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Documenting the Undocumented:
the Construction of Legal Residency as a Substantive Right under
the Mercosur Residency Agreements

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Sociology

by

Deisy Del Real

2019

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ABSTRACT OF THE DISSERTATION

Documenting the Undocumented: the Construction of Legal Residency as a Substantive Right under
the Mercosur Residency Agreements

by

Deisy Del Real

Doctor of Philosophy in Sociology

University of California, Los Angeles, 2019

Professor Vilma Ortiz, Chair

Why have the South American governments defied global trends towards immigration restriction and passed laws that expand immigrants' access to entry, legal residency, and rights? To answer this question, this dissertation examines the case of the Mercosur Residency Agreements (2002), which are the first legislation to make legal status a substantive right. Even though Mercosur is an intergovernmental organization with non-binding policies, by 2009, Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay had adopted the Residency Agreements as national policy. This study identifies the factors, actors, and mechanisms that shaped the wide adoption of these agreements. To achieve this objective, I draw on 130 in-depth interviews, data from organizational archives, and original compilations of immigration policies as well as trade, economic, and migratory flow indicators from 1970 to 2017. Chapter 2 uncovers the power dynamics that shaped the ratification of the Residency Agreements. I argue that state diplomats engage in political mobilization at multiple levels of decision-making within and across states to address resistance against the Residency

Agreements and secure their ratification and diffusion within South America. Chapter 3 examines why governments in Argentina, Brazil, Bolivia, and Uruguay have completely internalized the Residency Agreements while those in Chile and Paraguay have not. In the four countries that fully internalized the agreements, the governments were committed to regional integration. These four countries also had established coalitions of state and non-state actors that supported immigration reform proposals that expanded immigrants' rights. These coalitions successfully tied the bills to broader legal-bureaucratic reforms that sought to improve democracy. Although all six states have internalized the Residency Agreements to some degree, Chapter 4 assesses why many qualifying indigenous immigrants from Bolivia remain undocumented. I find that indigenous Bolivians migrate through unofficial channels and remain irregular because they either resist state legal logics, the Bolivian state does not provide many of them with the identification documents, and receiving states implement their immigration laws in a manner that imposes excessive hurdles to legal residency. Overall, this study expands our understanding of immigration governance in the Global South and identifies limitations to laws that omit indigenous practices.

The dissertation of Deisy Del Real is approved.

Carola E. Suárez-Orozco

David Cook-Martín

Lauren Duquette-Rury

Rubén Hernández-León

Vilma Ortiz, Committee Chair

University of California, Los Angeles

2019

This dissertation is dedicated to my parents, Estela Del Real and Leopoldo Del Real, who risked their lives to provide my siblings and me a better future. I also extend my dedication to all the other immigrants, refugees, and stateless people searching for a land to call home.

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I first envisioned this study in 2009 while living in the middle of the Andes near Aconcagua in Argentina. I had recently gained legal residency status in the United States and needed to make sense of the 16 years I had lived in survival mode while undocumented. What had started as a journey to heal from the state inflicted violence I had endured and an intuition that we can create more humane immigration systems has become a full-blown research agenda. This study has blossomed thanks to the kindness of the Argentine people. I am incredibly grateful to Sandra Gil Araujo who invited me to the Instituto de Investigaciones Gino Germani at the University of Buenos Aires, introduced me to academics throughout South America, and whose vast knowledge

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About the Author

Deisy Del Real received her Bachelors of Arts in Sociology from Grinnell College in 2007 with the support of the Posse Foundation. Dr. Del Real was the first undocumented student admitted to Grinnell College. In 2013, she received her Masters of Arts in Sociology from UCLA. During her fieldwork in 2016, she was a visiting doctoral scholar at the Instituto de Investigaciones Gino Germani at the Universidad de Buenos Aires and was affiliated with the Laboratório de Estudos sobre as Migrações Internacionais at the Universidade de Brasília. Ms. Del Real's research agenda examines the social construction of immigration legal systems and how these impact immigrants' lives. Her dissertation focuses on how the South American governments found support to pass immigration laws that expand immigrants' rights and access to legal residency. This research has received several fellowships, grants, and awards including the Charles & Sue Young Graduate Award—the highest honor given at UCLA to one graduate student within the social science division. A second line of research examines how U.S. immigration enforcement affects the lives of undocumented and U.S.-born young adults of Mexican descent. One article, published in *International Migration Review*, shows how social ties are impacted by U.S. government policies that sanction legal violence and unevenly distribute legal rights, protections, and benefits among documented and undocumented people. This article won the ASA Sociology of Law Graduate Student Award, and received an honorable mention from the ASA International Migration section. In a second article, forthcoming in *Advances in Medical Sociology*, Dr. Del Real argues that political discourse and immigration enforcement in the U.S. have racialized undocumented Mexicans, causing many to endure the distress of everyday discrimination. This project was supported through fellowships from the National Science Foundation and the Paul and Daisy Soros Foundation. Her work has been presented research at the International Studies Association, the American Sociological Association,

the Law and Society Annual Meeting, The Society for the Study of Social Problems, UCLA, Grinnell College, Pomona College, Occidental College, and Harvard University.

CHAPTER 1
Introduction

At the turn of the millennium, the South American countries took a groundbreaking approach to immigration governance. Instead of following global trends that emphasize immigration enforcement (Rosenblum and Brick 2011), the South American governments started supporting and passing immigration policies that expand immigrants' access to legal status and rights (Acosta 2018; Alfonso 2013; Mármora 2010). South American government officials used human rights instruments and discourse to justify removing immigration restrictions and giving migrants rights (Acosta and Freier 2015; Morales 2012; Hines 2010). These governments supported liberal immigration policies to prevent the racism and criminalization that their co-nationals encountered when they migrated to Europe and the U.S. (Acosta 2018; Acosta and Freier 2015).

While scholars credit national policymakers and global forces for the inclusive immigration policies of the South American countries, globalization is composed of regionalism (Mann 2011; Beckfield 2008; Mann 1997) and the impact of regionalism remains under-analyzed. Regionalism occurs when a group of countries, in close geographic proximity and who share mutual interest, engage in economic, social, and political efforts to integrate the region (Gómez-Mera 2013). In South America, governments use the migration policies of “el Mercado Común del Sur” or Mercosur as instruments to advance the economic, social, and political integration of these countries (Acosta and Freier 2015; Alfonso 2013; Novick 2010; Vichich 2007; Novick 2006). Of particular importance, in 2002, Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay signed the Residency Agreements (Article 1 of Mercosur Decision CMC 28/02⁵) in order to legalize 2.5 million undocumented immigrants within the six countries (Acosta 2018; Alfonso 2013; Bareiro 2007). These agreements are the first immigration legislation in the world to make legal status a substantive right and make the state responsible for legalizing undocumented immigrants (Acosta 2018). The Residency Agreements also give the nationals of the other signatory countries access to the same

civil, economic, cultural, and social rights as their citizens. By 2009, six Mercosur states had ratified and internalized the Residency Agreements as national policy (CSM 2014). These agreements have had real life consequences. In just ten years, between 2006 and 2016, the agreements have legalized 2.7 million undocumented immigrants ⁱⁱ (International Organization for Migration 2018).

The successful adoption of the Mercosur Residency Agreements as national legislation is particularly puzzling because Mercosur's intergovernmental organization does not have legal mechanisms to enforce regional policy at the national level (Malamud 2010; Vervaele 2005). Hence, the success of the Residency Agreements indicates that other informal enforcement mechanisms at the regional and domestic levels are propelling countries to ratify and internalize the agreements. However, the mechanisms driving these changes remain largely unknown because existing research inadequately examines the impact of Mercosur regionalism and the Residency Agreements on national immigration legislation changes. Specifically, in an effort to explain how the regional molds the national, some scholars argue that all of Mercosur's immigration policies diffuse to the South American countries in a consensual manner (Acosta 2018; Margheritis 2013). This is mainly because an Argentine policy network of state and non-state actors have persuaded and socialized other governments into adopting them (Acosta 2018; Margheritis 2013). Argentina has taken this leadership role because it is the main country of destination for intra-regional immigrants and is most impacted by Mercosur's immigration policies (Acosta 2018; Alfonso 2013; Margheritis 2013). However, this mechanism does not consider the possibility that other states in a regional organization can oppose immigration or influence the national adoption of regional immigration policies. For example, this mechanism inadequately explains why the Paraguayan government resisted ratifying the Residency Agreements as national legislation for six years or how the other Mercosur states addressed this resistance.

At the national level, scholars argue that economic crisis facilitate the passage of liberal immigration laws (Acosta and Freier 2015; Ceriani Cernadas 2015; Margheritis 2013). These scholars draw on Argentina's case, where governmental mismanagement caused the economic crises in the late 1990s and political leaders were unable to continue blaming immigrants for the country's economic problems (Acosta and Freier 2015; Ceriani Cernadas 2015; Margheritis 2013). The destabilization of the nativist political discourse allowed immigrant rights advocates to successfully pass a rights-based immigration law (Acosta and Freier 2015; Ceriani Cernadas 2015; Margheritis 2013). Argentina's case contradicts the longstanding theoretical premise that economic downturns obstruct the passage of liberal immigration policies (de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000). However, existing research does not systematically assess whether these dynamics pan out in similar ways in the other Mercosur states.

This dissertation addresses these gaps in the literature by tackling the following questions:

1. How has Mercosur's regionalism and Residency Agreements reconfigured the migration policy of the South American countries?
2. Why did these governments decide to pass immigration laws that make the state responsible for legalizing undocumented immigrants and protecting their rights?
3. How is the implementation of these agreements affecting the legal status acquisition of intra-regional immigrants?

To answer these questions, my three-article dissertation identifies the mechanisms that shaped how six South American migrant sending and receiving countries designed, ratified, internalized, and implemented the Residency Agreements. This study draws on 130 in-depth interviews in these six countries with delegates to Mercosur, government officials with jurisdiction over immigration (e.g., migration department staff), and non-governmental actors involved in migratory issues (i.e., business lobbies, NGOs, and labor unions). This study also draws on data

from government archives and original compilations of immigration legislations as well as trade, economic, and migratory flow indicators from 1970 to 2017. In the following sections, I provide background information on immigration laws in South America and the creation of Mercosur. Then, I review the empirical and theoretical puzzles addressed in the three substantive chapters and highlight the broader implications of this research.

Background on South American Immigration Policies, Mercosur’s Regionalism, and the Residency Agreements

In the last century, the immigration policies of the South American countries tended to be restrictionist towards some ethnic groups (e.g., Chinese) and inclusive towards favored groups from Europe (FitzGerald and Cook-Martin 2014). However, the South American countries were among the first to remove racist ethnic selection policies in the world (FitzGerald and Cook-Martin 2014). This trend shifted again towards restriction on national security and political grounds during the 1970s and 1980s (Hines 2010). During these decades, the South American countries passed restrictive immigration policies that framed intra-regional immigrants as potential enemies of the state (Hines 2010).

Between the 1960s and 1980s eight South American military dictatorships¹ repressed sympathizers of leftist governments to contain the spread of communism during—the U.S. supported these regimes in what was called Operation Condor (Hines 2010). The migration policies of these military dictatorships conceptualized intra-regional migrants as potential subversives and threats to the state. As such, military dictators used migration policies to control the movement of suspects and to move subversives to other South American countries where they were questioned,

¹ “Argentina (1966–1973 and 1976–1983), Bolivia (1964–1970 and 1971–1982), Brazil (1964–1985), Chile (1973–1990), Ecuador (1972–1979), Paraguay (1954–1989), Peru (1968–1980) and Uruguay (1973–1984)” (Acosta 2018: 102).

tortured, and disappeared (Hines 2010). When the military dictatorships ended, the South American countries started their transition into democratic regimes, but the restrictive immigration policies continued (Acosta 2018; Hines 2010).

In the last 20 years, South American governments responded to increases in undocumented immigration from neighboring countries by supporting policies that expand immigrant's access to legal residency and rights (Acosta 2016; Acosta and Freier 2015; Alfonso 2013). Some government officials supported liberal immigration policies as a geopolitical strategy to challenge the deportation and discrimination of conational in the U.S. and Europe (Acosta and Freier 2015). Other governments wanted to legalize intra-regional irregular immigrants (Acosta 2018; Alfonso 2013; Bareiro 2007). Scholars concur that Mercosur's regionalism and migration policies have been key to this paradigm change (Acosta 2018; Parrado and Cerrutti 2015; Acosta and Geddes 2014; Mármora 2010; Margheritis 2013).

Argentina, Brazil, Paraguay and Uruguay founded Mercosur through the Treaty of Asuncion (1991) to support these countries transition into democracy (Gómez-Mera 2013). Mercosur was renegotiated and established as an internationally recognized regional trade agreement with an intergovernmental organization by the Protocol of Ouro Preto (1994) (Duina 2006; Vervaele 2005). Chile and Bolivia became associated states in 1996. The purpose of Mercosur is to help its signatory states face the pressures of the global economy as a bloc and prevent global super powers such as the United States from meddling in their economic and political systems (Alfonso 2013; Duina 2006). In this sense, Mercosur was meant to protect the economic stability and advance the democratic transition of its member states. Mercosur has become the largest and most economically successful regional trade agreement in the Global South and the third most successful free trade zone in the worldⁱⁱⁱ (WTO 2015; Gómez-Mera 2013; Carter 2012; Duina 2006). In 2012, Mercosur

accounted for 83 percent (US \$3.3 trillion) of South America's gross domestic product (Carter 2012).

At the end of the 1990s, the Mercosur states started focusing on immigration as an issue that could help advance the organization's social, political, and economic integration (Alfonso 2013; Vicich 2007). As part of these efforts, they created a Migration Working Group that focused exclusively on resolving intra-regional migratory problems (Alfonso 2013). All signatory states are able to send representatives on a regular basis to design migratory policies and solutions (Alfonso 2013). Currently, the 11 countries are affiliated with Mercosur^{iv} send delegates to the Migration Working Group. Among these, Argentina, Brazil, Paraguay, and Uruguay are full members. Bolivia became a full member in 2015 and Chile, Colombia, Ecuador, Guayana, Peru, and Surinam are associated states. This means Mercosur's immigration solutions have the potential to impact the lives of approximately 295 million people (Mercosur 2018).

Delegates to Mercosur's Migration Working Group designed the Residency Agreements, which are an innovative legislation that makes legal status a substantive right and expands immigrants' rights (Acosta 2018). The purpose of these agreements was to provide legal status to 2.5 million undocumented migrants within the Mercosur signatory states^v and to prevent irregularity (Alfonso 2013; Bareiro 2007). When legal status is a procedural right, immigrants are responsible for applying to existing administrative paths to legal residency and for contesting their case through the courts (Acosta 2018). However, when access to legal status is a substantive right, deportation is under-emphasized and the state becomes responsible for legalizing undocumented immigrants, even if it means creating new paths to legal residency (Acosta 2018). Neither the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art.9 and art. 35) of 2003, nor the International Labour Organization Convention 143 on Migrant Workers of 1975, make legal residency a substantive right (Acosta 2018). The Residency Agreements

also make access to legal residency easier than in the European Union's treaties,^{vi} because the agreements do not require intra-regional immigrants to show proof of employment, sufficient resources, or health insurance in order to become legal residents.

The Residency Agreements have diffused throughout South America (Acosta 2018). By 2014, nine out of the 12 countries affiliated with Mercosur had internalized the agreement as national policy through administrative actions and immigration laws (Acosta 2018). Note that Peru and Colombia ratified the Residency Agreements in 2011 and Ecuador ratified them in 2013 (CSM 2014). These three countries ratified the Residency Agreements after 2009, when this regional policy went into force within Mercosur.

This dissertation focuses on the first six countries to negotiate and adopt the Residency Agreements at the national level when this policy approach was still an innovation that needed to become legitimized as a good practice. Thus, this study does not focus on Peru, Colombia, and Ecuador because they were not part of the innovation processes, were required to sign on to the agreements as part of their adhesion to Mercosur, and they signed on when the agreements when they were established as legitimate in South America (IOM 2018).

The Politics of Ratifying the Mercosur Residency Agreements

After the Residency Agreements were signed in 2002, they needed to be ratified by the four Mercosur member states—Argentina, Brazil, Paraguay, and Uruguay—so they could become a treaty within Mercosur. The ratification of an international or regional agreement requires congressional approval and interconnects diplomatic and national level politics (Evans, Jacobson, and Putnam 1993; Putnam 1988). Chapter 2 identifies the factors and mechanisms that shaped the ratification politics of the Residency Agreements and their diffusion in the region. This chapter focuses on why Paraguay's government resisted the ratification of the agreements for six years, how the other

Mercosur states responded to this opposition, and what factors propelled the same Paraguayan governing coalition to change their position. Empirically, Paraguayan's resistance matters because it threatened to annul the Residency Agreement within Mercosur. According to Mercosur rules, when a member state does not ratify an agreement, the regional policy needs to be renegotiated, and all governments have to prove that this policy does not negatively affect any member state. At this stage, it becomes very difficult for the agreements to survive.

Paraguay's resistance is also theoretically puzzling because this country has the smallest economy and lowest state capacity among the Mercosur member states (Guerson et al. 2015; Duarte 2014). According to the international policy diffusion literature, weaker states such as Paraguay emulate and adopt the policy prescriptions of stronger states (Dobbin, Simmons, and Garrett 2007; Gruber 2001) and only resist when they form coalitions with other small states (Cook-Martín and FitzGerald 2019; Kentikelenis and Seabrooke 2017; Falcón 2016; Chorev 2012; FitzGerald & Cook-Martín 2014). I contend that it is important to examine the role of state diplomats because they tend to drive ratification negotiations with relative autonomy from the pressures of constituents and organized interest groups (Evans, Jacobson, and Putnam 1993; Putnam 1988). In this manner we can assess how Paraguayan diplomats acquire the power to resist unilaterally and how state diplomats from the other Mercosur states used their relative autonomy to weaken this opposition.

The Internalization of the Residency Agreements

Chapter 3 focuses on the uneven internalization of the Residency Agreements. Once a policy is ratified, it needs to become fully internalized into the existing immigration legal system of each country so it can be fully implemented. If the immigration system is restrictive, the Residency Agreements cannot be fully implemented. I examine why the governments in Argentina, Bolivia, Brazil, and Uruguay completely reformed their immigration laws and fully internalize the Residency

Agreements. I also analyze why the governments in Chile and Paraguay have been unable to reform their restrictive immigration laws and to completely internalize the agreements. In Chapter 3, I identify the international, regional, and national factors that impacted the uneven internalization of these agreements.

According to the immigration policymaking literature, several contextual factors and actors explain why governments are more inclined to support the passage of immigration policies that expand immigrants' access to rights and legal status. These can be divided by international and national influences. From the international perspective, national governments have supported liberal immigration policies and immigrants human rights as part of a geopolitical strategy to defend their conations residing in Europe and the United States from racial discrimination (FitzGerald and Cook-Martin 2014), detention, and deportation (Acosta 2018; Acosta and Freier 2015). At the national level, several contextual factors influence emigration policy outcomes. First, existing constitutions, judiciaries, and laws of the legal-bureaucratic context can facilitate or obstruct the internalization of international and regional agreements (Guiraudon & Lahav 2000; Ruhs 2013; Cornelius and Roseblum 2005). Secondly, low immigration flows and economic growth tame nativism and facilitate the passage of inclusive immigration policies (de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000). Last, inclusive immigration policy proposals are more successful when backed by coalitions of stakeholders from different political parties and that include business associations (de Haas and Natter 2015; Odmalm 2011; Perlmutter 1996; Freeman 1995).

Although insightful, the vast majority of the national immigration policy literature is based on wealthy countries in the Global North and does not adequately explain immigration policymaking of poorer countries in the Global South. For example, Argentina passed one of the world's most inclusive immigration laws in the middle of an economic crisis and defied all

predictions that economic downturns obstruct the passage of liberal immigration policy proposals (Ceriani Cernadas 2015; Margheritis 2013). Hence, Chapter 3 contributes to immigration policymaking literature by systematically identifying the international, regional, and national factors (e.g., economic, political, and state bureaucratic contexts) that have obstructed or facilitated the internalization of the Residency Agreements.

The Capacity of the Residency Agreements to Legalize Irregular Indigenous Immigrants

Even though the Residency Agreements have been internalized to some degree in all six Mercosur states, Chapter 4 examines why some qualifying immigrants remain undocumented. Most of these irregular immigrants are indigenous and from Bolivia (IOM 2018; FOPEA 2016; AMURA 2014; IOM 2012; IOM 2011). This is surprising because if the governmental policies of the receiving state provide immigrants' paths to legal residency and there are no backlogs, then immigrants who meet requirements should be able to acquire legal status (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Zhou 1993; Portes and Rumbaut 1990). I argue that three overarching processes affect migrants' legal status acquisition and irregularity. These include: (1) the migrant sending state's capacity and willingness to administer identification documents and monitor emigration; (2) the migrant receiving states' administration of its formal immigration laws; and (3) the indigenous migrants' alternative movement practices and relationship to the sending and receiving states.

Specifically, states that do not administer identification documents to their entire population fail to give them the legal personhood needed to access entitlement programs, goods, and services (Breckenridge and Szreter 2010; Szreter 2007). People need identification documents to cross international borders through official checkpoints and prove their national origin at the country of destination (Torpey 2018; Torpey 1998). Migrants who cross international borders through unofficial

channels because they do not have state-issued identification documents will likely struggle to apply for legal residency under visa categories that require proof of national origin. Thus, the migrant receiving state can further foster irregularity by implementing immigration laws in a manner that imposes excessive hurdles on populations already in the margins of the state.

