), pp. 475–92.

A. Betts (2010) 'Towards a "soft law" framework for the protection of vulnerable irregular migrants', *International Journal of Refugee Law* 22 (2), pp. 209–36.

88 Freier, 'Open doors (for almost all)'.

— (2011) Introduction to A. Betts (ed.), *Global Migration Governance* (Oxford), pp. 1–33.

G. Brochmann (1999) 'The mechanisms of control', in G. Brochmann and T. Hammar (eds.), *Mechanisms of Immigration Control: A Comparative Analysis of European Regulation Policies* (Oxford/New York), pp. 297–334.

M.A. Cameron (2009) 'Latin America's left turns: beyond good and bad', *Third World Quarterly* 30 (2), pp. 331–48.

J. Carens (1987) 'Aliens and citizens: the case for open borders', *The Review of Politics* 49 (2), pp. 251–73.

P. Ceriani Cernadas (2011) 'Luces y sombras en la legislación migratoria latinoamericana', *Nueva Sociedad* 233, May–June, pp. 68–86.

S. Colombo, S., J. Nicolao and I. Frechero (2011) 'Las migraciones internacionales en la agenda de América del Sur: derechos humanos, corresponsabilidad y multilateralismo frente a la securitización de la política migratoria en los países desarrollados', *Densidades* 7, pp. 11–30.

R. Cordova (2013) 'Migratory routes and dynamics between Latin American and Caribbean (LAC) countries and between LAC and the EU' (Brussels).

W.A. Cornelius, T. Tsuda, P.L. Martin and J.F. Hollifield (eds.) (2004) *Controlling Immigration: A Global Perspective* (Stanford).

M. Czaika and H. de Haas (2013) 'The effectiveness of immigration policies: a conceptual review of empirical evidence', *Population and Development Review* 39 (3), pp. 487–508.

P.S. de Almeida (2009) 'Conselho Nacional de Imigração (CNIg): políticas de imigração e proteção ao trabalhador migrante ou refugiado', *Caderno de Debates Refúgio, Migrações e Cidadania* 4, pp. 15–25.

P. de Guchteneire, A. Pécoud and R. Cholewinski (eds.) (2009) *Migration and Human Rights. The United Nations Convention on Migrant Workers' Rights* (Cambridge).

E. Domenech (2009) *Migración y Política: el Estado Interrogado. Procesos Actuales en Argentina y Sudamérica* (Córdoba).

J. Durand and D.S. Massey (2003), 'The costs of contradiction: US border policy 1986–2000', *Latino Studies* 1 (2), pp. 233–52.

— (2010) 'New world orders: continuities and changes in Latin American migration', *The ANNALS of the American Academy of Political and Social Science* 630, pp. 20–52.

G.P. Freeman (1995) 'Models of immigration politics in liberal societies', *International Migration Review* 29 (4), pp. 881–902.

L.F. Freier (2013) 'Migrantes extracontinentales en América del Sur: estudio de casos', *OIM Cuadernos Migratorios,* no. 5 (Buenos Aires).

— (2013) 'Open doors (for almost all): visa policies and ethnic selectivity in Ecuador', *CCIS Working Paper,* no. 188.

— (forthcoming 2015) 'A liberal paradigm shift? A critical appraisal of recent trends in Latin American asylum legislation', in J.P. Gauci et al. (eds.), *Exploring the Boundaries of Refugee Law: Current Protection Challenges* (Brill).

A. Geddes (2008) '"Il rombo dei cannoni"? Immigration and the centre-right in Italy', *Journal of European Public Policy* 15 (3), pp. 349–66.

J. Gurrieri (2005) 'El proceso consultivo en América del Sur. La Conferencia Sudamericana de Migraciones', UN Population Division, UN/POP/EGM-MIG/2005/06, 2 Dec.

R. Hansen (2010) *An Assessment of Principal Regional Consultative Processes on Migration* (Geneva).

J. Hollifield (2004) 'The emerging migration state', *International Migration Review* 38 (3), pp. 885–912.

F. Hurtado Caicedo and R. Gallegos Brito (2013) *Informe Ecuador* (Quito).

International Organization for Migration (IOM) (2010) *Perfil Migratorio Brasil* (Geneva).

— (2010) *World Migration Report 2010: the future of migration: building capacities for change* (Geneva).

A. Maguid (2005) 'La migración internacional en el escenario de Mercosur: cambios recientes, asimetrías socioeconómicas y políticas migratorias', *Estudios Migratorios Latinoamericanos* 19 (57), pp. 249–85.