I examine the case of Bolivia because it is one of the major sending states in South America (IOM 2011) and it includes 36 distinct indigenous groups (Postero 2016; Yoshar 2007). Many of Bolivia's indigenous ethnic groups retain pre-colonial conceptualizations of land, identity, and movement and resist state logics of nationality and territory (Postero 2016; Mardones 2015; Yoshar 2007). Hence, it is possible that indigenous immigrants from Bolivia may continue to remain involuntarily marginalized from or resist the provisions of the receiving states. The study in Chapter 3 study allows us to assess how the Residency Agreements' main requirements for legal residency status—proof of national origin of a Mercosur state—affects one of the main immigrant groups.

Conclusion

Overall, my dissertation identifies the factors, actors, and mechanisms that facilitated and obstructed the Residency Agreements' ratification, internalization, and implementation. This study contributes to the international migration, migration policy, and regionalism literatures because it evaluates the role of regionalism as a determinant of migration policy. Understanding how countries use regionalism and migration policy to change national law matters because there are approximately 28 regional integration efforts around the world (Geddes 2012). Most of these regional organizations are composed of low- and middle-income countries and remain under-analyzed. Therefore, this research contributes to broader theories on the role how regionalism impacts national immigration policy in the Global South.

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ENDNOTES

ⁱ This decision approved Acuerdo N° 13/02 “Residencia para Nacionales de los Estados Partes del MERCOSUR” and Acuerdo N° 14/02 “Residencia para Nacionales de los Estados Partes del MERCOSUR, Bolivia y Chile.”

ⁱⁱ This figure is based on the nine South American countries that currently implement the Residency Agreements. Peru and Ecuador ratified the Residency Agreements in 2011 and Ecuador ratified them in 2013 (CSM 2014).

ⁱⁱⁱ Only the North American Free Trade Agreement and the European Union are more successful.

^{iv} Venezuela was a Mercosur member state, but it was expelled in December 2016.

^v Brazil had the presidency pro-tempo of Mercosur and wanted to secure the legacy of President Fernando Enrique Cardoso (Acosta 2018).

^{vi} This is specified by the Maastricht Treaty (1993), the Treaty of Amsterdam (1999), and the Treaty of Lisbon (2009) for EU citizenship.

CHAPTER 2

State, Power, and Policy Diffusion:

The Politics of Ratifying the Mercosur Residency Agreements

ABSTRACT

How do state actors diffuse policies that expand immigrants' access to rights and legal status? I argue that state actors exercise power by mobilizing political support within and across states to secure policy ratification and diffusion. This approach contrasts with previous policy diffusion and migration scholarship, which either (1) deemphasizes the role of power by assuming that the mimetic pressures of cultural-cognitive consensus and norms drive policy diffusion or (2) largely under-theorize state actors' political mobilization during ratification. Drawing on 130 in-depth interviews in six countries, archival data, and original compilations of immigration legislations, migratory flows, and economic indicators, this article analyzes the ratification politics of the Mercosur Residency Agreements (2002). This is the first legislation to make immigrants' legal residency status a substantive right in the world. I find that Paraguayan state actors initially resisted ratifying the agreements via two mechanisms—*stalling* and *finding strength in weakness*—to protect their economic elites' interests and state sovereignty. In response, Argentine and Brazilian state actors weakened Paraguay's opposition by restructuring South America's migration governance and building political support for the agreements within Paraguay. These findings indicate that state actors engage in political mobilization to control domestic and multilateral decision-making contexts, secure ratification, and diffuse inclusive immigration policies.

Key Words: Immigration Policy; Ratification; Diffusion; State

INTRODUCTION

How do state actors diffuse immigration policies that expand immigrants' access to rights and legal status within and across countries? Specifically, how do these state actors address resistance imposed by other governments and organized interest groups who oppose the national adaptation of these inclusive policies? To answer these questions, I examine the case of the Mercosur Residency Agreements (2002), the first legislation to make legal residency a substantive right and place the responsibility of legalizing undocumented immigrants on the state instead of the individual migrants (Acosta 2018; Alfonso 2013; Mármora 2010).¹ Mercosur is a regional intergovernmental organization whose policies are non-binding and in 2002 consisted of four member states that could vote on policy (Argentina, Brazil, Paraguay and Uruguay) and two non-voting associated states (Bolivia and Chile). After all the states signed the agreements in 2002, Paraguay's government refused to ratify them for six years, threatening to annul the policy prescription of their biggest trade partners and relatively more powerful neighbors, Brazil and Argentina. The Paraguayan government's unilateral resistance to ratify the agreements is puzzling because, in comparison to other Mercosur states, it has the smallest economy and the lowest state capacity (Guerson et al. 2015; Duarte 2014; Alfonso 2014; Appendix A). According to the policy diffusion scholarship, weaker states such as Paraguay are expected to emulate the policies that stronger states adopt or prescribe (Dobbin, Simmons, and Garrett 2007; Gruber 2001) or resist stronger states only when they form coalitions with other governments (Cook-Martín and FitzGerald 2019; FitzGerald and Cook-Martín 2014). This study examines Paraguayan governments initial opposition, how actors in other Mercosur states responded to this resistance, and how Paraguay came to ratify the Residency Agreements in 2009. This will allow us to understand the factors and mechanisms that shape immigration policymaking, ratification, and diffusion at the regional and domestic levels of decision-making.

At the national level of decision-making, inclusive immigration policies are more likely to pass if they are supported by coalitions composed of state and non-state actors from right- and left-wing political parties such as business interest groups, immigrant rights advocates, and politicians (de Haas and Natter 2015; Tichenor 2002; Odmalm 2011; Perlmutter 1996; Freeman 1995). State and non-state actors who form these pro-immigration coalitions find it more feasible to mobilize support for policies that facilitate immigration during periods of domestic economic growth, low unemployment, and low immigration levels (de Haas and Natter 2015; Ruhs 2013; Facchini et al. 2013; Massey 1999; Meyers 2000). While insightful, these findings are generally based on studies conducted in high-income and industrialized countries of the Global North, and therefore, they do not capture the different dynamics that shape immigration policy outcomes in the Global South. For example, Argentine state actors supported policies that facilitate immigration during an economic crisis (Acosta 2018; Margheritis 2013) and anti-immigrant mobilization can occur in countries with low immigration levels (Novick 2011; Tiburcio 2009).

At the international level of decision-making, two sociological approaches to policy diffusion that I term the collaborative versus the contentious help explain how governments influence each other's national policies. The collaborative approach to policy diffusion deemphasizes power because it assumes that governments come to voluntarily ratify international agreements when they are part of a global cultural-cognitive consensus that propels them to emulate one another (Munir 2015; Dobbin et al. 2007; Meyer and Rowan 1977). Migration scholars who build on the collaborative approach argue that the Residency Agreements diffused in a consensual manner (Acosta 2018; Margheritis 2013). Margheritis (2013) specifically argues that a policy network of Argentine state and non-state actors successfully persuaded and socialized government officials in South America into adopting the agreements. These scholars conclude that power asymmetries between the South American states did not affect this process (Acosta 2018; Margheritis 2013).

However, this collaborative approach overlooks and cannot explain opposition or how the Paraguayan government successfully resisted adapting the Residency Agreements as national legislation for six years.

On the other hand, the contentious approach to policy diffusion posits that power asymmetries, politics, and inequality influence international policy design, national adaptation, and implementation (Cook-Martín and FitzGerald 2019; Kentikelenis and Seabrooke 2017; Falcón 2016; Chorev 2012; FitzGerald & Cook-Martín 2014; Beckfield 2008). According to the contentious approach, weaker states can resist the policy prescriptions of stronger states if they build coalitions and voting blocs with other smaller states (FitzGerald & Cook-Martín 2014; Falcón 2016; Chorev 2012). For example, state actors from Latin America and Africa have used intergovernmental organizations to build coalitions and voting blocs to resist racist policy ideas of high-income countries such as the United States (FitzGerald & Cook-Martín 2014; Falcón 2016). These propositions posit that weaker states such as Paraguay are not able to resist stronger states such as Argentina and Brazil on their own. The present study builds on the contentious approach by addressing a largely under-theorized process of policy diffusion, namely, the politics of treaty ratification. It is possible that ratification processes give relatively weaker states in regional organization the leverage needed to unilaterally influence policy processes.

An analysis of treaty ratification processes is vital because it is a key legal procedure that occurs after the signing of a policy and before its diffusion. After an international or regional policy is signed, national legislatures and heads of state must decide whether or not to adopt the policy prescription as national legislation. Therefore, the policy ratification process intertwines diplomatic and domestic politics (Putnam 1988). State diplomats play a key role in these processes because they must balance national and international concerns with some autonomy from the domestic pressures of constituents (Evans, Jacobson, and Putnam 1993). State diplomats can leverage their relative

autonomy to promote or oppose policy prescriptions within their own governments as well as in foreign governments.

This article contributes to the migration policymaking, ratification, and policy diffusion literatures by examining how state actors engage in political mobilization within and across states in order to address the barriers imposed by interests groups and impact domestic and multilateral ratification decisions. Drawing on 130 in-depth interviews with key informants in six South American countries, government archives, and original compilations of immigration legislation as well as economic, state capacity, and migratory flow indicators, this study identifies the mechanisms and factors that shaped the Paraguayan government's opposition to ratifying the Residency Agreements, how the Mercosur member states responded to this resistance, and Paraguay's subsequent ratification.

I argue that state actors engaged in political mobilization within and across states to shape domestic and multilateral ratification decision-making and to weaken the resistance imposed by domestic interests groups. Specifically, I find that Paraguayan state actors resisted ratifying the agreements via two mechanisms— one that I call *stalling*, and another that I term as *finding strength in weakness*—in order to protect state sovereignty and the interests of their economic elites from wealthy Brazilian immigrants. In response, Brazilian state officials mobilized political support in favor of the Residency Agreements within their left-wing governing coalition and among moderate state officials associated with Paraguay's right-wing ruling party. Argentine state actors reshaped the immigration governance status quo in their own country and seven other South American states to pressure and corner Paraguayan state officials to comply. The efforts of the Brazilian and Argentine state diplomats weakened resistance within Paraguay and drove its political elites into ratifying the Residency Agreements. These findings show that when state actors can reconfigure and control the

domestic and multilateral contexts where ratification decisions are made, they can weaken interest groups' opposition to policies that expand immigrants' rights and access to legal residency.

In the following sections, I first provide a historical overview of the processes that led to the signing of the Residency Agreements. Then, I review the immigration policymaking and policy diffusion literatures. I then argue that an analysis of how state actors' political mobilization impact ratification processes address gaps in these literatures. Following this, I review my methods and present and discuss the theoretical implication of my findings.

BACKGROUND AND THEORY

The Origins and Historical Context of the Mercosur Residency Agreements

In the last century, the immigration policies of South American countries tended to be restrictionistⁱⁱ towards some ethnic groups and inclusive towards favored groups from across the world (FitzGerald and Cook-Martin 2014). However, during the 1970s and 1980s this trend shifted towards restriction on national security and political grounds (Hines 2010). During Operation Condor, the U.S. supported eight repressive military dictatorshipsⁱⁱⁱ in South America as part of the Cold War containment of communism (Hines 2010). The dictatorships passed migration policies^{iv} that construed intra-regional migrants as potential threats to the state (Hines 2010). These immigration legislations served to control the movement of suspects and move subversives to other South American countries where they were questioned, tortured, and disappeared (Hines 2010). The restrictive immigration policies continued after the South American countries started transitioning into democracy during the 1980s (Acosta 2018; Hines 2010). Intra-regional migration, particularly from Paraguay, increased during the 1990s (Parrado and Cerrutti 2015). However, the laws remained the same and undocumented immigrants continued to struggle to find path to legal residency (Acosta 2018; Alfonso 2013; Hines 2010).

At the turn of the millennium, as intra-regional migration flows increased, the South American countries took a groundbreaking approach to immigration governance. Instead of prioritizing deportation and border control such as the governments in North America (Rosenblum and Brick 2011), the South American governments started supporting and passing immigration policies that expanded immigrants' access to legal status and rights (Acosta 2018; Alfonso 2013; Marmora 2010). Scholars concur that Mercosur's migration policies were key to this change (Acosta 2018; Parrado and Cerrutti 2015; Acosta and Geddes 2014; Marmora 2010; Margheritis 2013).

Argentina, Brazil, Paraguay, and Uruguay founded Mercosur through the Treaty of Asuncion (1991) to face economic globalization as a bloc and prevent future U.S. intervention (Duina 2006). In 1994, they signed Protocol of Ouro Preto to turn Mercosur into an intergovernmental organization with a customs union that protects the internal market by promoting free trade between members while increasing tariffs on non-members (Duina 2006). In the late-1990s, Mercosur started incorporating socio-political issues, such as immigration, to advance its regional integration (Alfonso 2013; Margheritis 2013). As part of these efforts, in 1997 Mercosur officials created a Migration Working Group^v to provide member states a space to resolve migratory issues.

Of particular importance, the Mercosur states designed and signed the Residency Agreements in 2002, which are the first legislation in the world to make legal status a substantive right (Acosta 2018; Acosta and Geddes 2014; Alfonso 2013). After the Residency Agreements were signed, the Mercosur member states had to ratify them so these could become a treaty within Mercosur. The governments of Argentina, Brazil, and Uruguay promptly ratified the Residency Agreements (Acosta 2018; Alfonso 2013). However, Paraguay did not ratify them for six years. The Paraguayan government's resistance and subsequent acceptance of the agreements is empirically puzzling for two reasons. First, Paraguay risked economic stability by opposing the policy idea of Argentina and Brazil. Paraguay's agro-export economy is highly dependent on its trade relations with

Brazil and Argentina (Guerson et al. 2015; Duarte 2014). Trade disputes with these two countries have had deleterious economic consequences for Paraguay (Guerson et al. 2015; Duarte 2014). Second, in comparison to other Mercosur member states, Paraguay has the smallest economy, the lowest state capacity, and the highest intra-regional emigration^{vi} (Guerson et al. 2015; Duarte 2014; Alfonso 2014; Appendix A).

Understanding Paraguay's case is important for three reasons. First, the Residency Agreements are impacting immigrants' lives. Nine countries implement them and in just ten years, between 2006 and 2016, they have legalized 2.7 million undocumented immigrants (International Organization for Migration 2018). Second, examining this case will advance our theoretical understanding of how regional immigration policies diffusion operate. This matters because approximately half of all international immigrants—or 103.8 million people—migrate to low- and middle-income countries (International Organization for Migration 2015).^{vii} Finally, understanding the role of Mercosur in domestic immigration policymaking will advance our development of theory that explains the regional-to-national immigration policy processes for approximately 28 regional organizations that have migration legislations (Geddes 2012). Many of these regional organizations have member states that are from the Global South such as the African Union, the Association of Southern Asian Nations, and the GULF Cooperation Council, among others.

Weak States Do Not Resist Alone:

The Collaborative and Contentious Approaches to Policy Diffusion

According to the collaborative and contentious sociological approaches to policy diffusion, weak states such as Paraguay are not expected to resist more powerful states unilaterally. On the one hand, the more collaborative approach suggests that weaker states adopt the policy prescriptions of relatively stronger states in the Global North (Dobbin et al. 2007; Boli and Thomas 1997; Meyer et

a. 1997; Meyer and Rowan 1977). This approach builds on premises of the World Polity Theory (WPT), which posits that actors who attend intergovernmental organization meetings develop a common culture, understanding, and consensus over the best policy solutions (Boli and Thomas 1997; Meyer et al. 1997; Meyer and Rowan 1977). These actors then form policy networks that socialize government officials into adopting these policy prescriptions (Strang and Meyer 1993). States then ceremoniously ratify these policy models because they want to emulate other states, gain international legitimacy, and/or circumvent uncertainty (Meyer et al. 1997). As more nation-states adopt the model, a feedback loop develops that further legitimizes and diffuses the policy model across states (Boli and Thomas 1997; Meyer et al. 1997; Meyer and Rowan 1977). Consequently, WPT posits that mimetic pressures of the world culture best explain why nation-states voluntarily adopt the same policy ideas across the world (Meyer et al. 1997). This approach to policy diffusion deemphasizes the impact of power relations and interests (Munir 2015; Dobbin et al. 2007; Meyer et al. 1997). For instance, Margheritis (2013) argues that relative power asymmetries between Mercosur's member states did not affect the collaborative ratification process of the Residency Agreements. She argues that policy networks composed of governmental and non-government actors used theories and rationale to socialize and convince policy elites (e.g., Presidents) to adopt these agreements (Margheritis 2013). Subsequent scholars have accepted and built on that assumption to argue that the Residency Agreements diffused into nine South American countries consensually (Acosta 2018; Acosta and Geddes 2014). Most surprising of all, by accepting this consensus argument, none of these studies have analyzed the ratification of the Residency Agreements from the perspective of Paraguay's government (Acosta 2018; Acosta and Geddes 2014; Margheritis 2013). As a result, they have not adequately explained what mechanisms and factors influenced Paraguay's resistance and subsequent acceptance to the Residency Agreements.

On the other hand, the contentious approach to policy diffusion posits that weaker states must build coalitions with other small states in order to resist relatively stronger states (Cook-Martín and FitzGerald 2019; Falcón 2016; FitzGerald and Cook-Martín 2014). The contentious approach questions the WPT's over-emphasis on collaboration and shows that politics, power, and inequality affect norm creation at intergovernmental organization and policy diffusion. For example, a study on norm-making at the International Monetary Fund finds that occupational hierarchies and politics between experts and state representatives influence policy prescriptions outcomes (Kentikelenis and Seabrooke 2017). Low and middle-income states in Africa, Asia, and Latin America have used intergovernmental organizations' rule of equal vote and consensus to join forces, resist the racist immigration policy prescriptions of global powers (i.e., the U.S.), and successfully promote their more inclusive policy models (Cook-Martín and FitzGerald 2019; Falcón 2016; FitzGerald and Cook-Martín 2014). Finally, after designing, signing, and implementing these policies, less powerful states in Africa have revised the global policy prescriptions and diffuse their own modified models to stronger states (Chorev 2012). In sum, these studies indicate that state diplomats compete to find support for their ideas within other governments, are able to resist the policy models of powerful governments, and can successfully promote their policy prescriptions to more powerful states. These advances focus on how inequality, politics, and power dynamics affect norm creation, policy design, diffusion, and implementation. However, both approaches have largely under-theorized the politics of ratification—a key legal procedure where governments decide whether or not to internalize the international policy as national legalization.

State Actors' Political Mobilization and the Politics of Ratification

To determine how the actors of a relatively weak state resist alone, the present article theorizes how state diplomats exercise power to influence treaty ratification and diffusion. During the

ratification decision-making process, state diplomats must balance international negotiations with relative autonomy from the pressures of domestic and transnational interest groups (Evans et al. 1993). Nonetheless, the pre-existing structure of interests—particularly those that are highly organized—can determine whether policies are ratified (Evans et al. 1993). For instance, highly organized domestic groups can block the ratification of an agreement that undermines their interests (Evans et al. 1993).

I argue that state actors engage in political mobilization to address the barriers and impact of domestic and multilateral ratification processes. There is evidence that state diplomats strategically use the intergovernmental rules and issue-linkages with key interests groups to promote their policy prescriptions (Cook-Martín and FitzGerald 2019; FitzGerald and Cook-Martín 2014; Henry and Sundstrom 2007). For example, state diplomats leverage specific intergovernmental rules to encourage just enough foreign governments to ratify an international policy model so this can become a treaty (Henry and Sundstrom 2007). Although not specially focusing on ratification politics, Cook-Martín and FitzGerald (2019) show that state diplomats use intergovernmental organizations' rule of consensus, which seek to level asymmetries between member states, build coalitions, and promote their policy ideas in other governments. They also find that state diplomats have promoted ending racist immigration policy models by linking their new policy prescriptions to the core geopolitical interests of foreign governments (Cook-Martín and FitzGerald 2019; FitzGerald and Cook-Martín 2014). These findings indicate that state diplomats use the relative autonomy they acquire at international spaces to exert agency and promote policy ideas despite opposition.

State diplomats will be more likely to garner support in favor of inclusive immigration policies when they can build coalitions among pro-immigration factions of left- and right-wing political parties and within favorable domestic contexts. Within right-wing political parties, government

officials would be more effective forming coalitions with powerful business interests groups who support less restrictive immigration policy in order to expand their supply of cheap labor and lower the cost of production (Peters 2017; de Haas and Natter 2015; Tichenor 2002; Odmalm 2011; Perlmutter 1996). Within left-wing political parties, government officials would be more effective forming coalitions with labor unions that have an international solidarity ideology because these tend to support policies that expand and protect immigrants' rights (de Haas and Natter 2015; Vicich 2007). In contrast, labor unions that have a market and welfare state protectionist ideology prefer restrictive immigration policies (de Haas and Natter 2015; Fitzgerald and Cook-Martín 2014).

The domestic contexts also affect support for immigration. According to theories of national immigration policy, state diplomats would more easily build support for less restrictive immigration policies during times of low and decreasing immigration levels and economic growth (see de Haas and Natter 2015; Ruhs 2013; Facchini et al. 2013; Massey 1999; Meyers 2000). Conversely, it is difficult to build political support for inclusive immigration policies during economic downturns, high unemployment, and increasing immigration flows (see de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000).

State diplomats who want to promote the ratification of a regional policy must strategically navigate organized interest groups and domestic contexts. To capture the various strategies that state actors use to impact ratification outcomes, this study also draws on two expanded Weberian definitions of power. According to Weber (1922), power refers to actors' ability to carry out their will despite others' resistance. Weber's definition of power focuses on observable behavior such as who votes, who protests, and what policy proposals get passed or rejected. Agenda-setting expands this definition of power to capture actors' ability to determine which issues and participants to include/exclude in decision-making (Schattschneider 1960). Actors also exclude issues from the agenda when these are so outside the taken-for-granted way of doing things that it is unthinkable to

include them (Gaventa 1980; Lukes 1974). Roy's (1997) "structural power" also expands Weber definition and captures actors' capacity to determine the alternatives that others can choose from. This study introduces the structural power lens to the ratification and diffusion processes. This structural power lens allows us to identify how state diplomats take control of decision-making processes in order constrain the choices that other state actors can chose from. In this manner, state actors can also increase the consequences of resistance and indirectly pressure other government officials into supporting the ratification of their policy prescriptions.

—Insert Figure 1—

Drawing on these ratification, policy diffusion, and power literatures, this study introduces a model that opens the black-box of policy diffusion by examining the ratification process (see Figure 1). The model in Figure 1 analyzes how state actors (particularly diplomats) engage in political mobilization at multiple scales of contention in order to influence decision making within and across states. Once an international agreement is signed, the state actors who supported its signing will need to build support for ratification within their own governments and in foreign governments. They need to ensure that enough member states ratify the policy so it can become an international treaty. After the policy has gone into force at this level, it becomes feasible for the policy to diffuse to other governments. But state actors may also encounter resistance within and across countries and they can counter this opposition by mobilizing more political support in order to ratify the policy. However, if other actors' resistance to ratification persists over time, the policy will not be ratified or diffused.

METHODOLOGY

Data and Measurements

This study applies the model in Figure 1 to explain the politics of ratifying the Residency Agreements. I draw on three major data sources to identify the national and regional factors and mechanism that explain Paraguay's opposition and subsequent ratification of the agreements as national policy. First, I conducted 130 in-depth and semi-structured interviews with experts and elites in the six countries that were originally involved in the negotiations of design, ratification, or implementation of the Residency Agreements. Data collection took place in Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay between 2015 and 2018. Interviewees included delegates to Mercosur's migration groups,^{viii} national government officials with jurisdiction over migration policy (e.g., migration department directors), experts, and non-governmental actors involved in migratory issues such as business associations, NGOs, and labor unions. To identify the mechanisms that link regional and national migration policymaking processes, respondents were asked: (i) where the idea of the Residency Agreements originated; (ii) why they, their constituents, members of their organization, and powerful groups supported or opposed the ratification of the agreements; (iii) with whom they collaborated; (iv) which policy ideas failed; (v) whether they emulated the migration policy from other countries; (vi) whether foreign governments influenced their decision-making processes; (vii) what factors obstructed the ratification of the agreements; and (viii) why their government ratified the Residency Agreements.

Interviews were confidential and participants were asked to discuss processes within their own government and that of other states. In this manner, I was able to build trust, move beyond the official state discourse, triangulate historical accounts from the perspective of actors in different countries, and garner data about regional disputes without undermining diplomatic relations. In turn, interviewees shared their vast knowledge about immigration policy systems within their own

countries, in Mercosur, and of other South America states. This interview data was used to determine the *political context* of Mercosur and in each country. I examine whether the labor unions, business associations, political parties, pro- and anti-immigrant organizations, and other influential actors supported or obstructed the ratification of the agreements.

Interview data was also used to evaluate how actors engaged in political mobilization and exercised power. *Actors' political mobilization* is coded as instances when actors involved in migratory policymaking exercised power, built coalitions, and/or mobilized resources in support or against the Residency Agreements. I differentiate between two dimensions of power. *Structural power* was coded as instances when actors took control of ratification decision-making contexts (e.g., within Mercosur's Migration Group or national legislatures) by changing the distribution of power in order to increase the consequences of support or resistance. *Agenda-setting power* was measured as incidents when actors intentionally or unintentionally added or excluded the Residency Agreements from the decision-making agenda in Mercosur, the executive branch, or the national legislatures.

In order to triangulate interview data with policy changes and organizational dynamics, I compiled government and organizational archives. These archives include congressional debates over the ratification of the Residency Agreements and immigration reforms as well as organizational mission statements, reports, and memos.

Finally, to situate interview and archival data within the broader national and regional contexts, I compiled original databases of key indicators for the six countries. To capture the *economic context* of each country, I use the World Bank's data on Gross Domestic Product (GDP) and unemployment rates between 1990 and 2010. This study also considers the role of *state's infrastructural power* to enforce its decisions within its bounded territory and protect its international borders (Mann 2008). I measure state infrastructural power using the World Bank's "General Government Final Consumption Expenditure (% of GDP)," which includes government expenditures on goods,

services, employee compensation, national security, and defense (Mann 2008). This indicator is also used to measure asymmetries in state capacity between Mercosur states. Finally, I measure *intra-regional migration* trends using the United Nations Migrant Stock data between 1990 and 2010.

Incorporated Comparison

This study does not assume that national policymaking outcomes are independent because Mercosur's signatory states meet several times a year to negotiate migration policies. In the process, they actively seek to influence each other's domestic migration legislations. As such, when I compare countries, I compare factors within and across countries and evaluate how these processes are intertwined (see incorporated comparisons by McMichael 1990). The analysis mainly focuses on Argentina, Brazil, Paraguay, and Uruguay because these four members of Mercosur needed to ratify the Residency Agreements so these agreements could become a formal regional treaty and go into force. I draw on interviews with actors from Bolivia and Chile—who were associated states without voting power—to triangulate and corroborate findings because they witnessed aspects of the negotiations.

Analytical Strategy

I combine the different data and use process tracing to identify the actors, factors, and mechanisms that influence the Residency Agreements' ratification negotiations. The outcome of interest is the ratification of the Residency Agreements. The explanatory factors include actors' political mobilization and exercise of power as well as domestic political contexts, economic contexts, levels of state infrastructural power, and intra-regional migratory flows. As part of process tracing, I triangulated interviewees' narratives of events with other interviews, the political context, economic trends, legal changes, trends in migratory flows, and governmental documents (e.g., Paraguay's congressional debates). In this manner, I reconstructed the politics of ratifying the Mercosur Residency Agreements; dispelled false narratives; identified key actors, mechanisms, and

factors that shaped the ratification process; and contextualized the negotiations. Every data point has been triangulated in this manner to ensure the reliability and validity of my findings.

The Origins of the Residency Agreements

Mercosur's regional migration governance had a paradigm shift in 2002. At first, the Brazil's delegates to Mercosur proposed an amnesty to adjust the immigration status of intra-regional undocumented immigrants that would last six months. These delegates were technocrats at the Ministry of Justice but managed to convince President Fernando Henrique Cardoso's governing coalition to use regional immigration policy as an instrument to secure Brazil's position as the predominant leader within South America and Mercosur. Brazilian delegates hoped that a regional amnesty would ensure the survival of Mercosur's regional integration. They believed that by facilitating access to legal residency, individual citizens would experience the benefits of Mercosur in everyday life and support the survival of this organization. Furthermore, during the 1990s Brazilian governmental officials had participated in bi-national conferences in Paraguay with civil society organizations to try to resolve the situation of undocumented Brazilians residing in Paraguay.^{ix} These immigrants were called *Brasiguaios* because they were expatriates of Brazil and were struggling to legalize their immigration status under the criteria of Paraguay's immigration Law N° 978^x (1996). The Mercosur amnesty was supposed to resolve all these issues. My findings confirm previous accounts that Brazil introduced a regional amnesty and Argentina's delegates presented a counter-proposal that became the Residency Agreements.

However, unlike previous accounts^{xi}, the Argentine delegates did not recycle the 1998 bilateral agreements with Bolivia and Peru to draft the Residency Agreements. This study finds that the Argentine delegates to Mercosur recycled a policy proposal that had failed to gain approval at the national level. They reformatted this failed proposal to create the Residency Agreements.

Specifically, the Argentine delegates to Mercosur were technocrats at the migration department. During the 1990s, these Argentine state actors administered several temporary amnesties to legalize undocumented immigrants. However, once the amnesties ended, undocumented immigration continued and this population grew once again. When Catholic religious leaders and congressional representatives asked staff at the migration direction to administer a new amnesty, these public servants presented a policy proposal that made being a national of a Mercosur signatory state a criteria for accessing legal status. They reasoned that this would allow the majority of future undocumented immigrants to access legal residency because most of these migrants were coming from other Mercosur states such as Paraguay and Bolivia. The mid-level bureaucrats created a self-sustaining solution to undocumented immigration. However, the Minister of Interior rejected the proposal and it was never sent to congress. When Brazil proposed a regional amnesty at Mercosur, the same Argentina's civil servants reworked the rejected proposal and created a permanent regional mechanism to regularize undocumented immigrants within Mercosur. According to the proposal, immigrants could access legal residency if they were nationals of a Mercosur state and had a clean criminal record in the last five years.

The Brazilian delegation to Mercosur supported the proposal and encouraged other Mercosur states to adapt them. These mid-level bureaucrats also convened with the Brazilian President Cardoso and presidential candidate Luiz Lula da Silva to discuss Argentina's proposal. In this manner, Brazil's support enabled Argentine bureaucrats to circumvent national opposition to their original policy model and acquire a powerful ally needed to promote their model within the region.

On December 6, 2002, after four months of negotiations, the Mercosur member states—Argentina, Brazil, Uruguay, and Paraguay—signed the Residency Agreements. The Mercosur associated states, Bolivia and Chile, were invited to sign on as well even though they did not have a

vote over the design. Once signed, the four member states needed to ratify the agreements as national legislation in order for them to go into force. If a member state did not ratify them, the agreements had to be renegotiated under stricter conditions and could be annulled.

I find three points of contention over the ratification of the Residency Agreements; these were between the Argentine, Brazilian, and Paraguayan governments. On the one hand, the Argentine and Brazilian state actors actively supported and promoted the ratification of the Residency Agreements. Uruguay's governments supported the ratification of the agreements in a more passive manner; it simply supported the position of the stronger Mercosur member states. On the other hand, Paraguay's governing coalition actively resisted their ratification and put the Residency Agreements in jeopardy of becoming annulled within Mercosur. These findings focus on the interaction between domestic and regional arenas of decision-making to explain Paraguayan government's resistance, how Argentine and Brazilian state actors addressed Paraguay's resistance, and how the Paraguayan government came to ratify the agreements.

Domestic Political Support and Opposition for the Ratification of the Residency Agreements

Argentina's and Brazil's Political Context Enable Support: left-wing governing coalitions and labor unions

At the domestic levels of decision-making, this study finds that the national political context in Argentina and Brazil enabled state actors to mobilize domestic support for the ratification of the Residency Agreements. Both countries had left wing governments with a strong base within the labor unions. In particular, the Argentine delegates to Mercosur were bureaucrats at the migration department. They were able to build political support for their policy model within President Néstor Carlos Kirchner's left-wing governing coalition under the Justicialist Party (2003-2007). The governing coalition of Argentine President Kirchner supported the ratification of the Residency

Agreements because he was committed to expanding Mercosur's regionalism, started to focus on social inclusion and human rights,^{xii} and had a strong base among the labor unions.

The Brazilian delegates to Mercosur were also bureaucrats at the department of the Ministry of Justice with jurisdiction over migratory issues. These Brazilian state actors used their relative autonomy from civil society to strategically mobilize domestic political support for the Residency Agreements within President Lula Inácio da Silva's left-wing governing coalition under the Workers' Party (2003-2011). Brazilian President Lula supported Mercosur's regionalism, shifted Brazil's foreign policy orientations towards strengthening ties with other Latin America countries, and supported the regularization of intra-regional immigrants. President Lula's Worker's Party also had a powerful base within the labor unions.

The labor union support for the left-wing governing coalitions in Brazil and Argentina was key to building support for the Residency Agreements. According to interview data, the largest labor unions in Argentina and Brazil supported Mercosur's regional integration and the rights of workers within the region. The labor unions played a key role in garnering support for the Residency Agreements within the Coordinadora de Centrales Sindicales del Cono Sur (CCSCS)—a regional network that included unions from Argentina, Brazil, Paraguay, Uruguay, Bolivia, and Chile. The main Argentine and Brazilian labor unions led the CCSCS. The Residency Agreements coincided with the CCSCS objectives to protect the rights of intra-regional immigrant workers.^{xiii} According to domestic and CCSCS union leaders, the best way to promote and preserve the working conditions and labor the rights of native workers was by preventing irregularity and protecting the labor rights of intra-regional immigrants. CCSCS also supported Mercosur's regional integration and wanted to harmonize working conditions so workers could move and work with authorization within South America. Accordingly, the dominant labor unions in both countries supported the Residency Agreements because making legal status a substantive right aligned with their regional objectives.

Paraguay's "Brasiguaios Threat" Fueled Opposition: right-wing dominant party and interests of economic elites

In contrast, the domestic political context of Paraguay obstructed the ratification of the Residency Agreements. Members of the right-wing Paraguayan governing coalition opposed the Residency Agreements because they wanted to protect the interests of their economic elites and state sovereignty from the perceived threat of Brazilian immigrants known as Brasiguaios. Political discourse and media reports portray Brasiguaios as wealthy business owners colonizing Paraguay's rich lands without following state laws or contributing to society. This image obscures the fact that the majority of the Brasiguaios are undocumented, disenfranchised, landless, and impoverished. Out of the 500,000 Brasiguaios, about 300,000 were undocumented in 2006.^{xiv} Nonetheless, the threatening image dominates political discourse and perpetuates anti-Brazilian immigrant sentiment among political and economic elites.

The image of a "Brasiguaios Threat" is a result of a historical process that dates back to the 1970s when the military dictatorships of Brazil and Paraguay agreed to build the Itaipú Dam along the Paraná River. In 1967, Paraguayan dictator Alfredo Stroessner repealed the Agrarian Statute of 1863, which prohibited the sale of land to foreigners within 150 kilometers of the border. As a result, Brazilian immigrants were able to purchase Paraguayan land next to the border with Brazil.^{xv} The Paraguayan lands were cheaper than in Brazil and this measure incentivized Brazilian farmers to migrate into the Paraguayan borderlands of Alto Paraná and Canindeyú to cultivate soybeans, sunflowers, and corn.^{xvi} By 2006, there were approximately 500,000 Brasiguaios in Paraguay.^{xvii}

A highly visible minority of Brasiguaios are wealthy agribusiness owners who control forty percent of soy production and occupy 1.6 million acres of fertile borderland.^{xviii} This minority is highly visible because soy is one of the most valuable exports in Paraguay's agro-export economy.

News and political discourse regularly portray Brasiguaios as unfair competitors threatening to the interests of Paraguayans economic elites and state sovereignty.

This highly visible minority eclipses the needs of the majority of Brasiguaios who tend to be undocumented. In 2006, there were approximately 300,000 undocumented Brasiguaios who were impoverished workers unable to access the benefits of the Paraguayan state.^{xix} The Residency Agreements promised to help these undocumented and impoverished Brasiguaios. Nonetheless, the opposition towards wealthy Brasiguaios made helping poor immigrants politically unpalatable.

When I asked a high authority at the Paraguayan National Chamber of Commerce and Services how business elites viewed immigrants and the Residency Agreements, he explained:

Carlos:^{xx} From the perspective of business owners ... it is extremely easy for ... Brazilians to enter Paraguay. ... But when you reverse the situation it is extremely difficult [for Paraguayans to do the same] because ... the Brazilian state has mechanisms to enforce its laws. ... You can find Brazilian informal businesses in full production within Paraguayan territory. ... They do not pay taxes; they do not pay for any social benefits. ... They are extremely unfair and disloyal competitors. ... They take market share from Paraguayan businesses owners and ... jobs from workers, [and] they take sales. ... The [Paraguayan] state is not fulfilling its duty.

Carlos echoes a position common among economic elites in Paraguay. The asymmetries in state infrastructural power between Paraguay and Brazil fuels a competition between Paraguayan and Brasiguaios economic elites. Paraguay's relative low state infrastructural power—or low capacity to enforce state laws and decisions throughout its bounded territory—has drawn Brazilian entrepreneurs to purchase or occupy fertile borderland territories outside the reach of the state and

the rule of law. Over time, Brasiguaios have been able to control forty percent of soy production and operate informal businesses. If Paraguayans tried to do the same in Brazil, where the state infrastructural power is relatively higher, they would be imprisoned. Consequently, Carlos and the Paraguayan business owners perceived Brazilian immigrants as unfair and disloyal competitors who do not follow Paraguayan laws or contribute to Paraguayan society. This sense of competition promulgates the exaggerated stereotype of a “Brasiguaios Threat,” which is the image that all Brazilian immigrants are wealthy and disloyal business owners capable of either colonizing Paraguay or controlling its entire economy. Within this context, immigration policies that facilitate the legalization of undocumented Brasiguaios have become equated with legitimizing the perceived lawlessness and disloyal behavior of the Brasiguaios businesses owners.

Although Paraguayan labor unions did not have as much influence over governmental policy outcomes within the right-wing political party, some leaders also framed Brasiguaios as a threat and opposed Brazilian immigration. For instance, Antonio, the leader of the largest national labor union explained:

From Brazil we have ... Brazilian colonizers. ... The Brazilians occupy the riches lands... these large mechanized agribusinesses [owners] ... close roads so they can do whatever they want ... and with the blessing of whichever government is in office. ... Without any control from state authorities; not immigration, labor, [or] any kind. ... Nobody interferes. ... We need to control and inspect that. [But] a state inspection is not possible.

The labor union leaders like Antonio perceived informal Brazilian businesses owners as colonizers who were able to bypass the Paraguayan state laws and exploit its territory and workers without any repercussions.^{xxi} In this manner, some national labor union leaders also stereotype all Brazilian

immigrants as scrupulous, illegitimate, and powerful “colonizers.” Note, that Antonio also expresses frustration that the Paraguay state had low infrastructural power to penetrate and protect rural borderlands from the perceived invasion.

It is important to clarify that not everyone in Paraguay equated Brazilians immigration with a “Brasiguaios Threat” of informal business owners who occupy valuable land. During the 1990s a few rural labor unions and non-governmental organizations in Paraná held binational conferences with Brazilian and Paraguayan actors to dismantle this stereotype.^{xxi} Their goal was bring awareness to the situation of undocumented Brasiguaios who were unable to access legal residency through Paraguay’s restrictive immigration law. They explained that most undocumented Brasiguaios were poor families who immigrated to Paraguay after being displaced from their farmlands in Brazil during the construction of the Itaipú dam.^{xxiii} However, these efforts were more effective in building support among Brazilian state actors than those in Paraguay. The Paraguayan economic elite had more influence over policymaking at the national level than rural unions and NGOs.

In sum, Paraguayan political and economic elites’ opposition to the Residency Agreements is a product of the long-standing distribution of political and economic power. The Paraguayan economic elites sustained resistance against the Residency Agreements because they had a strong hold over state decisions within the ruling right-wing National Republic Association-Colorado Party, which had ruled uninterrupted since 1954.^{xxiv} Opposition to Brasiguaios remained even as immigration levels consistently declined between 1990 and 2010. For example, Brazilian immigration to Paraguay decreased from 111,355 immigrants in 1990, to 83,208 immigrants in 2000, and to 75,523 immigrants in 2010.^{xxv} Thus, Paraguayan politicians and public servants who wanted to protect their professional careers had to remain aligned with the interests of the Colorado Party and economic elites at domestic and Mercosur arenas of decision-making. These findings indicate that economic competition and broader political context restricted the Paraguayan state actors’ ability to

comply with the other Mercosur states and support an immigration policy that would have benefited undocumented Brasiguaios.

Stalling and Finding Strength in Weakness:

Paraguayan State Actors Resists the Residency Agreements Within Mercosur

Within Mercosur's arena of decision-making, Paraguayan state actors went to the Migration Working Group meetings with a protectionist stance. They exercised structural power to delay the ratification of the Residency Agreements via two mechanisms—*stalling* and *finding strength in weakness*—to protect state sovereignty and the interests of their economic elites from the "Brasiguaios Threat." First, Paraguay's delegates exercised structural power by not sending the agreements to get ratified at their national parliament. In this passive resistance through *stalling*, they leveraged Mercosur's rule that agreements that are not ratified by all member states can be terminated. Hence, the Paraguayan delegates were initially unaffected by Brazilian and Argentinean delegates strong support for the Residency Agreements. Instead, the Paraguayan delegates used their advantageous structural position to make demands.

When I asked the Brazilian and Argentine delegates to Mercosur how Paraguay's stalling affected negotiations at Mercosur, they explained:

Romina: Paraguay had the issue with the Brasiguaios. ... They used their position to negotiate other things. ... Paraguayan [delegates] would say, "We need energy, if you want to resolve this issue [with the Residency Agreements] ... sign this and that with us"...

Argentina and Brazil really wanted to get the agreements enforced. (Argentine Delegate)

Mauricio: Paraguayans would put this issue on the table to put pressure. “If I approve the Residency Agreements, Argentina should comply with this, and Brazil should add that.”

(Brazilian Delegate)

As Romina explained, the governments in Brazil and Argentina were invested in ensuring that the Residency Agreements went into force within Mercosur. By stalling, the Paraguay diplomats were able to garner leverage within the existing rules and practices of Mercosur to prevent the success of the agreements. Even though the Mercosur migration working groups are supposed to deal exclusively with migratory issues, Paraguay’s delegates use their strategic position to make demands on other issues and air their grievances. The Argentine and Brazilian delegates characterized Paraguay’s negotiation style as a form of “chantage,” or a blackmail strategy where they made the ratification on the agreements contingent of the fulfillment of demands not directly connected to immigration.

Furthermore, the Paraguayan delegates exercised structural power via *strength in weakness*; they showcased their state’s low infrastructural capacity to diplomatically justify not ratifying the agreements. The implementation of the Residency Agreements requires that the Paraguayan state purchase Interpol to conduct criminal background checks of applicants, purchase computers and software, and train staff on how to process the new applications. Maria Paula, one of the Paraguayan delegates to Mercosur, explained why Paraguay was unable to implement Mercosur’s immigration policy:

Our institutions are so weak; it’s an uncontrollable problem. The migration direction is ... an unimportant ... low ranking direction inside the Ministry of Interior that has an antiquated

focus on the control of the movement of people into the country. They had no notion of what it meant to facilitate migration.