A. Margheritis (2011) 'Todos somos migrantes' (We are all migrants): the paradoxes of the innovative state-led transnationalism in Ecuador', *International Political Sociology* 5 (2), pp. 198–217.

— (2012) 'Piecemeal regional integration in the post-neoliberal era: negotiating migration policies within Mercosur', *Review of International Political Economy* 20 (3), pp. 541–75.

— (forthcoming 2015) 'Redrawing the contours of the nation-state in Uruguay? The vicissitudes of emigration policy in the 2000s', *International Migration Review*, pp. 1–38.

L. Mármora (2004) 'Las leyes de migraciones como contexto normativo', in Rubén Guistiniani (ed.), *Migración: Un Derecho Humano. Comentarios sobre la Ley* (Buenos Aires), pp. 59–65.

— (2010) 'Modelos de gobernabilidad migratoria. La perspectiva política en América del Sur', *Revista Interdisciplinar da Mobilidade Humana – REMHU* 18 (35), pp. 71–92.

D. Massey, J. Arango, G. Hugo, A. Kouaouci, A. Pellegrino, J.E. Taylor (1998) *Worlds in Motion: Understanding International Migration at the End of the Millennium* (Oxford).

D. Massey, J. Durand and N.J. Malone (2003) *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* (New York).

G. Maurino (2009) 'Los nuevos derechos humanos en la Argentina reciente', in Cynthia J. Arnson, Ariel Armony, Enrique Peruzzotti, Catalina Smulovitz, Gaston Chillier and Giselle Cohen (eds.), *La 'Nueva Izquierda' en América Latina: Derechos Humanos, Participación Política, y Sociedad Civil* (Washington), pp. 66–78.

A.M. Mayda (2010) 'International migration: a panel data analysis of the determinants of bilateral flows', *Journal of Population Economics* 23 (4), pp. 249–74.

E. Meyers (2000) 'Theories of international immigration policy – a comparative analysis', *International Migration Review* 43 (4), pp. 1245–82.

D.R. Morales (2012) 'Política migratoria y derechos humanos: consolidación de una agenda para proteger los derechos de los migrantes', in Centro de Estudios Legales y Sociales (ed.), *Derechos Humanos en Argentina. Informe 2012* (Buenos Aires), pp. 325–49.

E. Oteiza and S. Novick (2000) 'Inmigrantes y refugiados', in CELS (ed.), *Derechos Humanos en Argentina. Informe Anual* (Buenos Aires), pp. 287–342.

B. Padilla and J. Peixoto (2007) *Latin American Immigration to Southern Europe*, Migration Information Source (Washington).

S. Peers (2014) 'A fairy-tale ending? EU Justice and Home Affairs Law since the Treaty of Lisbon', in D. Acosta Arcarazo and C. Murphy (eds.), *EU Security and Justice Law. After Lisbon and Stockholm* (Oxford), pp. 17–37.

A. Pellegrino (2009) 'La migración entre los países del Mercosur: tendencias y características', in Observatorio de Políticas Públicas de Derechos Humanos en el Mercosur (ed.), *Las Migraciones Humanas en el Mercosur. Una mirada desde los Derechos Humanos* (Montevideo), pp. 21–30.

N. Pérez Vichich (2005) 'El Mercosur y la migración internacional', United Nations Secretariat. Population Division. UN/POP/EGM-MIG/2005/05, 28 Nov.

N. Phillips (2001) 'Regionalist governance in the new political economy of development: "Relaunching" the Mercosur', *Third World Quarterly* 22 (4), pp. 565–83.

A.M. Santestevan (2007) 'Free movement regimes in South America: the experience of the MERCOSUR and the Andean community', in R. Cholewinsky, R. Perruchoud and E. McDonald (eds.), *International Migration Law: Developing Paradigms and Key Challenges* (The Hague), pp. 363–86.

E. Schindel (2006) 'Refugiados sin refugio: migración y asilo político en Argentina tras el golpe militar (1976)', in I. Wehr (ed.), *Un Continente en Movimiento: Migraciones en América Latina* (Madrid), pp. 399–410.

E. Texidó and J. Gurrieri (2012) *Panorama Migratorio de América del Sur 2012* (Buenos Aires).

T. Vial (ed.) (2013) *Informe Anual sobre Derechos Humanos en Chile 2013* (Santiago de Chile).