According to Maria Paula, it was not possible to implement the Residency Agreements because their migration direction did not have the capacity to do so; the staff at this agency administered all applications by hand and relied on paper archives of birth certificates and other documents to verify the identity of applicants. Maria Paula account and several other interviewees indicate that Paraguay state actors used their state's low infrastructural capacity to enforce the rule of law as an excuse to avoid the ratification of the agreements. More broadly, Paraguayan delegates to Mercosur found the power to protect domestic interests of economic elites by using their state's weakness as a source of strength.

The Brazilian delegation visited Paraguayan migration direction to verify these claims. One of the Brazilian delegates, described what they found, "They did not have computers ... They did not have any the technological resources." He also explained that the tables of the migration direction were filled with paper applications that had not been processed in years. Most states do not showcase their weakness or problems in diplomatic settings in this manner. Consequently, this was a strategy that the Paraguay government used to avoid the responsibility and decrease the regional pressure of stalling to ratify the Residency Agreements.

In sum, Paraguayan delegates were able to leverage power within existing structures—Mercosur's organizational rule that no regional policy can go into force unless all members ratify them. In the process, Paraguayan delegates stalled the ratification process to make demands on Brazil and Argentina. Without Mercosur's organizational governance, Paraguay would have struggled to wield the power to make demands, air frustrations, or threaten to end the Residency Agreements through inaction.

Argentina Reshapes Migration Governance within South America to Weaken Paraguay's Resistance

Argentine state actors sought to weaken Paraguayan economic and political elites' resistance by reshaping migration governance within South America. Argentina's delegates to Mercosur were mid-level bureaucrats and the architects of the Residency Agreements. These state actors mobilized political support within Argentina and across seven South American states to promote the Residency Agreements. In other words, the Argentine state actors influenced their own domestic policymaking context and that of seven other governments. In the process, they introduced a new paradigm to migration governance, changed migration policies, and brought new allies to Mercosur who exerted pressure on Paraguay to ratify the agreements.

—Insert Table 1—

Argentine state actors first built political support for the Residency Agreements at the national level. As seen in Table 1, Argentina's state actors collaborated with immigrant rights advocates, labor unions, congressional representatives, and leaders of the Catholic Church to help pass the immigration reform (Law 25.871/2003) that introduced Mercosur nationality as criteria for legal residency. This immigration reform replaced the restrictive immigration "Videla Law" N° 22.439 (1981), which was enacted during the military dictatorship.^{xxvi} These state actors also garnered congressional support to ratify the Residency Agreements (via Law N° 25.903) and for the Presidential Decree N° 1169 (known as Patria Grande), which fast-tracked the legalization processes of Mercosur nationals. By doing this, Argentina broke the principle of reciprocity under international law and legalized intra-regional undocumented immigrants unilaterally. Argentina's government did this even if other countries did not extend the same benefits to undocumented Argentineans residing in their territory. In this manner, Argentina's government officials sought to make the state responsible for legalizing immigrants, not the migrants.

Argentine delegates to Mercosur also worked with their President Néstor Kirchner's governing coalition to mobilized political support for the Residency Agreements in other South American governments. The Argentine state actors negotiated bilateral accords to implement the Residency Agreements with Bolivia (2004), Chile (2004), Brazil (2005), Uruguay (2006), and Peru (2007). For these five governments, accepting the bilateral implementation of the Residency Agreements was feasible because they had a relatively small Argentine immigrant population and relatively higher emigration to Argentina. For example, Argentine immigration to Bolivia was growing but relatively low compared to the number of Bolivian immigrants to Argentina. Specifically, Argentine immigrants in Bolivia totaled 28,095 in 2000 and 36,671 in 2010. In contrast, Bolivians immigrants in Argentina totaled 226,137 in 2000 and 363,142 in 2010.^{xxvii} This pattern also applies to Chile and Peru.^{xxviii} Interview data with Chilean diplomats confirms that the Chilean government supported the bilateral accord that implemented the Residency Agreements because they wanted to legalize undocumented Chileans who had migrated to Argentina during the Pinochet dictatorship (1973-1990). After the bilateral accords went into force, they institutionalized a new policy model and paradigm for addressing intra-regional migratory flows. In this manner, the Argentine state actors incrementally promoted legal status as a substantive right and in the process reconfigured migration governance in South America.

Argentina's state actors also used Mercosur's expanding regionalism to promote their new migration model. Argentine and Brazilian delegates to Mercosur collaborated to ensure that when new states became associated with Mercosur, they were required to ratify the Residency Agreements as part of their adhesion process. In December 8, 2004, Mercosur signed a cooperation agreement with the Andean Community of Nations and started incorporating Colombia, Ecuador, and Peru as Mercosur associated states. These three countries were required to ratify the Residency Agreements. Due to these efforts, by 2007 seven governments were sending delegates to Mercosur who

supported the Residency Agreements. Meanwhile, the Paraguayan government was cornered and alone in their resistance.

These findings also indicate that Argentine and Brazilian state actors used Mercosur's rules, which permit the admission of new states, as a tool to reconfigure the status quo of migration governance in South America. These efforts served two general purposes. First, it increased the number of states to whom Paraguayan government officials needed to justify their stalling. Second, these efforts ensured that if Paraguay did not ratify the Residency Agreements and these became annulled in Mercosur, the legal and ideological impact of the agreements' model would remain encoded within seven states affiliated with Mercosur.

When I asked the Argentine delegate leading these efforts why she used these strategies, she explained:

Romina: We all know the weight that large countries can have in the regional integration processes. In this case, Argentina and Brazil created and supported the proposal. It was really hard to say no. Brazil provided really strong support. We [the Argentine government] insisted in all the arenas possible ... to exert pressure on Paraguay and to show the benefits of this new model.

These findings indicate that state actors in Argentina engaged in political mobilization to reshape South America's migration governance in order to weaken the resistance of Paraguayan political and economic elites. The objective was to pressure Paraguay's right-wing government to ratify the agreements and to ensure that these agreements became a treaty within Mercosur. While the collaborative approach to policy diffusion would describe Argentina's efforts as part of a socialization process that brought governments into regional consensus, my findings show that

Argentina's state actors were exercising of structural power to get Paraguay to ratify the Residency Agreements. Argentine state actors influenced the domestic decision-making contexts of seven countries in order to reconfigure Mercosur. In this manner, Argentine state actors were able to address Paraguay's domestic resistance by incrementing regional peer pressure, increasing the consequences of resistance, and constraining the alternatives that the Paraguayan government could choose from.

More broadly, these dynamics indicate that delegates to Mercosur use their relative autonomy from interest groups to exercise structural power in an indirect, seemingly non-coercive, and diplomatic manner. The Argentine state actors were not seeking to collaborate with or meet Paraguay's policy preferences. Instead, they sought to shift the distribution of power and engineer consent within Paraguay. In other words, by exercising structural power and reconfiguring the regional decision-making contexts in their favor, Argentine state actors were indirectly cornering Paraguay into accepting a migration model that undermined the interests of their political and economic elites. The indirectness and invisibility of this regional restructuring allowed Argentine state actors to exert power without undermining the fundamental values of consensus and interdependence that underpin Mercosur's regional integration project.

Brazil Response to Paraguay: Reframing the “Brasiguaios Threat” via Policy Network

The Brazilian delegates to Mercosur also responded to the resistance among the Paraguayan organized business and political elites by building support within Brazil's left-wing government and creating a bi-national policy network that mobilize political support for ratification within Paraguay. This policy network was composed of Brazilian, Paraguayans, and Brasiguaios who were government officials, experts, labor union representatives, or staff at NGOs that service migrants. The policy network's objective was to build a coalition of supporters within the right-wing Colorado

Party by changing the “Brasiguaios Threat,” or the image that Brazilian immigrants were wealthy and unfair business competitors colonizing the rich lands. The members of the policy network used several strategies to soften political and ideological opposition and build support within moderate factions of the Paraguayan right-wing Colorado party.

The Brazilian delegates to Mercosur were technocrats who used their political capital as well as relative autonomy from enfranchised interest groups in both countries to arrange meetings with key Paraguayan government officials. During these meetings they brought members of the policy network to present research studies and provide testimonies that re-framed Brazilian immigrants as landless and undocumented immigrants, not as wealthy and disloyal soya producers. To achieve this goal the Brazilian state actors asked Juan, a former Brasiguaios and labor union leader, to conduct a research study with a Paraguayan academic on the land occupation of Brazilian immigrants. Juan explained what they found and presented to key Paraguayan government officials:

Juan: We went to work in Paraguay in order to demystify the problem with the land. It was not a problem created by Brazilian immigration. It was a problem created by the dictator Stroessner, who distributed land to his family members, colonels, and friends in return for favors. They then sold it to foreign business owners, some [but not all] were Brazilian ... [The Paraguayan] government did not do this reflection. That is where we played an important role. ... We went [to Paraguay] to show the data to the Minister of Interior, the director of the Migration Direction. ... We were interested in legalizing the undocumented immigrants in Paraguay. ... We showed them that the agreements were going to benefit undocumented Brazilians.

During his meeting Juan argued that Brasiguaios were incorrectly blamed for occupying Paraguay's richest lands and instead placed the blame on the former Paraguayan dictator. He further argued that many Brasiguaios had rightfully purchased the lands they cultivated from Stroessner and his political allies. Hence, Juan tried to demystify the "Brasiguaios Threat" by exonerating Brazilian immigrants of wrongdoing and dispelling fears that were seeking to colonize Paraguay's borderlands on behalf of Brazil. Juan's study also showed that most Brasiguaios were not wealthy soy producers and instead shed light on the 300,000 who were undocumented, often landless, and impoverished.

Migrant serving NGOs directors in Paraguay also helped dismantle the assumption that the Residency Agreements would empower wealthy Brasiguaios. Sister Maria contributed to the policy networks by drawing on her experience directing a migrant serving organization that worked directly with Brasiguaios. When I asked her how she responded to Paraguayan elites who believed in the "Brasiguaios Threat," she responded:

Sister Maria: It is a myth without foundation because the ones [Brasiguaios] who have land got their migration documents [or legal residency status] a long time ago. It [the Residency Agreements] does not affect them. The ones who are still undocumented Brazilians are ... the ones who do not have the conditions to buy land; they are workers.

As part of the efforts, Sister Maria met with Paraguayan government officials and described the living conditions of most Brasiguaios. She attempted to convince them that ratifying the Residency Agreements would not empower the wealthy Brazilian immigrants because they had already use their economic power to secure their own legalization a long time ago. Instead, she argued that the agreements were going to help undocumented Brasiguaios who were poor workers and who did not own land. Hence, by legalizing undocumented Brasiguaios, the Paraguayan government was not

going to legitimize informal business practices, support Brazilian business owners, or risk losing territory to Brazil. In this manner, she told them that their fears were misplaced.

To reinforce these efforts, Brazilian bureaucrats from the Ministry of Justice and Ministry of Foreign Affairs also met with top ranking Paraguayan officials, diplomats, and bureaucrats to dismantle the “Brasiguaios Threat.” The objective was to build support for the ratification of the Residency Agreements among moderate members of the right-wing political party in power. Throughout this process, the Brazilian government officials used their national and regional resources to bring awareness to the needs of undocumented Brazilians in Paraguay and disassociate them from wealthy Brazilian immigrants who owned agribusinesses. In this manner, Brazilian state actors’ political mobilization sought to re-frame the “Brasiguaios Threat” and re-set the Paraguayan agenda in order to build political support for the ratification of the residency agreements within a right-wing and anti-immigrant political party. These findings indicate that Brazilian state actors were not merely socializing Paraguayan elites. Instead, the bi-national policy-network was an exercise of agenda-setting power because the Brazilian state actors were attempting to change the Paraguayan ideological context and distribution of political power to add the Residency Agreements to the parliamentary and executive decision-making agendas.

Brazil Leverages a Structural Power Shift Within Paraguay

Argentina’s reshaping of regional migration governance and Brazil’s political mobilization started to wither opposition among Paraguayan political and economic elites. This is most evident when the right-wing President Nicanor Duarte supported the Minister of Foreign Affairs, Rubén Ramírez, and sent the policy proposal to the senate on December 20, 2007 that initiated the ratification process of the Residency Agreements.^{xxix} Although the ratification of the agreements had

overcome their main obstacle, the senate did not add the Residency Agreements to the agenda for five months.

A key change in the distribution of political power within Paraguay provided an opening for change. In April 2008 the right-wing ANT-Colorado lost the presidential elections for the first time since the transition to democracy in 1989—and since 1954 because the Stroessner dictatorship led this party. Left-wing Fernando Lugo was elected president. It is important to clarify that Fernando Lugo did not take office until August 2008 and his administration did not secure the ratification of the Residency Agreements. However, his election indicates that the Paraguayan economic elite lost their direct connection to state power and ability to influence policy outcomes. In other words, they also lost some political power to resist the agreements. This drastic change in the distribution of political power enabled the senate to approve the policy proposal without objection on June 10, 2008. However, the Residency Agreements needed approval from the Chamber of Deputies and the right-wing President Nicanor Duarte before they could be legally ratified.

Brazil leveraged this domestic shift in power and on June 28, 2008 announced that they would pay for new technological software (e.g., Interpol), equipment, and training staff costs of implementing the Residency Agreements. Mauricio, the mid-level bureaucrat in Brazil leading the efforts explained that, “we made the donation so Paraguay could regularize the immigration status of our Brazilians in their country. . . . It was not a great investment to create a system to monitor flows.” The donation helped garnered support for the Residency Agreements within the Chamber of Deputies.

About a month later, on July 17, 2008, the Chamber of Deputies debated the ratification of the Residency Agreements. During the debates, the issue with the Brazilian immigrants who owned business was completely omitted. This indicates that Brazil’s policy network and donation coupled with the domestic shift in political power had successfully silenced those who opposed the

Residency Agreements. During congressional debates over the ratification of the Residency Agreements, none of the Deputies who shared a testimony mentioned the Brasiguaios or the borderlands. Instead, they reframed the Residency Agreements as beneficial. Their discourse focused on three themes: (1) the need to ratify the agreements to align themselves with the other Mercosur member states, (2) stating that Mercosur's regional integration was important for Paraguay, and (3) explaining that they needed to support the regularization of Paraguayan living in other Mercosur countries.^{xxx} For example, Deputy Cesar Lopez Benitez stated in his testimony:

Considering that Argentina, Brazil, and Uruguay have approached them at their respective parliaments, it is pertinent that we approve them. ... We want to support this project considering that it is very important for our co-nationals to have a legislation that protects them and the free circulation of people; ... which I believe will significantly advance Mercosur's integration.

Deputy Benitez's testimony indicates that the ratification of the Residency Agreements at the countries of the other member states was influencing the national changes in Paraguay. Additionally, diplomats from the foreign governments had re-framed the Residency Agreements as beneficial to Paraguayans who were undocumented at the other Mercosur states. This indicates that contextual changes in the regional legal and ideological status quo of migration governance had provided Paraguayan politicians with a new and more neutral manner of supporting the agreements within their domestic context.

The Chamber of Deputies approved the ratification of the Residency Agreements and fourteen days later President Duarte signed the Law N° 3.565, effectually ratifying and internalizing them. This happened just a few days before President Duarte's completed his term and before

President Lugo took office. Therefore, the same right wing Paraguayan government that had initially opposed the Residency Agreements changed their position and agreed to legalize between 150,000 and 400,000 Brasiguaios residing within its territory and future immigrants from Mercosur's signatory states.

Overall, these findings indicate that Brazilian and Argentine state actors' political mobilization within Paraguay and across South America successfully silence resistance among Paraguayan political and economic elites. The Brazilian state actors' political mobilization also reframed the Residency Agreements as an issue associated with Mercosur's regional integration and the protection of emigrants. Of equal importance, the dramatic shift in political power within Paraguay in 2008 allowed Brazilian government officials to garner greater political support in favor of the agreements. In sum, Argentinean and Brazilian mid-level bureaucrats garnered legal, political and ideological resources to slowly engineer consent in favor of the Residency Agreements within factions of the Paraguayan political elites. This allowed the Residency Agreements to become a formal treaty and the most successful immigration policy of Mercosur. Currently, nine South American countries have ratified, adapted the Residency Agreements as some form of national policy, and made the legalization of undocumented immigrants a substantive right.

DISCUSSION AND CONCLUSION

—Insert Figure 2—

I argue that state actors engage in political mobilization within and across governments to secure the policy ratification and diffusion of models that promote immigrants' access to legal status and rights (see Figure 2). The present article shows that state diplomats can use their relative autonomy from domestic constituents to weaken opposition from interest groups in foreign countries by exercising structural and agenda-setting power. Drawing on the case of the Residency

Agreements, this article shows how Paraguayan government officials opposed ratifying the Residency Agreements to protect national sovereignty and the long-standing interests of their economic elites who were competing with a powerful minority of wealthy Brasiguaios. State diplomats from Paraguay used Mercosur's intergovernmental consensus rules to successfully wield structural and agenda setting power to resist the ratification of the agreements for six years. Specifically, these Paraguayan state actors influenced the ratification process through two mechanisms—*stalling* and *finding strength in weakness*—in order to protect state sovereignty and the interests of their economic elites. In response, Argentine and Brazilian state actors mobilized resources across international borders to silence Paraguay's resistance and indirectly supported the ratification of their policy innovations across the region. The Brazilian and Argentine delegation wanted to ensure that the agreements went into force within Mercosur. On the one hand, the Argentina's state actors exerted structural power, because they reshaped the region's migration governance with the objective of weakening resistance within Paraguay. On the other hand, Brazil's state actors exercised agenda setting power because they mobilized political support within factions of Paraguay's right-wing government. Brazilian diplomats successfully secured the ratification of the agreements in Paraguay by building a bi-national policy network that reframed the "Brasiguaios Threat" among Paraguayan political elites and by funding Paraguay's immigration infrastructure. Hence, I argue that the Paraguayan government would have likely not ratified the Residency Agreements if diplomats from Brazil and Argentina had not exercised structural and agenda-setting power to reconfigure and tilt the distribution of regional power back in their favor.

When actors are able to change and control the context where policy decisions are made, their commands, suggestions, and ideas are more likely to be accepted. This study contrasts with previous approaches to policy diffusion, which are limited in two ways. On the one hand, the collaborative approach deemphasizes power relations by assuming that cultural-cognitive consensus

and mimicry drives policy diffusion (Acosta 2018; Margheritis 2013; Boli and Thomas 1997; Meyer et al. 1997; Meyer and Rowan 1977). The collaborative approach confines the agency of state actors to socializing and persuading government officials. As a result, their ability to creatively exercise power to promote their own ideas and address opposition to ratification has been de-emphasized. On the other hand, the contentious approach captures state actors ability to build coalitions, manipulate the rules of intergovernmental organizations, and create voting blocks to resist and promote policy prescriptions (Cook-Martin and FitzGerald 2019; Kentikelenis and Seabrooke 2017; Falcón 2016; FitzGerald and Cook-Martin 2014; Chorev 2012). However, this contentious approach has largely under-theorized the politics of ratification and the state actors' ability to use their relative autonomy from domestic constituents to engage in political mobilization in foreign governments.

Furthermore, this study advances our understanding of how organizational practices and rules of intergovernmental organizations give weaker states the ability to successfully tilt power relations in their favor (Falcón 2016; Cook-Martín and FitzGerald 2019; FitzGerald and Cook-Martín 2014; Chorev 2012). While previous research has shown that weaker states can gain leverage when they build coalitions, my study shows that in regional intergovernmental organizations, weaker states, as Paraguay, can use existing rules to resist unilaterally. As seen in Figure 2, Paraguayan government officials opposed ratifying the Residency Agreements by stalling and not sending the agreements to parliament. Additionally, the Paraguayan government officials leveraged Mercosur's rule that all member states need to ratify regional agreements, or these could otherwise be terminated. Paraguayan delegates then found strength in their position of weakness; they diplomatically showcased their state's low infrastructural capacity and lack of resources to implement policy across their bounded territory in order to argue that they were unable to ratify the agreements. The Paraguayan case illustrates that less powerful state actors are able to leverage intergovernmental

organizations' practices and rules through stalling and by justifying their position on the basis of the state's weakness, without having to build coalitions with other relatively weaker states.

In regional organizations, stronger states have to exercise power subtly because using coercion can delegitimize the regional integration project. Mercosur's rules and practices seek to balance the structural power asymmetries of member states by giving each member an equal vote, voting on consensus, and requiring that all states ratify an agreement before being fully internalized. Governmental officials who are committed to regional integration (like those of Argentina and Brazil) would risk destroying this organization's dynamic if they were to use more aggressive interventions to push for the ratification of their policies on relatively weaker countries (i.e., Paraguay). This explains why Argentina and Brazil mobilized resources to use more indirect strategies (i.e., incorporating new Mercosur associated states and signing bilateral agreements) to tilt the distribution of power within Mercosur in favor of the Residency Agreements and increase the consequences of Paraguay's resistance. The Argentine and Brazilian cases also show that state actors engage in political mobilization at various points of contention to control decision-making contexts and exercise power in a subtle, diplomatic, and non-coercive manner. These findings further illustrate that a structural power lens provides a useful analytical tool for identifying previously undetected mechanisms driving the wide ratification of an inclusive migration policy model.

This study also makes three contributions to the literature on the determinants of immigration policy in the Global South. First, it advances our understanding of how state sovereignty and infrastructural power can shape immigration policy outcomes. Mercosur's member states have uneven levels of infrastructural power; uneven ability to enforce the rule of law within their territory; and uneven levels of economic independence from neighboring states. These structural power asymmetries change interests groups position towards immigration. As seen with the case of Paraguay, labor unions and economic interests groups perceived immigration from the

relatively stronger countries as a an unfair competition and a threat of occupation and colonization. In other words, in Paraguay, during the beginning of the millennium, key factions of labor, capital, and political elites perceived the wealthy Brasiguaios as a threat to state sovereignty. The Paraguayan state's low infrastructural power made it difficult for public servants and politicians to protect valuable borderland territories and the national economy from this powerful minority. These asymmetries explain why Paraguay opposed the Residency Agreements during a time of economic growth and low levels of immigration. Also, these findings demonstrate that state's low infrastructural power and lack of monopoly over the legitimate means of movement into their valuable territory can fuel immigrant opposition within a country that has low levels of immigration.

Second, most research on the determinants of immigration policy contends that business lobbies are pro-immigration because employers want a flexible and cheap workforce (e.g., Peters 2017; de Haas and Natter 2015; Tichenor 2002). However, I find that in developing countries with an agro-export economic model, business lobbies can oppose policies that facilitate immigration. This is particularly the case when the immigrants come from relatively stronger states and threaten the interests of business elites. Accordingly, scholars are encouraged to further explore the factors shaping migration policymaking in other parts of the Global South.

Finally, these findings indicate that regional intergovernmental organizations enable pro-immigrant state bureaucrats to build support in favor of less restrictive immigration policies despite domestic opposition to immigration. This supports the thesis that policymaking spaces that are insulated from anti-immigrant public opinion enable the passage of less restrictive immigration policies (de Haas and Natter 2015; FitzGerald and Cook-Martin 2014; Freeman 1995).

Future research could test how the politics of ratification influences whether a policy diffuses in other intergovernmental organizations and domains. This study identifies several ways that state actors exercise structural and agenda-setting power to resist, address opposition, and

mobilize resources within and across countries in support of a policy. However, this is not a representative sample of all policies within Mercosur and other intergovernmental organizations. Scholars are encouraged to develop this line of research in other organizations and parts of the world. In this manner, we can build a comprehensive scholarship that analyzes how politics and power dynamics shape the creation, ratification, and diffusion of global and regional policy prescriptions. By doing so, we can better differentiate under what conditions policies diffuse either as a consequence of cultural-cognitive consensus and mimicry or as a result of state-led political mobilization that changed the distribution of power and cornered governments into ratifying undesirable policy prescriptions.

More broadly, this research advances our understanding of how governments in the Global South negotiate immigration policies. This matters because about half of the 244.3 million international immigrants migrate to low- and middle-income countries (International Organization for Migration 2015). These findings also help inform the approximately 28 regional organizations (e.g., the African Union; European Union; ASEAN; and the GULF Cooperation Council) that have designed and approved regional immigration policies seeking to address intra-regional migratory flows (Geddes 2012). Again, most of these regional intergovernmental organizations include low- and middle-income countries. Thus, scholars are encouraged to continue identifying the factors and dynamics that shape the intergovernmental and domestic immigration policymaking in the Global South. As the international community joins forces to find a “Global Compact for Safe, Orderly and Regular Migration,” scholars are also encouraged to analyze how actors’ from asymmetrical states promote their preferred immigration models.

Figure 1. How Ratification and Power Relations Impact Policy Diffusion

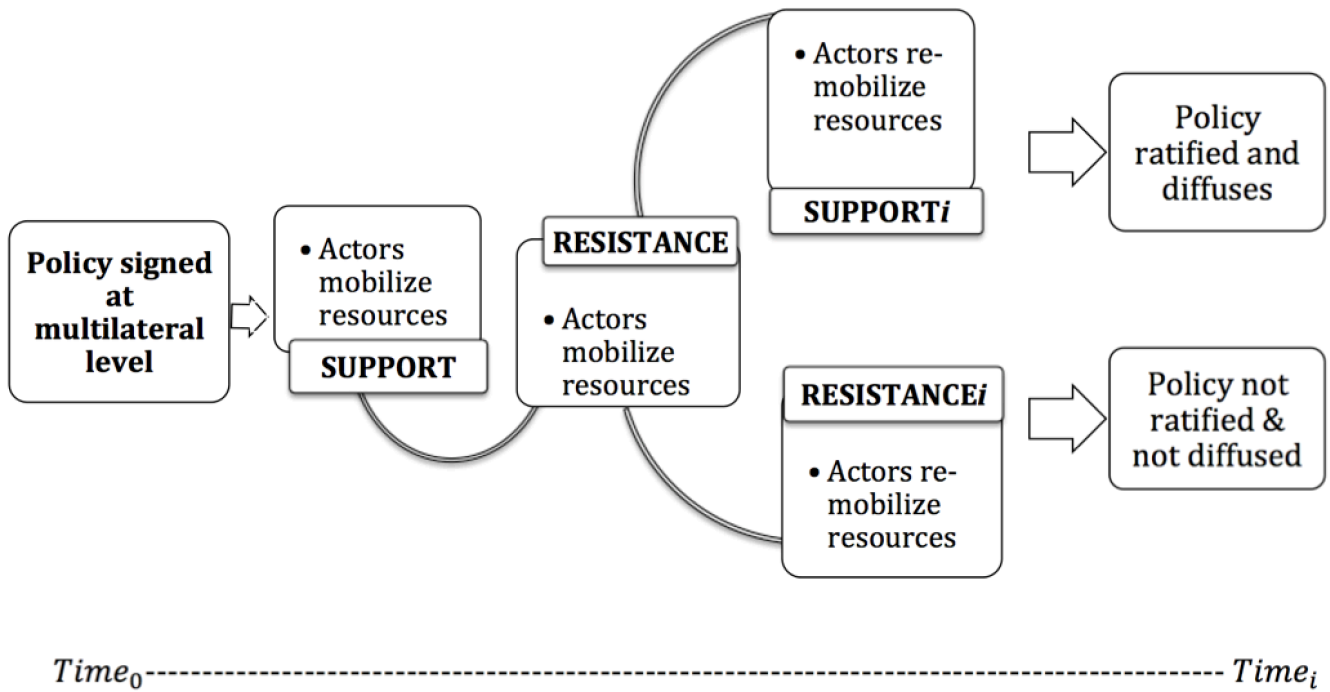
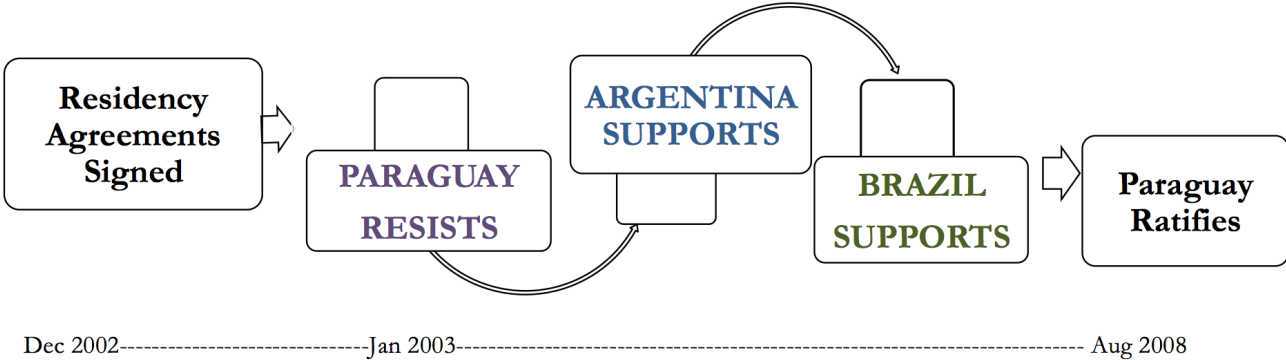


Table 1. Argentina Re-structures Migration Governance in South America

Mercosur or Country	Year	Residency Agreements (RA) Progress
Mercosur	2002	Signing of RA via Decision CMC N° 28
Argentina	2003	Immigration Reform Law N° 25.871 <ul style="list-style-type: none"> • Art. 23(L) adds Mercosur national as category for legal residency • Art. 28 prioritizes Mercosur free movement of people
Argentina	2004	Presidential Decree N° 1169 to regularize Mercosur nationals, enacted as Patria Grande (2006)
Argentina	2004	Ratification of RA via Law N° 25.903 and Law N° 25.902
Argentina - Bolivia (a)	2004	Bilateral Agreement to Implement RA via Law N° 26.126
Bolivia (a)	2004	Ratification of RA via Law N° 2831
Chile	2004	Ratification of RA via Oficio Circular N°26465
Argentina - Chile	2004	Bilateral Agreement to Implement RA
Brazil	2005	Ratification of RA via Legislative Decree N° 2010
Argentina - Brazil	2005	Bilateral Agreement to Implement RA via Law N° 26.240
Uruguay	2005	Ratification of RA via Law N° 17.297
Argentina - Uruguay	2006	Bilateral Agreement to Implement RA
Argentina -Peru (a)	2007	Bilateral Agreement to Implement RA via Law N° 26.535
Paraguay	2008	Ratification of RA via Law N° 3.565
Mercosur	2009	Internalization of RA

(a) The internalization of the RA was not contingent on their ratification by associated states.

Figure 2. The Politics of Ratifying the Residency Agreements



Appendix A. Mercosur Member States

Indicator	Paraguay	Brazil	Argentina	Uruguay
Population (millions)	7	207	44	3.4
Territory km²	406,752	8,515,770	2,780,400	176,215
1990 Immigration from Mercosur states	168,364	111,346	799,270	27,542
2000 Immigration from Mercosur states	154,437	118,896	893,920	35,813
2010 Immigration from Mercosur states	140,171	145,343	1,293,603	40,981
1991 Unemployment Rate (% of labor force)	6.5	6.9	5.8	7
2000 Unemployment Rate (% of labor force)	7.6	9.5	15	10.7
2005 Unemployment Rate (% of labor force)	5.8	9.3	10.6	8.5
2010 Unemployment Rate (% of labor force)	5.7	7.9	7.7	7.2
1990 GDP, (\$US Current)	\$5.7 billion	\$462 billion	\$141 billion	\$9 billion
2000 GDP, (\$US Current)	\$9.1 billion	\$655 billion	\$284 billion	\$23 billion
2010 GDP, (\$US Current)	\$20 billion	\$2.2 trillion	\$424 billion	\$40 billion
2008 General State Expenditure as Percent of GDP, (\$US Current)*	11% (\$1.7 million)	20% (\$322 billion)	16% (\$51 billion)	13% (\$3.6 million)

Source: Author's compilation of data from the UN Migrant Stock, World Bank, OECD, and CIA Country Reports.

* This is an indicator of the state's infrastructural power to implement its decisions across bounded territory (Mann 2008). Based on General government final consumption expenditure data.

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ENDNOTES

ⁱ Decision CMC 28 “Acuerdo sobre Residencia Para Nacionales de los Estados Parte del Mercosur” and the “Acuerdo sobre Residencia Para Nacionales de los Estados Parte Del Mercosur, Bolivia y Chile” were signed on December 6, 2002.

ⁱⁱ Though, the South American countries were among the first to remove racist ethnic selection policies.

ⁱⁱⁱ “Argentina (1966–1973 and 1976–1983), Bolivia (1964–1970 and 1971–1982), Brazil (1964–1985), Chile (1973–1990), Ecuador (1972–1979), Paraguay (1954–1989), Peru (1968–1980) and Uruguay (1973–1984)” (Acosta 2018: 102).

^{iv} These include Paraguay’s Law N° 470 (1974); Chile’s Law Decree N° 1904 (1975); Bolivia’s Law Decree N° 13344 (1976); Brazil’s Estatuto do Estrangeiro N° 6.815 (1980); and Argentina’s Law N° 22.439 (1981).

^v It was first called the Technical Commission and Submission of Control Tracking’s Migration Group and in 2003 it was renamed the Specialized Migration Forum.

^{vi} In the early 2000s Paraguay sent about 40% of the 2.5 million undocumented immigrants within Mercosur signatory states (Alfonso 2014).

^{vii} In 2017, there were 244.3 million international immigrants. About 90.2 million people migrated from countries in Global South to other countries in the Global South; 13.6 million people migrated from countries in the Global North into countries in the Global South; 85.3 million people migrated from countries in the Global South to countries in the Global North; and 55.2 million people migrated between countries in the Global North (IOM 2017).

^{viii} These include the Mercosur’s Technical Commission and Submission of Control Tracking (TCSCCT); the TCSCCT’s Migration Group; Specialized Migration Forum of MERCOSUR and Associated States; the Sub-Working Group Number 10 (formerly N° 11) on Labor, Employment

and Social Security Affairs; the Working Group on Legal and Consular Affairs; and the Subgroup for Border Integration.

^{ix} Archive: “Brasiguayos, Itaipú y MERCOSUR. Memorias del VI Seminario Binacional sobre Brasiguayos” March 1995

^x Modifications include Decree N° 18.295 (1997); Decree N° 4.943 (1999); Decree N° 12.441 (2008); Decree N° 1.726 (2009).

^{xi} See Acosta (2018).

^{xii} Alfonso (2013).

^{xiii} Data based on author’s interviews with leaders of the labor unions and the CCSCS.

^{xiv} This extends to their children who were born in Paraguay. This figure is based on a 2006 estimate (Tiburcio 2009).

^{xv} Tiburcio (2009).

^{xvi} Albuquerque 2010 and “Brasiguayos, Itaipú y MERCOSUR. Memorias del VI Seminario Binacional sobre Brasiguayos” March 1995

^{xvii} Tiburcio (2009).

^{xviii} Brasiguaios own approximately 240,000 out of the 600,000 soy productions (Albuquerque 2010; Tiburcio 2009).

^{xix} This extends to their children who were born in Paraguay. This figure is based on a 2006 estimate (Tiburcio 2009).

^{xx} Names have been changed to protect the anonymity of respondents.

^{xxi} “Brasiguayos, Itaipú y MERCOSUR. Memorias del VI Seminario Binacional sobre Brasiguayos” March 1995

^{xxii} “Brasiguayos, Itaipú y MERCOSUR. Memorias del VI Seminario Binacional sobre Brasiguayos” March 1995

^{xxiii} Tiburcio (2009)

^{xxiv} Author's interviews with the Paraguayan state delegates to Mercosur and Folch (2010).

^{xxv} Author's analysis of UN Migrant Stock data.

^{xxvi} Hines (2010)

^{xxvii} This is based on author's analysis of UN Migrant Stock data.

^{xxviii} Argentine immigration to Chile was growing between 1990 and 2010, but relatively low compared to the total number of Chilean immigrants residing in Argentina. Specifically, according to the author's analysis of UN Migrant Stock Data, Argentine immigrants in Chile totaled 32,696 (1990); 45,770 (2000); 57,003 (2005) & 68,235 (2010). In contrast, Chilean immigrants in Argentina totaled 223,528 (1990); 205,945 (2000); 195,316 (2005); and 184,687 (2010). Peruvian immigration to Argentina was also growing between 1990 and 2010. Specifically, in 1990 there were 72,234 Peruvian immigrants in Argentina, in 2000 there were 85,411 and in 2010 there were 169,262.

^{xxix} S80467

^{xxx} Camara de Diputados de Paraguay (2008) "Sesion Ordinaria No. 3."

CHAPTER 3

Legal Status as a National Substantive Right:

Why Did Argentina, Bolivia, Brazil, and Uruguay Completely Internalize the Residency Agreements while Chile and Paraguay Have Not?

ABSTRACT

A growing immigration policymaking literature posits that South America is passing some of the most liberal immigration laws in the world. Among them, the Mercosur Residency Agreements represents a set of exemplarily inclusive immigration policies because they are the first to make legal status a substantive right. Of particular importance, in 2009, Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay internalized this regional treaty as national policy even though Mercosur's policies are not binding. However, due to theoretical and methodological limitations, scholars have not identified the key factors that propelled governments to internalize the Residency Agreements as national policy in the absence of an enforcement mechanism. To systematically identify the contextual factors and actors that facilitated or hindered the internalization of the Residency Agreements, this study draws on 130 in-depth interviews with actors involved in migration policymaking in six Mercosur countries. Likewise, this research draws on original databases of immigration laws and economic, public opinion, and trade indicators from 1970 to 2017. I find that Argentina, Brazil, Bolivia, and Uruguay have completely internalized the agreements as national law while Chile and Paraguay have not. The cross-national comparison reveals that migrant sending and receiving states can expand immigrants' access to legal residency and rights in the midst of nativism if the following conditions are met: (1) the state shows a commitment to creating regional community that protects all nationals' rights, (2) immigration policy changes align with broader state bureaucratic reforms to enhance democratic representation, and (3) these policies are supported by diverse and progressive civil society actors and interest groups.

Key Words: Immigration Policy, Legal Status, Undocumented, Mercosur, South America

INTRODUCTION

In the last 20 years, the South American governments have responded to increases in undocumented immigration from neighboring countries by passing policies that facilitate migrants' access to legalization and rights (Acosta 2018; Acosta and Freier 2015; Alfonso 2013; Margheritis 2013). Of particular importance, the Mercosur Residency Agreements (2002) are the first immigration treaty in the world to make legal status a substantive right in the world (Acosta 2018; Alfonso 2013; Mármora 2010). By 2009, Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay had ratified the Residency Agreements and adopted them as national policy. The successful internalization of the Residency Agreements is particularly puzzling because Mercosur cannot legally enforce its regional policies (Duina 2006). Mercosur is a regional trade agreement with an intergovernmental organization where its member and associated states choose whether they implement its regional policies. In the late-1990s, Mercosur signatory states created migration policymaking groups, which provide delegates from migrant sending and receiving countries with the resources needed to resolve migratory problems and design migration policies that drive regional integration. However, scholars have not systematically identified the domestic factors that influenced the uneven internalization of the Residency Agreements in the absence of an enforcement mechanism. Specifically, it remains largely unknown why governments in Argentina, Bolivia, Brazil, and Uruguay were able to reform their immigration laws to fully internalize the agreements and Chile's and Paraguay's governments have not been able to do the same. It is important to understand the mechanisms driving these policy changes because they affect over 3 million immigrants within the Mercosur states.ⁱ Furthermore, between 2006 and 2016, 2.7 million immigrants have been able to access legal residency status through these agreements (IOM 2018). Thus, this article tackles the following research question: What factors and actors explain why

Argentina, Bolivia, Brazil, and Uruguay completely internalized the Residency Agreements and Chile and Paraguay have not?

According to the broader immigration policymaking literature, several actors and contextual factors explain why governments pass inclusive immigration policies. Political leaders are more inclined to support less restrictive immigration policies if the country is experiencing low immigration flows and economic growth (de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000). Furthermore, liberal immigration policy proposals are more successful when they are designed by coalitions of stakeholders that cross political party lines, have the support of business associations, and when they are debated in spaces that are insulated from public opinion (de Haas and Natter 2015; Odmalm 2011; Perlmutter 1996; Freeman 1995). Nevertheless, the existing constitutions and judiciaries of the legal-bureaucratic context can obstruct and regress these changes (Guiraudon & Lahav 2000; Ruhs 2013; Cornelius and Roseblum 2005).

In South America, a new body of literature reveals patterns that contradict existing assumptions regarding the factors that shape immigration policy outcomes. For instance, in 2003, Argentina passed one of the world's most inclusive immigration laws amidst political turmoil and economic depression (Ceriani Cernadas 2015). This event counters the assumption that economic downturns impede the passage of immigration legislation that lessens restrictions to immigration and expands immigrants' rights. In Paraguay, business associations have not backed liberal immigration policies even though the country has experienced economic growth and decreasing immigration flows (See Chapter 2; Novick 2011; Tiburcio 2009). Paraguay's response counters the assumption that business lobbies always support immigration. Moreover, there is evidence that more liberal immigration policies are more likely to pass if the governing coalitions use human rights in their discourse, state reforms, or geopolitics (Acosta 2018; FitzGerald and Cook-Martin 2014; Acosta and Freier 2015; Hines 2010). Most importantly, scholars concur that the Mercosur Residency

Agreements have played a key role in a new trend of inclusive immigration policy changes in South America (Acosta 2018; Acosta and Freier 2015; Alfonso 2013; Margheritis 2013). This study contributes to these bodies of literature by systematically analyzing the domestic factors (e.g., migratory flows, nativism and economic, political, and state bureaucratic contexts) that obstruct or facilitate the adoption of the Residency Agreements as national legislation. This analysis is important because it will allow us to assess the prevalence of exceptional cases, identify the link between Mercosur's Residency Agreements and domestic immigration policy changes, and identify the key actors and factors that successfully promoted the passage of inclusive immigration legislation.

To identify the factors and actors that facilitated or hindered the internalization of the Residency Agreements, this study draws on 130 in-depth interviews with actors involved in migration policymaking in the original six Mercosur countries, along with original databases of immigration laws and economic, public opinion, and trade indicators from 1970-2017.

Findings show that five key factors explain why Argentina, Brazil, Bolivia, and Uruguay completely internalized the agreements as national law and Chile and Paraguay did not. On the one hand, Argentina, Bolivia, Brazil, and Uruguay fully internalized the agreements because (1) the immigration reform bill was tied to larger legal-bureaucratic reforms to enhance democracy. These four countries also had a receptive political context where (2) the presidents were highly committed to regional integration, (3) the governing coalitions were left- to center-left in political orientation, (4) the nativism against immigrants from Mercosur states did not obstruct immigration reform, and because (5) the coalitions for immigrant rights were established. In contrast, Chile and Paraguay had obstructionist legal-bureaucratic and political contexts. In these two countries the presidents have had a low commitment to regional integration, the governing coalitions have shifted between left- to right-wing in political orientation, and the coalitions for immigration rights are new and weak. This

political context has allowed nativism against immigrants from certain Mercosur countries to obstruct inclusive immigration reform proposals.

In the following sections, I will review the immigration policymaking literature, key studies on immigration policymaking in South America, and the case of the Mercosur Residency Agreements. Then, I will review my methodology, present the key findings, and discuss how these findings contribute to the existing literature and broader immigration policymaking efforts.

THEORY AND BACKGROUND

Domestic Determinants of Inclusive Immigration Policy

At the national level, four interconnected factors influenced immigration policy outcomes: the economic context, migratory trends, public opinion, and the composition of interest group coalitions. Among these factors, the economic context, migratory trends, and public opinion are tightly interconnected. On the one hand, economic growth tends to create a favorable context for less restrictive immigration policy outcomes when immigration flows are low (de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000). On the other hand, economic downturns and increases in immigration (whether real or perceived) usually boost public opposition to immigrants. Such situations increase the political costs of promoting liberal immigration policies because actors who promote them risk losing elections (Facchini et al. 2013; Massey 1999; Meyers 2000). Public opinion, however, is filtered through the political system and does not directly shape policy outcomes (de Haas and Natter 2015).

Moreover, the compositions of pro-immigrant coalitions are part of the political context and tend to have more impact on immigration policy outcomes than the other factors (de Haas and Natter 2015). Inclusive immigration policies are more likely to pass when they are backed by a coalition of “strange bedfellows,” that is, actors across political party lines with different ideological

orientations, such as conservative and liberal elected officials, immigrant rights activists, business lobbies, and labor unions (de Haas and Natter 2015; Freeman 1995). Within right wing political parties, business interest groups promote less restrictive immigration policies because they want to maintain a supply of cheap and flexible labor to keep the cost of production low (Peters 2017; Odmalm 2011; Perlmutter 1996). The business sector support for immigration coincides with its broader market liberalization ideology (Peters 2017; Odmalm 2011; Perlmutter 1996). According to Peters (2017), business lobbies generally have more power to influence policy outcomes than other conservative members because they have more lobbying resources. These coalitions also tend to include labor unions who support immigration as part of their international solidarity ideological platforms (de Haas and Natter 2015)ⁱⁱ. In sum, coalitions that include a wide range of powerful pro-immigration actors from the political spectrum can build strong support for inclusive immigration policy changes.

Finally, the legal-bureaucratic context refers to existing constitutions, judiciaries, immigration laws, and state bureaucracies that can determine the degree to which regional agreements can become incorporated as national law. For example, in Europe, international human rights agreements are more likely to get implemented at the domestic level if international and national norms are compatible, policymaking is isolated from public opinion, the courts have a favorable view of international law, and if domestic lawyers are trained in international law (Guiraudon & Lahav 2000). Also, even if the regional policy is passed at the national level, domestic independent judiciaries can overturn policy that is considered unconstitutional (Ruhs 2013; Cornelius and Roseblum 2005). As such, domestic independent judiciaries can overturn international policies that have been ratified and internalized if they consider them unconstitutional.

National Determinants of Inclusive Immigration Policy in South America

Immigration policymaking in South America challenges and expands existing migration policy theories. The vast majority of the immigration policy literature is based on highly- and post-industrialized countries in the Global North and does not adequately explain immigration policymaking in countries with low to middle levels of industrialization in the Global South. Therefore, theoretical assumptions that were developed on research of policy outcomes in the global North cannot be blindly extended to South American countries.

Specifically, there is evidence that actors and contextual factors impact immigration policy outcomes differently in South America. For example, Argentina reformed its national immigration law in the middle of an economic depression while experiencing increasing immigration flows (Ceriani Cernadas 2015; Alfonso 2013; Marguerites 2013). This outcome defies the theoretical expectations that economic decline and increased immigration (whether real or perceived) obstructs liberal immigration policies proposals. Moreover, the business elites, labor unions, and other non-governmental actors in the South America have different positions towards immigration than those in the Global North. For example, business lobbies in the Global North tend to either support liberal immigration policies (Peters 2017). However, there is evidence that business lobbies can actively obstruct liberal immigration policies in South America (Chaper 2, Novick 2011; Tibucio 2009; Vicich 2007). For example, I find that in Paraguay's agro-export economy, business lobbies opposed policies that facilitated immigration from Brazil (see Chapter 2). This is mainly because Paraguayan economic elites were competing with wealthy Brazilian immigrants over control of the borderlands where the most profitable crops are cultivated (see Chapter 2; Novick 2011; Tiburcio 2009). These Paraguayan economic elites have formed coalitions with right-wing political elites to obstruct policies that expand immigrants' access to legal residency and rights (see Chapter 2). Furthermore, business representatives in Mercosur's migration and labor working groups have

opposed expanding immigrants' rights, even if the regional policies increased their labor surplus (Vicich 2007).

Labor unions in South America also qualify existing theoretical immigration policymaking assumptions. The existing literature posits that labor unions either oppose immigration to protect the welfare state or support immigration under international solidarity ideologies. However, in South America labor unions inserted themselves into Mercosur's policymaking spaces in the early 1990s in order to secure the rights of all workers in the region (Vicich 2007). Unlike labor unions who oppose immigration or promote immigration within an international solidarity lens, these labor unions promoted a regional integrationist ideology that included equal standards and pay for all Mercosur workers (Vicich 2007). In sum, these studies demonstrate that contextual factors and stakeholders impact immigration policymaking in the South American countries differently.

Furthermore, research on policymaking in South America has expanded immigration policy theories in three ways. First, scholars found that some governments in South America have drawn on human rights discourse to express support for immigrants' rights as a geopolitical statement that counters the racist immigration policies (Cook-Martin and FitzGerald 2018; FitzGerald and Cook-Martin 2014) and the immigration enforcement practices of European countries and the United States (Acosta 2018; Acosta and Freier 2015). In this sense, the use of human rights discourse serves as an international geopolitical strategy to influence the immigration policies of other countries and enhance the countries' international status (Cook-Martin and FitzGerald 2018). These findings brought an international level of analysis to migration policymaking theories. This matters because the vast majority of the migration policy literature has focused on national level factors and only considered international dynamics as external shocks (see review in Cook-Martin and FitzGerald 2018). Second, these studies indicate that the international status of the emigrant population plays a key role in the formulation of national ideology towards immigration.

Third, it is possible that legal-bureaucratic efforts to improve state democracy in South America can facilitate the passage of rights-based immigration policies. For example, constitutions that included human rights agreements during their transition into democracy (i.e., the one in Argentina) are more compatible with immigration policy models that focus on immigrants' rights (Acosta and Freier 2015; Hines 2010) than constitutions that do not include these international instruments. Further, state bureaucracies with jurisdiction over immigration policy administration that have a human rights orientation are more receptive to rights-based immigration models than bureaucracies that have a security frame such as the Ministry of Interior (Alfonso 2013). In sum, case studies of South American immigration policymaking have been theoretically generative. However, it remains largely unknown whether these trends apply to all the Mercosur states and whether these were the key factors that facilitated the complete internalization of Residency Agreements in some states, but not in others.

The Case of the Complete and Incomplete Internalization of the Mercosur Residency Agreements

Mercosur's regionalism and Residency Agreements have been key to a wide range of liberal immigration policy changes in South America (Acosta 2018; Acosta and Freier 2015; Alfonso 2013; Margheritis 2013; Mármora 2010). The purpose of these agreements were to provide legal status to 2.5 million undocumented migrants within the Mercosur signatory states and ensure that future immigrants had a path to legalization (Bareiro 2007). In just ten years, between 2006 and 2016, the Residency Agreements have legalized 2.7 million immigrants in South America (IOM 2018). However, it remains unknown why Argentina, Brazil, Bolivia and Uruguay were able to reform their restrictive immigration laws to completely internalize these agreements or why Chile and Paraguay have not been able to do so. This study contributes to these broader immigration policymaking

literatures by systematically analyzing the domestic factors (migratory flows, nativism and economic, political, and state bureaucratic contexts) that obstruct or facilitate the internalization of the agreements into the national immigration legal system. This analysis will allow us to assess the prevalence of the unique factors scholars have identified in South America, identify the link between Mercosur's migration policymaking and domestic immigration policy change, and determine which factors have prevented Chile and Paraguay from fully internalizing the agreements.

This study focuses on the first six countries involved in the creation and adoption of these agreements. These countries design the agreements and took the risk of implementing an innovative immigration governance model. Nonetheless, it is important to note that nine countries are currently implementing the agreements. Peru and Ecuador ratified the Residency Agreements in 2011 and Ecuador ratified them in 2013 (CSM 2014). I do not include Colombia, Ecuador, and Peru in the analysis because these countries were required to sign on to the agreements and implement them as part of their adhesion to Mercosur process (IOM 2018). Thus, these countries were not involved in the key negotiations of the Residency Agreements and signed on after they had become an official treaty within Mercosur and established in the region. In other words, these countries were late adopters and had to internalize them to fall in line with the regional trend that the six early adopters had put in place. For these reasons, this study focuses on the six countries that were the innovators of the Residency Agreements.

The migratory flows within these South American countries are important. In 2017, there were 3 million immigrants from Mercosur countries residing in Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, and Uruguay. This same year Argentina, the main country of destination, had 1.76 million immigrants who are nationals of these eight countries. In 2017, Chile had 369,596 immigrants from the other Mercosur states and Brazil had 208,577 immigrants from

these eight South American countries.ⁱⁱⁱ It is key to highlight that these figures undercount irregular and unregistered immigrants and that the immigration population might be higher.

In sum, this study identifies the factors and actors that facilitated or hindered the complete internalization of the Residency Agreements as national law. This analysis will help us better understand migration policymaking in the Global South and in a region where the legal systems affect over 3 million immigrants.

METHODS

I identify the contextual factors, ideas, and actors that facilitated or hindered the internalization of the Residency Agreements as national legislation.

Comparative strategy

Given that Mercosur's member and associated states negotiate migration policy together, we cannot assume that the migration policies of each country do not influence the policies of other countries. As such, when I compare countries, I use McMichael's (1990) incorporating comparisons strategy. This means that when I compare factors within and across countries, I evaluate how these processes are intertwined and influence each other. I focus on Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay because these six countries were the first to design and negotiate the Residency Agreements and they were the first to internalize them—even though, the level of internalization varies. In addition, these countries have been traditional corridors of intra-regional migration—Bolivians and Paraguayans migrate to Argentina, Brazil, and Chile (Mazza and Sohnen 2010).

In-depth Interviews

In order to analyze how organized interests groups and ideas influenced the complete or incomplete internalization of the Residency Agreements, I conducted 130 in-depth and semi-

structured interviews with actors involved in regional and national migration policymaking process in Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay. I conducted 24 interviews in Argentina, 29 in Brazil, 10 in Bolivia, 29 in Chile, 15 in Paraguay, 17 in Uruguay, and 6 with regional authorities at Mercosur. Data collection took place between September 2015 and July 2018. Interviews lasted between 60 to 120 minutes and were conducted at respondent's preferred location (usually their office or a coffee shop).

To select interviewees, I created a database of the key actors involved in migration policy at Mercosur and in Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay between 1995 and 2017. I included the High Authority of Mercosur and his staff. I also included delegates to Mercosur meetings that deal with migration. These meetings include the Mercosur's Technical Commission and Submission of Control Tracking (TCSCCT); the TCSCCT's Migration Group; the Specialized Migration Forum of MERCOSUR and Associated States (SFM); the Sub-Working Group Number 10 (formerly N° 11) on Labor, Employment and Social Security Affairs (SGN10); the Working Group on Legal and Consular Affairs (GTAJC); and the Subgroup for Border Integration (SGN18). Within each country, I included government officials who work in state bureaucracies that have jurisdiction over migration policy. These include bureaucrats from the Ministries of the Interior, the Ministries of Foreign Affairs, the Ministry of Labor, and the Ministry of Justice. I also included the general consuls or ambassadors from Bolivia and Paraguay to Argentina, Chile, and Brazil. I made sure to include the non-governmental actors who work on migration or emigration, such as staff at labor unions in charge of migration, NGOs who work on migration, and staff at private sector organizations that send delegates to Mercosur's Subgroup Number 11. Finally, I included academics and legal experts who have been involved in the migration policymaking processes at Mercosur or at the national level.

Respondents were asked (i) why their organization or government collaborate (or did not collaborate) with Mercosur to pass the Residency Agreements at the domestic level. They were also asked (ii) where the idea of giving immigrants access to legal residency and rights originated, (iii) whether there were other policy solutions that did not take hold, (iv) why they supported or opposed the Residency Agreements, and (v) what has been most surprising aspect about the design, ratification, and internalization of the Residency Agreements. Respondents were also asked (vi) whether their constituents or other actors within their organization disagree with this course of action and why. In order to analyze their potential coalitions, interviewees were asked (vii) with whom they collaborate on a regular basis and with whom they have a difficult time working on migratory issues. Finally, I asked interviewees (viii) whether they have ever used a program or policy from another country as model, and (ix) whether any international organization has supported their migration efforts. For key actors that I could not interview, I analyzed publicly available documents where they discuss migration. These documents include Mercosur acts, congressional debates of laws that internalized the Residency Agreements, or organizational reports.

OUTCOME: Policy Consistency

I created an immigration legislation database and conducted a policy consistency analysis that assesses the extent to which Mercosur's affiliated states have internalized the Residency Agreements as national legislation. To compile the law database I used governmental databases, documents, and reports; International Migration Organization's reports on the Mercosur in 2014 and 2018; and interview data. I also identified the immigration laws of each country from 1970 to 2017. This timeframe includes immigration policies from Operation Condor, before the Residency Agreements were signed, and after the passage of the Residency Agreements.

To completely internalize the Residency Agreements the governments needed to reform the restrictive immigration laws they passed during their respective military dictatorships. They also

needed to pass new immigration laws that (1) expanded immigrants rights and (2) made legal status for Mercosur nationals substantive rights. The countries that reformed their immigration laws to include these changes are coded as having “complete” internalization of the Residency Agreements—these include Argentina, Bolivia, Brazil, and Uruguay. Chile and Paraguay are labeled as “incomplete.” Chile has the same restrictive immigration decree law enacted by the military dictatorship and Paraguay has a restrictionist immigration law that interferes with the complete internalization of the Residency Agreements.

EXPLANATORY FACTORS: Context Indicators

This study also identifies the international, regional, and national factors that hindered or facilitated the complete or incomplete internalization of the Residency Agreements.

- The **international context** was considered in two ways. During interviews I asked respondents if they used a migration policy or program from another country. Influences from international organizations such as the International Organization for Migration or from non-Mercosur countries were labeled as international. Second, I measure international immigration and emigration trends between 1990 and 2017 using the UN Migrant Stock data and triangulate these trends with interview data. Respondents were asked whether changes in international migratory flows within and outside the region influenced their migration policymaking and implementation work. The international context is labeled as “influential” if non-regional policies, organizations, or migration influence migration policy adoption. Otherwise, the international context is labeled as “non-influential.” I use qualitative data to analyze how it is influential and explain why.
- The **regional context** was considered in four ways. First, the state’s *membership status* with Mercosur (associate or member) matters because only members can vote on policies. Second, I assess migratory trends within the Mercosur countries using the UN Migrant Stock

data from 1990 to 2017. Intra-Mercosur emigration flows focus on the country or origin and represent the total number of nationals who exited and reside in another Mercosur state. Intra-Mercosur immigration trends focus on the country of destination and represent the total number of immigrants who are nationals of a Mercosur state. Third, some countries may be more dependent on Mercosur trade and more likely to implement the policies that their main trading partners support. To measure economic integration to Mercosur, I use the “Imports and Exports of Goods and Services Trade Partner Rankings,” by the World Integrated Trade Solutions. For each of the six countries, I identified the number of Mercosur states that are ranked within the top 20 export or import trade partners. A country that is highly integrated into Mercosur has at least three other affiliated states in their top 20 trade partners. Finally, changes in the governing coalitions level of commitment to regional integration via Mercosur (whether low or high) are also considered.

- The **national economic context** of each country was considered in two ways. First, to measure economic stability I use the World Bank’s yearly data on the “Gross National Income Per Capita” (GNIPP) converted into U.S. dollars from 1990 to 2017. Second, I use the World Bank’s yearly data on “Unemployment Rates” from 1990 to 2017.
- The **national political context** of each country is considered in three ways. First, I determine whether domestic labor unions, corporate lobbies, and other civil society organizations supported or opposed the internalization of the Residency Agreements. I then identify the strategies they used to support or obstruct the internalization of the agreements. I pay particular attention to the types of collaboration or coalitions they built with other national, state, inter-national, and transnational actors. Second, I will analyze how members within and between policymaking social networks share information, strategies, programs, paradigms, or frames to support or oppose the passage of Residency Agreements as national

legislation. I analyzed all interviews using HYPERRESEARCH software. Third, the level of public opposition to immigration, or **nativism**, is also measured using public opinion about immigration policy from the World Values Survey's waves 1995-1999 and 2005-2009. A representative sample of the national population was asked what kinds of immigration policies the government should support for labor migrants. Respondents who selected "Let anyone come" are coded as preferring immigration policies that are "very open." Respondents who selected "Let people come as long as there are jobs available" are coded as preferring immigration policies that are "mid-restrictive." The assumption underpinning this second response is that immigration laws should ensure that immigrants stop entering when there is a shortage of jobs and that immigrants should not take the jobs of citizens. Thus, these respondents prefer more restrictive immigration policies than the Residency Agreements. The agreements do not tie legal status to the employment status of the immigrants and do not restrict immigration when unemployment increases. Finally, respondents who selected either "Place strict limits on the number of foreigners who can come here" or "Prohibit people from coming here from other countries" were coded as wanting government officials to support immigration policies that are "very restrictive" to labor immigration. While "very open" indicates low nativism, the "mid-restrictive" and "very restrictive" responses indicate high nativism. The World Values Survey did not collect data on the Bolivian and Paraguayan populations' position on immigration policy. However, I use interview data to assess the level of nativism in those countries. Countries with organized support against the internalization of the Residency Agreements and high nativism are coded as having an "obstructionist political context." Countries where there was organized support of the Residency Agreements that successfully countered high nativism

and organized opposition are coded as having a “receptive political context.” Interview data is used to identify the ideologies and reasons why the political context was obstructionist.

- The **legal-bureaucratic context of the state** refers to the existing constitutions, state reforms (i.e., democratization efforts), and judiciaries. The internalization of the Residency Agreements was filtered through these organizations. In countries, where the state bureaucracies streamlined the complete internalization of the residency agreements are coded as “receptive legal-bureaucratic context.” In contrast, “obstructionist legal-bureaucratic context” refer to state institutions or legal mechanisms that impede the complete internalization of the Residency Agreements.

Analysis: Context Indicators Impact on Policy Consistency

For each of the six countries—Argentina, Brazil, Bolivia, Chile, Paraguay, and Uruguay—I compare each indicator with the complete or incomplete internalization of the Residency Agreements. For continuous variables (e.g. GNIPP), I analyze trends over time and determined whether there is a relationship between the indicator’s trend and complete or incomplete internalization of the Agreements at the national level. I compare trends across all six countries. For qualitative measures, I conduct a cross-section analysis between influential versus non-influential contexts and the level of policy consistency— incomplete or complete. I do the same for the political context, though I cross-tabulate obstructionist versus receptive political context with incomplete and complete internalization of the Residency Agreements. I compare trends across the six countries.

Combined Analysis: Mill’s Method of Agreement and Method of Difference

I combine the different data sources and use Mill’s Method of Agreement and Method of Difference (Ragin 1987; Skocpol and Somers 1980) to identify the key factors that facilitated or hindered the complete internalization of the Residency Agreements as national policy. I. The

explanatory factors include the context indicators. The outcome is policy consistency as measured by the degree of internalization of the Residency Agreements—complete or incomplete. According to the Mill’s Method of Agreement, I compare cases with the same outcome and identify the explanatory factors that countries have in common. Thus, I identify the explanatory factor(s) Argentina, Bolivia, Brazil, and Uruguay have in common and then I identify the factors Chile and Paraguay have in common. Then, I use the Mills Method of Difference and identify the crucial differences between countries that completely internalized the agreement with countries that have not completely internalized the agreements. As such, I compare positive cases (Argentina, Bolivia, Brazil, and Uruguay) with negative cases (Chile and Paraguay) and identify the key differences between positive and negative cases. In this manner, I identify the key factors that facilitated or hindered the complete internalization of the Residency Agreements.

RESULTS

Outcome: the Complete and Incomplete Internalization of the Residency Agreements

As seen in Appendix B, I conducted a policy consistency analysis that assesses whether or not Mercosur’s affiliated states have completely internalized the Residency Agreements as national law. I identified the immigration laws of each country from 1970 to 2017, including immigration policies from the military dictatorships and those passed before and after the Residency Agreements were signed in 2002. I find that Argentina, Bolivia, Brazil, and Uruguay have completely internalized the Residency Agreements as national law because they have reformed their entire immigration legal system and encoded the articles of the agreements as national law. The new immigration laws in Argentina and Uruguay are more inclusive than the Residency Agreements because they have made migration a human right.

On the other hand, Chile and Paraguay have not completely internalized the Residency Agreements because they have restrictive immigration laws. Specifically, Chile implemented the Residency Agreements via an administrative procedure called the “Visa Mercosur ” (Oficio Circular N°26.465 of 2009). This visa operates within the restrictive immigration Supreme Decree N°597 (1984) that was enacted during the Augusto Pinochet dictatorship (1973-1990). Paraguay internalized the Residency Agreements through a new category for legal residency, but the immigration Law N° 978 (1996) has many of the restrictive elements of the immigration Law N° 470 (1974) that was enacted during the Alfredo Stroessner dictatorship (1954-1989). The restrictive immigration legal systems in Chile and Paraguay interfere with the complete implementation of the Residency Agreements. The restrictive measures of the pre-existing laws contradict the agreements’ purpose of making legal status a substantive right in practice.

Passing Liberal Immigration Laws amid Increasing Immigration, Economic Downturns, and High Nativism

--Insert Table 2--

Table 2 illustrates the different and shared factors between the countries that completely internalize the agreements (Argentina, Brazil, Bolivia, and Uruguay) and the countries that did not completely internalize them (Chile and Paraguay). Five key factors explain differences in level of internalization between countries. On the one hand, Argentina, Bolivia, Brazil, and Uruguay were able to fully internalize the agreements because they had a receptive legal-bureaucratic and political contexts where the presidents were highly committed to regional integration, the governing coalitions were of left to center-left political orientations, the nativism against immigrants from Mercosur states did not obstruct immigration reform, and these countries had coalitions of immigrant rights supporters that were established, strong, and diverse. Business associations in these

four countries opposed immigration policy proposals that expanded workers rights and protections. However, these stakeholders lost power when left-wing governments were in power and were unable to obstruct the immigration reforms. In contrast, Chile and Paraguay did not fully internalize the Residency Agreements because they had an obstructionist legal-bureaucratic context that was tied to an obstructionist political context. In these two countries the presidents had and continue to have a low commitment to regional integration, the governing coalitions have ranged from left- to right-wing in political orientation, the nativism against immigrants from other Mercosur countries has obstructed immigration reform proposals, and the pro-immigration coalitions are new and weak.

The six countries share five factors. During the internalization of the Residency Agreements all the countries experienced an increase in global emigration, experienced an increase in immigration from other Mercosur countries, had high nativism and public opposition to liberal immigration laws, had trade interdependence with the other Mercosur states, and involved stakeholders from civil society in insulated migration policymaking groups. Furthermore, during the signing of the Residency Agreements, they were all experiencing some degree of economic decline. I will review these factors in more detail in the following sections and then provide case studies of Argentina and Chile.

Migratory Flows

--Insert Figure 3--

High global emigration facilitates support for inclusive immigration laws that completely internalize the Residency Agreements. Figure 3 shows the number of people who left their country of origin in South America and migrated to another country in the world—or global emigration. The data points on the lines indicate the number of global emigrants around the year the country ratified the Residency Agreements and the year Argentina, Brazil, Bolivia, and Uruguay reformed their

immigration laws. As seen in Figure 3, Brazil, Argentina, and Bolivia had the highest proportion of global emigration and these flows were increasing when they reformed their immigration laws and, thus, completely internalized the Residency Agreements. Although Uruguay has the lowest proportion of global emigration, these flows increased by 42% between 2000 and 2010, or around the time the government ratified the agreements (2005) and reformed its immigration law (2008). These findings indicate that governments with high or increasing emigration were more inclined to support more inclusive immigration reforms. Similarly, a low proportion of emigration or decrease in global emigration can also fail to sensitize governmental officials to support more inclusive immigration policies. For example, Chile has the second lowest emigration flows among the six countries, these flows have remained stable, and the government has not completely internalized the agreements. Chile's emigration increased by 11% between 2000 and 2010 and by 12% between 2010 and 2017. However, it is important to highlight that emigration trends in Paraguay do not fit these trends. Paraguayan emigration increased by 104% between 2000 and 2010. However, the Paraguayan governments have not reformed its immigration law or fully internalized the Residency Agreements. Thus, these trends provide tentative evidence for the premise that governmental officials in South America are more inclined to support inclusive immigration policies to legalize irregular immigrants under high global emigration.

--Insert Figure 4--

An analysis of migration within the Mercosur states provides a closer assessment of how emigration affects governmental support for the complete internalization of the Residency Agreements as national legislation. After all, the Residency Agreements promote the legalization and rights of Mercosur immigrants. My analysis across countries does not support the premise that intra-Mercosur emigration facilitates governmental support for the passage of inclusive immigration policies. As seen in Figure 4, intra-Mercosur emigration captures the total number of people who

left a Mercosur country of origin and reside at one of the other five states affiliated with Mercosur. For example, in 2010 there were 430,383 Bolivians residing in Argentina, Brazil, Chile, Paraguay, and Uruguay. As seen in Figure 4, only Bolivia had intra-Mercosur emigration trends that fit the premise that high emigration propels government officials to support inclusive immigration policies. Specifically, Bolivia has consistently had the second highest proportion of emigration to other Mercosur states and between 2000 and 2010 intra-Mercosur emigration increased by 67%. However, the other five countries had intra-Mercosur emigration trends that do not adequately explain governmental support or opposition to the complete internalization of the Residency Agreements. For example, Uruguay fully internalized the Residency Agreements even though intra-Mercosur emigration flows were the lowest among the six countries and decreased by one percent between 2000 and 2010. In Chile and Paraguay, emigration to other Mercosur states has not motivated government officials to reform the immigration laws in order to fully internalize the Residency Agreements. For example, Paraguay had the highest proportion of intra-Mercosur emigration and it increased by 81% between 2000 and 2010 and by 20% between 2010 and 2017. In sum, intra-Mercosur emigration does not align with governmental support or opposition to liberal immigration policies.

--Insert Figure 5--

I also find that high immigration did not prevent government officials from supporting inclusive immigration policies. Figure 5 shows the total number of immigrants from the entire world that were residing in each country over time. Argentina, Bolivia, and Brazil reformed their immigration laws and internalized the Residency Agreements during times of increasing global immigration. Paraguay has failed to reform its immigration law even though international immigration flow are low and have remained steady since the 1990s. Only Uruguay reformed its immigration laws when immigration was low and decreasing. A sharp increase in immigration in

Chile after 2000 may explain why they have not reformed their immigration law. At the turn of the millennium, Chile's international immigration increased by 108% between 2000 and 2010 and by 32% between 2010 and 2017. Chile has had the highest increase in immigration among all countries. With the exception of Chile, an increase in global immigration does not explain policy outcomes in the other countries.

--Insert Figure 6--

I find that most Mercosur states reformed their immigration laws and fully internalized the Residency Agreements while experiencing either a steady flow or an increase of intra-Mercosur immigration. Figure 6 captures intra-Mercosur immigration, or the total number of immigrants that are nationals of Mercosur states at a country of destination. For example, in 2010 there were 1.3 million immigrants in Argentina that were nationals of Bolivia, Brazil, Chile, Paraguay, and Uruguay. Intra-Mercosur immigration can have important effects of policy decisions in Argentina, Bolivia, Uruguay, and Paraguay because it represents over half of all international immigration (see Figure 5 and Figure 6). Intra-Mercosur immigration also represents approximately quarter of all immigration in Brazil and Chile. I find that government officials in Argentina, Bolivia, Brazil, and Uruguay supported inclusive immigration policies that completely internalized the Residency Agreements while experiencing an increase in intra-Mercosur immigration. For example, between 2000 and 2010 intra-Mercosur immigration increased by 45% in Argentina and by 14% in Uruguay. Similarly, Bolivia and Brazil reformed their immigration laws during increased intra-Mercosur immigration. Between 2010 and 2017, intra-Mercosur immigration increased by 24% in Brazil and by 21% in Bolivia. Only the government in Chile failed to garner support for immigration reforms that fully internalized the Residency Agreements during increasing intra-Mercosur immigration. For example, between 2000 and 2010 intra-Mercosur immigration increased by 64% in Chile. In contrast, Paraguay has not fully internalized the Residency Agreements even though intra-Mercosur

immigration has been decreasing since the 1990s. In sum, I do not find strong evidence that increases in intra-Mercosur immigration prevent government officials from approving inclusive immigration policies. These findings challenge the assumption that increases in immigration flows prevents elected officials from supporting policies that facilitate further immigration or immigrant rights.

Public Opinion & Nativism: High Opposition To Open Immigration Policies

--Insert Table 3--

In terms of nativism, I find that the Residency Agreements were signed and ratified when the majority of the population in Argentina, Brazil, Chile, and Uruguay supported far more restrictive immigration policies. However, during internalization there is no difference between Chile (that has not completely internalized the agreements) versus Argentina, Brazil, and Uruguay that have fully internalized them. Table 3 indicates that over two-thirds of the Argentine, Uruguayan, Chilean, and Brazilian populations supported mid- to highly restrictive immigration laws before and after the signing of the Residency Agreements. Therefore, all the countries have had high levels of nativism and this does not explain why some governments fully internalized the agreements as national law and others did not. In sum, the Residency Agreements were signed, ratified, and internalized (to different degrees) despite high nativism and public opposition to inclusive immigration policies. These trends contradict the assumption that public opposition to immigration translates into restrictive immigration policy outcomes or that nativism thwarts the passage of more liberal policy models.

Economic Context: Trade Interdependence

--Insert Table 4--

The economic context of a country can also shape immigration policy outcomes. In terms of international trade, the six countries are highly interdependent. Table 4 shows whether the Mercosur states are within the top 20 trade partners for Argentina, Brazil, Chile, Paraguay, and Uruguay. The columns indicate the country being analyzed and the rows show the Mercosur states that are ranked as their top 20 countries of destination for its exports and of origin for its imports. For example, among the original six Mercosur countries, Argentina exported most of its goods and services to Brazil, Chile, Uruguay, and Paraguay in 2017. That same year, Argentina imported most of its goods and services from Bolivia, Paraguay, Chile, and Uruguay. Numbers on parenthesis indicate the ranking of each trade partner for exports and imports. For instance, Argentina exports most of its goods and services to Brazil. Trends in Table 4 indicate that all of the Mercosur states were within the top 20 trade partners of Argentina. Brazil's had the lowest trade dependence on the other Mercosur states. Only Argentina, Chile, and Paraguay were among Brazil's top trade partners. The other countries were moderately interdependent on intra-Mercosur trade; they all had four Mercosur states as their top 20 trade partners. These findings partially explain why Argentina led the reformation of regional migration governance and successfully convinced the other Mercosur states to sign, ratify, and, at least partially, internalize the Residency Agreements. However, trade interdependence among the Mercosur states only explains why the countries were inclined to expand regional integration by ratifying the Residency Agreements. Trade interdependence does not necessarily explain why they have or have not reformed their domestic immigration laws to completely internalize them.

Economic Context: Gross National Income Per Capita and Unemployment

--Insert Figure 7--

--Insert Figure 8--

The domestic economic context does not adequately explain the uneven internalization of the Residency Agreements across states. On the one hand, during the signing of the Residency Agreements, the six countries experienced some degree of economic decline. As seen in Figure 7, between 2000 and 2003 the Gross National Income Per Capita (GNIPP) decreased by 40% in Uruguay, 38% in Argentina, 24% in Brazil, 23% in Paraguay, 11% in Chile, and 7% in Bolivia. However, there is no clear pattern between economic trend and the complete or incomplete internalization of the Residency Agreements. On the one hand, Uruguay and Bolivia reformed their immigration laws while experiencing economic growth. Specifically, Uruguay passed its highly liberal immigration law in 2008 and its GNIPP grew by 47% between 2000 and 2010. Furthermore, Bolivia approved their immigration law in 2014 and its GNIPP grew by 11% between 2010 and 2017. On the other hand, Brazil and Argentina passed more liberal immigration laws while experiencing economic decline. Argentina reformed its immigration law at the end of 2003 even though the GNIPP had decreased by 38% between 2000 and 2003. Surprisingly, Brazil reformed its immigration law in 2017 even though the GNIPP shrank by 11% between 2010 and 2017 and unemployment rate jumped from 7% to 13% of the population during this time frame (see Figure 8). On the other hand, Chile and Paraguay have not reformed their immigration laws despite having steady economic growth. In sum, differences in domestic economic trends are not strongly connected to the level of internalization of the agreements.

Legal-Bureaucratic Context of the State

I find that the state's legal-bureaucratic context was one of the key factors that determined why some countries were able to completely internalize the Residency Agreements and others were not (see table 2). This is mainly because actors used existing state reforms and legal mechanisms to either overcome political barriers or impose them to determine outcomes of immigration reform policy proposals. According to interview data, actors who supported immigration reforms that fully internalize the agreements effectively tied the policy proposal to broader efforts to expand the state's democracy. In Argentina and Uruguay, the new immigration reform was tied to the broader Truth, Justice, and Memory processes that sought to remove all remnants of the military dictatorship from the new democratic state. For example, Deputee Rubén Giustiniani, who introduced the immigration reform to the Chamber of Deputies, explained during his testimony, "This is a historical moment and effort because we are going to approve a law of the democracy that will replace a decree of the military dictatorship"^{iv} (03 17-12-2003_S). Data from interviews confirm that congressional representatives and pro-immigrant rights advocates successfully tied the immigration law to broader state reforms and democratization efforts. The immigration law incorporated international immigrant human rights instruments, the Residency Agreements, and made migration a human right. These changes were meant to directly oppose the restrictive orientation of the immigration law enacted during the dictatorship.

Similar processes unfolded in Uruguay where state and non-state actors tied the 2008 immigration reform to broader state democratization efforts that sought to make amends for the violence of the military dictatorship. Specifically, the Uruguayan government under the left-wing President Tabaré Vázquez (2005-2010) created the General Direction of Consular Services and Liaison Affairs in 2005. This agency helps Uruguayans who emigrated during the military dictatorship in their new countries of destination and to return and re-integrate into Uruguay.

Efforts to help intra-Mercosur immigrants by internalizing the Mercosur Residency Agreements were tied to these broader state reforms that sought to help Uruguayans who fled the country fearing political persecution. President José Mujica's (2010-2015) progressive and left-wing governing coalition continued these efforts and further facilitated Mercosur immigrants' access to permanent residency.

In Bolivia, the 2014 immigration reform was tied to the broader constitutional reform of 2009 and state efforts to create a plurinational state that represented the 36 different indigenous groups residing in the country's territories. For example, the Supreme Regulatory Decree N° 1923 (2014) establishes how the law should be implemented. Article 14 of this decree directly connects the immigration reform to the broader constitutional reform of 2009.^v Finally, in Brazil Senator Aloysio Nunes led efforts to create a new immigration reform. Between 2013 and 2016, he helped create the Expert Commission and the National Conference on Migration and Refuge to include civil society stakeholders in policy design stages (CIDH 2017). This immigration policy design process was the first immigration policy proposal to be created in the legislative branch (CIDH 2017). The former immigration bills had partially absconded congressional involvement because they were designed by other state agencies such as the National Council on Migration (CNIg) and the Ministry of Justice and Public Security. The longstanding immigration law-decree was enacted during the military dictatorship through a process that completely ignored congressional approval (CIDH 2017). By securing support from both civil society and Senate, Aloysio Nunes was successful in getting the bill approved.

In contrast, actors in Chile and Paraguay used their respective legal-bureaucratic contexts to obstruct the complete internalization of the Residency Agreements. In both countries, the immigration reform proposals have not been tied to broader legal-bureaucratic democratization efforts. Furthermore, the Chilean Comptroller General Office of the Republic blocked efforts from

the Ministry of Foreign Affairs to internalize the Residency Agreements via a decree—I will review this case in more depth in the subsequent case study section. In sum, legal-bureaucratic context of the state was deeply entwined with the broader political context.

Political Context

Finally, the political contexts between the countries that fully internalized the Residency Agreements and those who did not differed in important ways. First, the governments in all the countries have created insulated migration consultancy groups of state and non-state actors who are invited to discuss immigration policy. These insulated spaces allowed representatives from ministries, business associations, migrant serving NGOs, and labor unions to find common ground. Thus, actors in all the countries had institutional opportunities to build cross-party coalitions that tend to help build support for more inclusive immigration laws. However, the broader political context determined the impact of this coalition building opportunities. On the one hand, Argentina, Bolivia, Brazil, and Uruguay had a receptive political context that facilitated the reform of their restrictive immigration laws because the presidents had a high commitment to regional integration via Mercosur, the governing coalitions were of left to center-left political orientations, the nativism that targeted intra-Mercosur immigrants did not effectively shape the immigration reform process, and the coalitions of immigrant rights supporters were strong and included diverse stakeholders. Specifically, the progressive left-wing presidents and their governing coalitions in these four countries were generally highly committed to expanding Mercosur's regional integration and using immigration law to fulfill this objective. These included Argentina's President Nestor Kirchner (2003-2007) of the left-wing Justicialist Party; Bolivia's President Evo Morales (2006-present) of the left-wing Movement for Socialism-Political Instrument for the Sovereignty of the Peoples; Uruguay's President Tabaré Vázquez (2005-2010) of the left-wing Socialist Party; and Brazil's

Presidents Lula da Silva (2003-2010) and Dilma Rousseff (2011-2016) of the left-wing Workers' Party.

It is important to clarify that Brazil's immigration reform took place at the end of 2017 under President Michel Temer's (2016-2018) administration and he was associated with the centrist Brazilian Democratic Movement political party. The former Vice President took office in what has been characterized as a legislative coup that led to President Rousseff's impeachment. During his short presidency, Temer implemented regressive policies that sought to destroy the welfare regime established by the former presidents Silva and Rousseff. However, President Temer's did not disrupt the progress made in the immigration reform bill. The Brazilian congress had been negotiating various immigration reform proposals and eventually approved one that was submitted in 2013, during President Dilma Rousseff's government. Additionally, President Temer's Minister of Foreign Affairs, Aloysio Nunes, had been leading congressional efforts in support of the immigration reform bill that eventually became law.

Furthermore, these countries had a strong, diverse, and longstanding coalition of labor and human rights supporters who expanded their efforts to include immigrants and joined forces with immigrant rights advocates. These coalitions both prevented nativism against intra-Mercosur immigrants from obstructing immigration reform and effectively mobilized to pass liberal immigration laws. State and non-state actors who advocated for immigrant rights highly influenced the immigration policymaking processes because the left-wing governments decentralized the role of the business associations. In the case of Brazil, Argentina, and Uruguay, during the 1990s, the business associations had effectively thwarted efforts among labor unions to support immigration policies that protected the labor rights of Mercosur nationals and immigrants. The business associations wanted keep labor costs low. However, at the turn of the millennium the left-wing governments aligned with the labor unions and other civil society actors that promoted immigration

and human rights. As a consequence the business associations were not able to successfully obstruct immigration reforms of the 2000s. I further discuss these common dynamics using Argentina as a case study in the following section. In the case of Bolivia, the migration department co-designed the new immigration reform bill with the consultancy of NGOs that served immigrants or that were aligned with the socialist President Evo Morales larger reforms to decolonize and create an indigenous state.

In contrast, Chile and Paraguay did not fully internalize the Residency Agreements because they had an obstructionist legal-bureaucratic context that was tied to an obstructionist political context. In these two countries, the presidents have had a low commitment to regional integration via Mercosur. Additionally, the governing coalitions ranged from left- to right-wing in political orientation and this empowered the nativist opposition to immigrants from other Mercosur countries and obstructed liberal immigration reform proposals. In Chile, these include two terms of the left-wing President Michelle Bachelet who belonged to the Socialist political party (2006-2010 and 2014-2018) and two terms of the center-right President Sebastián Piñera who belonged to the Coalition for Change political party (2010-2014) and National Renewal party (2018 to present). Paraguay first center-left wing President Fernando Lugo (2008-2012) of the Patriotic Alliance for Change was impeached under what has been characterized as a coup d'état. His centrist vice-President took office and since then, Paraguay has had right-wing presidents. These include Horacio Cartes (2013-2018) and Mario Abdo Benítez (2018-present) who are both of the ANR-Colorado Party. The right leaning presidents have empowered anti-immigrants groups who oppose immigration from some Mecosur states. For example, as discussed in chapter 2, Paraguayan business elites who oppose Brazilian immigration successfully obstructed the ratification of the Residency Agreements for six years. Even though, Paraguay eventually ratified the agreements, the anti-Brazilian immigrant nativism continues and obstructs liberal immigration reforms. Finally, the pro-

immigration coalitions in both countries are new and too weak to combat nativism and build political support for an inclusive immigration reform. This is mainly because both countries have been migrant sending states and Chile only recently became a destination for intra-regional migrants. The business associations have played different roles in these countries. In Paraguay, they have advocated against Brazilian immigration and do not support immigration reforms that empower these migrants (see chapter 2). In Chile, business associations are not engaged in migratory policymaking and are only recently being brought into policy consultancy instances by the Ministry of Labor, the International Organization for Migration, and the International Labor Organization. I will review these key factors in more detail in the following sections through case studies of Argentina and Chile.

ARGENTINA

Between 2000 and 2004, I find that five key and interconnected factors helped secure the complete internalization of the Residency Agreements in Argentina through immigration reform (Law N° 25.871) on December 17, 2003 and the enactment of Patria Grande (Presidential Decree N° 1169) on June 9, 2004. These factors included (1) the economic crisis that temporarily destabilized the political status quo as well as the long-standing racial nativism against intra-regional immigrants, (2) diplomats' immigration policy innovation within Mercosur, (3) the left-wing governing coalition that was highly committed to regional integration, (4) a highly receptive legal-bureaucratic context, and (5) the successful grassroots mobilization to reform the immigration law despite nativism. In sum, Argentina had an economic crisis that destabilized nativism, paved the way for a receptive political context that then helped create a receptive legal bureaucratic context. In this section I will discuss each process separately, but in practice they were interconnected and mutually reinforcing.

First, the economic and political crisis facilitated liberal immigration changes because it destabilized the political status quo of the 1990s. Following the financial crisis in Russia and Brazil, the Argentine peso devalued causing a sharp economic crisis and a great depression between 1998 and 2002. The GNIPP decreased by 56% from 1997 and 2003 (see Figure 5). During this time the unemployment rate rose to 15% and 20%. The economic crisis triggered a political crisis. Between 2000 and 2003, Argentina had six different presidents. This political and economic crisis destabilized the anti-immigrant establishment that had dominated in the 1990s. Interviewees from labor unions, the Ministry of Labor, delegations to Mercosur, and NGOs agree that during the 1990s conservative government officials had aligned with business associations. These business groups used this power to successfully obstruct policies that lessened restrictions to immigration and expanded immigrant labor rights in order to keep labor costs down. However, when the economic policies of these conservative governing coalitions caused an economic crisis they lost power and ability to push for restrictive immigration.

The economic crisis delegitimized the racial-nativist governmental discourse, which had blamed immigrants from neighboring South American countries for economic problems. Racial nativism refers to the devaluation and opposition to non-white and non-European descent immigrants. In the case of Argentina, there is a long-standing racial nativism against immigrants who are indigenous and come from neighboring countries. During the 1990s conservative political parties and media messages portrayed undocumented immigrants from Bolivia, Paraguay, and Peru who tended to be indigenous as inferior, undesirable, and deviant. Francisco who is an Argentine migration expert and immigrant rights advocate explained:

Francisco: During the 1990s and until 2003 the Argentine government ... treated South American immigration as an undesirable migration, a negative immigration. ... The historical racism against indigenous peoples continued to exist in Argentine society. A large portion of

the Paraguayan and the majority of the Bolivian immigrants are indigenous ... This immigration started increasing in 1990s, during a context of increasing unemployment, economic crisis, the institutional crisis. ... The government used immigrants as a scapegoat for all the problems. ... Specially, during 1997 and 1998, the government officials blamed immigrants for crimes [and] unemployment. This discourse legitimized the presence of the [restrictive] immigration law passed during the dictatorship. In 2001 and 2003 this discourse continued to exist ... but in a reduced form because of two factors. [First,] we are talking about 2001, 2003, when the crisis in Argentina reaches rock bottom. ... [Second], the social movements, the protests, allowed us to identify the people responsible for the crisis. Obviously, it was not the immigrants.

Almost all interviewees agree with Francisco's insights that indigenous populations in Argentina are devalued and perceived as lesser than European descent immigrants. Argentina's settler colonialism is characterized by the elimination of indigenous populations, devaluation of indigenous peoples, and immigration policies that encouraged the settlement of white European immigrants (see FitzGerald and Cook-Martin 2014). Thus, the devaluation of immigrants of indigenous ethnic background from other South American countries is part of the long-standing process that subordinates indigenous peoples in the Argentine ethnoracial hierarchy. The ethnoracial processes entwined with nativism because both the Argentine society and governments in power perceive non-European immigrants as undesirable. In the 1990s, before the economic crisis, government officials exacerbated this racial and nativist rhetoric by using immigrants as scapegoats for economic problems. However, at the turn of the millennium this discourse became politically unsustainable. As Francisco explains, the social movements that emerged during the economic crisis delegitimized the racial-nativist discourse in the media and political discourse. It became clear that governmental economic policies of the conservative governments caused the crisis. Political leaders were unable to

simply blame immigrants or other marginalized social groups for the economic instability. Although the crisis did not end racial nativism, it did remove the power holders who had used it to diminish social opposition and prevent more inclusive immigration policies.

In addition, the economic crisis also pushed many Argentines to emigrate and pro-immigrant state actors used this to counter anti-immigrant discourse during policy negotiations. In 2004, there were 813,610 Argentineans abroad and emigration increased by 70% between 2000 and 2010 (see Figure 3). Some civil servants at the Migration Department in the Ministry of Interior who supported the legalization of intra-regional immigrants highlighted emigration trends to humanize Argentina's own undocumented population. Romina was a civil servant leading efforts to legalize immigrants from other South American countries. During the interview she explained how she connected Argentine emigration to intra-Mercosur immigration before state actors who opposed reducing immigration restrictions:

Romina: In 2002, there was a crisis here [in Argentina]. So many of our kids and people of my generation, our children, nieces and nephews left Argentina searching for a better life, [they] usually [went] to Spain or the United States. Then at another debate [I said], "Gentleman we have children, nieces and nephews, relatives, friends who are leaving and trying to settle in Spain. Are they criminals because of that? Do you think your children are criminals for searching for a better life? ... The same reasoning applies to immigrants who come to our territory. ... This argument helped reach the minds of people structured by a security lens.

Many officials at Ministry of Interior had a security training and treated immigration as a security problem. Their security lens did not coincide with policy proposals that sought to facilitate human

mobility across international borders within the region. In response to her colleagues, Romina reminded them that intra-Mercosur immigrants were people just like their relatives and friends who were searching for better economic opportunities in Europe and Spain. Romina also tried to invalidate the stereotype that undocumented immigrants are prone to engage in illicit or criminal behavior. Romina and several other officials used this framing in the Mercosur migration policymaking arena and within the Ministry of Interior to help state actors see the humanity of intra-regional migrants.

Second, during the economic and political crisis, civil servants at the Migration Department in the Ministry of Interior remained in their positions and this continuity gave them the autonomy needed to change the migration governance paradigm, an effort they had previously failed to achieve. Specifically, in the 1990s (before the economic and political crisis) Argentina's mid-level bureaucrats at National Department of Migration administered two amnesties to regularize undocumented immigrants. When the amnesty period ended, the undocumented population grew again and the problem continued. In 2000 religious leaders and members of congress requested a new amnesty. However, the mid-level bureaucrats did not think this was the solution. The immigration Law-Decree 22.439 (1981) that was in force during this period was enacted during the military dictatorships by Jorge Rafael Videla and was security oriented and very restrictive. The civil servants wanted to address the causes of the problem. These included limited paths to legalization and tied legal residency to sponsorship from an employer that was difficult for many undocumented immigrants to acquire. To facilitate access to legal residency status, the bureaucrats drafted a policy that made Mercosur nationality a criterion for legalization without the need of employer sponsorship. This was meant to provide a self-sustainable path to legal residency to most undocumented immigrants because the vast majority were nationals of other Mercosur states (Alfonso 2013). In 2000, the Minister of Interior under President Fernando de la Rúa (1999-2001)

rejected their policy idea and ended the bureaucrats' efforts to pass an administrative path to legalization for Mercosur nationals at the national level. However, as the economic crises worsen, President Fernando de la Rúa was forced to resign in December 2001. The senate appointed a new president and between January 2002 and May 2003 Argentina had two presidents.

The economic and subsequent political crisis allowed these same bureaucrats at the direction of migration to gain autonomy from domestic opposition and to push a new paradigm of migration governance vis-à-vis the broader regional integration project of Mercosur. Specifically, the bureaucrats at the direction of migration were part of the state delegation to Mercosur's Technical Commission and Submission of Control Tracking's Migration Group (or the Mercosur Migration Working Group). This Migration Working Group was created in 1997 as a new institutional space dedicated to resolving migratory issues. As explained in Chapter 2, when Brazil's delegates proposed a regional amnesty at the Mercosur Migration Working group, the Argentine delegation made a counter-proposal that made legal status a substantive right for Mercosur nationals. In other words, they drafted the Residency Agreements from the same policy proposal that had been rejected by the former Minister of Interior in 2000. The Argentine bureaucrat who led this innovation explained how her team accomplished this paradigm change in Mercosur and the rest of South America:

Romina: In the 27 years I had worked on migration, I knew that amnesties don't work ... When we heard Brazil's [regional] amnesty proposal we went back to Argentina and quickly reworked the draft of our policy model ... that was not an amnesty. ... So we proposed that under the Mercosur Residency Agreement nationality should be the main and only requirement to access legal residency for a Mercosur national at other Mercosur countries. ... [and] also to not have a criminal record. ... This was with the understanding that this would give the regional integration process a big push. ... The delegates from Brazil listened

attentively. A decade ago people had another mental structure and had a lot less awareness of immigrant rights or human rights at the international level. Well Brazil's delegation listened to the proposal ... and said that they were pulling out their proposal, that they considered Argentina's proposal to be superior than theirs, and that they supported our proposal and invited others to negotiate it soon.

The Argentine delegation successfully linked their previous policy model to Mercosur's broader project of regional integration. This helped them garner support from Brazil's delegation and governing coalitions. As Romina explained, human rights was not the dominant ideological paradigm within the Migration Working Group as many of the delegates came from the Ministries of Interior and had professional training in security issues. This explains why having a clean criminal record became one of the main criteria for accessing the benefits of the Residency Agreements. Brazil's delegates and governing coalitions supported the Argentine delegates and helped them gain support for the signing of the Residency Agreements in December 2002. Thus, the domestic political crisis and Mercosur's policymaking arenas provided Argentine bureaucrats sufficient autonomy from political opposition and a powerful ally to again and more successfully promote their policy innovation at the national level.

After the signing of the Residency Agreements in December 2002, the domestic political context changed and further facilitated the immigration reform that fully internalized the Residency Agreements. This is mainly because President Nestor Kirchner was elected President on April 28, 2003 and he remained in office from May 25, 2003 to December 10, 2007. He was the Justicialist Party left-wing political party's candidate.

Third, the national adaptation of the Residency Agreements coincided with the platforms of the new left-wing governing coalition because President Nester Kirchner's administration^{vi} was

highly committed to regional integration through Mercosur. During our interviews a civil servant who has been working at the National Migration Department since 2001 and an NGO director who runs a legal clinic for migrants in Buenos Aires explained:

Pablo: everything about the immigration reform had to do with the regional integration process. We were in the eve of the process hoping it would evolve. Argentina was making a small gamble, a medium-term investment to advance things within Mercosur. So we decided to move forward with our legislation even though the Residency Agreements and free circulation of people had not been ratified within Mercosur. That was what the creators of the bill that became law 25871 had in mind. (Migration Department Bureaucrat)

Susana: The immigration law was a product of the broader regional integration project. Not just economic integration, but also regional political integration ... The Law 25871 of 2003 absolutely changes the paradigm by 180 degrees. The law facilitated access to legal status for intra-regional immigrants, particularly those who come from Mercosur member and associated states. ... The key cause of this change has to do with a recent historical event in Argentina and in Latin America. We begin to construct the identity of the Patria Grande [the Great Motherland]. This is an identity for Latin Americans that leaves behind the shame of being Latin America. From the perspective of the state, it begins to belong to Latin America in multiple dimensions, Mercosur ... [and] the promotion of these policies that advance regional integration. (NGO Director)

Most Argentine interviewees concur with Pablo and Susana assessment that the immigration reform was one critical step in fulfilling this larger ideological and political project of integrating the region

under a broader community and identity. Specifically, President Nester Kirchner's administration advocated for the integration of South America under "La Patria Grande"^{vii} or Great Motherland. His governing coalition sought to fulfill this political project by building alliances with other left-wing governments of states affiliated with Mercosur in an effort to create a regional community that politically, economically, and socially integrated the South American countries. In June 9, 2004, months after the immigration law passed congress in 2003 President Nester Kirchner passed a Presidential Decree N° 1169 he called Patria Grande to begin the legalization of intra-regional immigrants.

Fourth, the immigration law reform that fully internalized the residency agreements was tied to President Nester Kirchner administration broader "Memory, Truth, and Justice" state reforms. These reforms created a receptive legal bureaucratic context that facilitated the complete internalization of the Residency Agreements. The Kirchner governing coalition started the "Memory, Truth, and Justice" transitional justice process to bring awareness and reparations to the human rights violations and atrocities committed by the military dictatorship. Reforming the restrictive immigration law became part of this larger human rights effort because the immigration Law-Decree 22.439 (1981) was enacted by the Jorge Videla dictatorship. A legal expert at one of the most powerful religious organizations that focus on migratory issues in Argentina explained how immigration became part of the President Nester Kirchner's transitional justice agenda.

Giovani: They wanted to create a new institutional and ideological foundation in Argentina. One the key institutional changes entailed removing all ideological or legal remnants from the military dictatorship process. Immigration was one of the areas that needed to undergo this change. ... If the military dictatorship had created an anti-immigrant political discourse

that focused on restriction, then, this needed to change. This was one of the pillars of Kirchner's government. ... The focus was on human rights and nationalism.

Other interviewees in Argentina concur with Giovanni's assessment that President Kirshner's administration sought to change the institutional paradigms, norms, practices, and policies constructed during the military dictatorship. This process provided a receptive legal bureaucratic context for immigration law that focused on immigrants' rights. Immigrant rights advocates strategically tied the immigration reform proposals as part of this broader effort to remove residues of the military dictatorship.

Fifth, the political change to left-wing government provided a receptive the political context and allowed the grassroots movement to successfully secure major immigration policies changes. At the domestic level there was a growing grassroots movement to reform the immigration law and protect immigrants' human rights. This grassroots movement did not influence negotiations within Mercosur, but provided a synergetic domestic context that helped removed political and legal barriers to ratifying and implementing the Residency Agreements. The domestic grassroots movement included migrant serving NGOs, immigrant leaders, academic experts, and labor unions leaders. Many of these actors had unsuccessfully tried to reform the country's restrictive immigration law since the 1990s. During the 1990s, the business associations had effectively thwarted efforts among labor unions to support immigration policies that protected the labor rights of Mercosur nationals and immigrants. The business associations wanted keep labor costs low. However, the left-wing governments aligned with the labor unions and other civil society actors that promoted immigration and human rights. As a consequence the business associations were not able to successfully obstruct immigration reforms of the 2000s. Azucena is an immigrant from Peru who founded a migrant serving organization in Buenos Aires to help immigrants navigate the restrictive

immigration law and to support efforts to change these policies. She explained that Argentina's civil society played a critical role in formulating and pressuring government officials to reform the immigration law:

Azucena: Civil society in Argentina has played a very important role in generating new immigration policy. It was very involved and influential during the creation of Law 25.871. ... The law is based on rights. ... The creation of the immigration law drew ideas and suggestions from a lot of debates that the civil society organizations had been advancing. ... The civil society put pressure. ... It was because of the pressure from civil society and some legislators who have been introducing immigration reform bills since the 1990s, who were trying to improve the situation, but in the 1990s it was much harder. ... For the Law 25871 we put pressure, civil society actors attend public hearings. Labor unions, academic experts, representatives from migrant serving organizations, and church representatives all attended these public hearings. We provided suggestions and debated the proposal before it was approved. It was debated publicly.

Civil society actors included representatives from migrant serving NGOs, experts, labor unions, and religious organizations that work with migrants. These actors had been involved in migratory issues since the 1990s, but have been unsuccessful in their efforts to reform the immigration law.

However, in 2003 civil society stakeholders were invited to public hearings. In these spaces, these non-state actors helped formulate and dictate the content of the new immigration laws by sharing their on-the-ground expertise and knowledge of immigrants' needs. Furthermore, these different civil society actors engaged each other's ideas.

Overall, I find that the economic, political, and legal bureaucratic contexts facilitated the successful internalization of the Residency Agreements. All of these changes occurred under President Nestor Kirchner's administration and with the strong involvement of civil society under a broader transitional justice state reforms and regional integration ideology.

CHILE

In sharp contrast, the successive governments in Chile have not completely internalized the Residency Agreements. Seven factors explain this limited incorporation. (1) Chile's governments have had a low commitment to Mercosur's regional integration and (2) the legal-bureaucratic context obstructed efforts to internalize the Residency Agreements. Furthermore, (3) the country's economic stability and growth has (4) increased intra-regional immigration and turned Chile into a destination country. Increased immigration has (5) heightened the political costs of supporting an immigration legislation that lessens entry restrictions and expands the rights of these migrants. (6) The attempts of left-wing governments to advance immigration reform have been undone by right-wing governing coalitions. (7) Finally, coalitions for immigrant rights are too incipient and weak to counter this nativism and the inaction of political leaders. These processes are discussed in more detail separately, though they are interconnected in practice.

First, governments in Chile have not been completely committed to Mercosur's regional integration. Chile is an associate member of Mercosur and can send a non-voting delegation to the Migration Working Group. It is important to clarify that Chile has never applied to become a full member of Mercosur because the presidents have had a low commitment to regional integration and prefer to retain the freedom to sign on to bilateral agreements with other powerful countries (e.g., the United States). Chile's limited incorporation into Mercosur also permits them to pick and choose which initiatives they support and completely internalize. Thus, although Chile's delegation did not

have a big influence over the design of the Residency Agreements and these agreements did not need Chile to ratify them for them to go into force within Mercosur, the government still decided to sign on and commit to internalizing them at the national level. However, Chile's associate member status and low commitment to regional integration helps decrease the pressure from the other South American governments to fully internalize the Residency Agreements.

Second, Chile's legal-bureaucratic context obstructed the complete internalization of the Residency Agreements as national law. The Chilean constitution states that some international agreements can be implemented through administrative channels without congressional approval as long as these agreements are integrated within existing laws. In 2009, civil servants at the Chilean Ministry of Foreign Affairs used this interpretation of the constitution to create the Decree N° 184, which sought to implement the agreements without congressional approval and without modifying the Chilean immigration law (Decree Law N° 1094 of 1975). However, the Chilean Comptroller General Office of the Republic determined that the Decree N° 184 (2009) was invalid because the content of the Residency Agreements modified the immigration laws. This modification needed congressional approval and could not be implemented through administrative channels (Chilean Comptroller General Office 2010a). The Ministry of Foreign Affairs requested to submit a modified decree, but the Comptroller General Office rejected this request (Chilean Comptroller General Office 2010b). Instead, the Ministry of Foreign Affairs had to send the agreements for congressional approval and this has not happened yet.

While the comptroller was evaluating the Decree N 184, the sub-secretary of the Ministry of Interior adopted the Residency Agreements through another administrative procedure (Oficio Circular 26.465 of 2009). The director of the Migration Department has the authority to create new visa categories and created a Visa Mercosur (or the Oficio Circular 26.465), which allows nationals from Argentina, Brazil, Bolivia, Paraguay, and Uruguay with clean criminal records to access legal

status without an employment contract. The Chilean Comptroller General Office of the Republic did not invalidate this administrative change. Although the Oficio Circular 26.465 implements the Residency Agreements, this administrative procedure is not law, it is very vulnerable to changing political contexts, and can be undone quickly by the sub-secretary of the Ministry of Interior. In sum, the Mercosur Residency Agreements are being partially implemented through administrative channels, but they are not legally internalized in Chile.

Third, over time Chile's economic context and migratory trends have made it more difficult to reform the restrictive immigration law and fully internalize the Residency Agreements. As the Chilean economy grew, the country became a destination for intra-regional immigration, and these processes fueled opposition towards intra-regional migrants. Specifically, at the turn of the millennium Chile's economy experienced a relatively smaller dip (the GNIPP decreased by 11% between 2000 and 2003) than Brazil, Argentina, and Uruguay where the economies experienced a recession. The Chilean economy quickly stabilized and began to grow consistently. For example, the GNIPP grew by 112% between 2000 and 2010 and by 25% between 2010 and 2017.

Fourth, Chile's economic growth and relative stability in comparison to the other South American countries has attracted immigrants from within the region. These immigration trends are new. During the 1990s, Chile had relatively low immigration and was mainly a migrant sending state. For example, in 2000 there were only 66,660 intra-Mercosur immigrants residing in Chile and 231,342 Chilean emigrants residing in Argentina, Brazil, Bolivia, Paraguay, and Uruguay. Eighty-nine percent of these Chileans were residing in Argentina alone. These figures underestimate the number of irregular Chileans residing in the other Mercosur countries who have benefited from the Residency Agreements. Low intra-Mercosur immigration coupled with high intra-Mercosur emigration helped build governmental support for the signing of the Residency Agreements in 2002. However, these trends quickly changed. Between 2000 and 2017, immigration from Argentina,

Brazil, Bolivia, Paraguay, and Uruguay to Chile increased by 103% (or from 66,660 to 135,011) and Chilean emigration to these five countries decreased by seven percent. Chilean intra-Mercosur immigration further increased when Peru, Ecuador, Colombia, and Venezuela^{viii} joined Mercosur. Immigration to Chile from these nine South American countries increased by 202% between 2000 and 2017 (or from 118,934 to 359,187). Put simply, Chile has become a migrant receiving state and ceased to be a migrant sending state.

Fifth, this rapid shift in intra-Mercosur migratory flows has increased nativism against South American immigrants. While most Chileans have supported mid- to highly restrictive immigration policies since the 1990s, support for very open immigration laws decreased by 42% between the 1995-1999 wave and the 2005-2009 waves of the World Values Survey (see Table 3). Interview respondents concur that the nativism was mainly directed against immigrants from other Mercosur countries.

Increased intra-Mercosur immigration and nativism had also increased the perceived political costs of supporting inclusive immigration laws that lessen restrictions on South American immigrants. Given that Peru and Ecuador ratified the Residency Agreements in 2011 and Ecuador ratified them in 2013, if Chile completely internalizes the agreements they would have to permanently extend access to legal residency to immigrants who are nationals from these countries (CSM 2014). Completely internalizing the agreements would now facilitate immigration for a larger proportion of South American nationals, many of whom are choosing Chile as their new home. Thus, in the last three decades there have been various failed attempts to reform the restrictive immigration Law Decree N°1094 (1975). None of these proposals have received sufficient congressional support. On the one hand, immigration reform has not been a priority for the different governing coalitions and has often been displaced by other national initiative such as labor, health, education, and pension system reforms. On the other hand, there is also a common

assumption among political officials that supporting immigration laws will cost them their reelections or their government jobs. This is also why officials at the Ministry of Foreign Affairs have avoided the political costs of submitting the Residency Agreements for congressional approval. The former director of the Migration Direction explained why state actors have been squeamish about supporting immigration reform and submitting the Residency Agreements for congressional approval:

Alvaro: The Visa Mercosur is inspired by the Mercosur Residency Agreements, but it is not the Residency Agreements. ... The Visa Mercosur applies for citizens of Brazil, Argentina, Paraguay, and Uruguay. [Since 2009] the Ministry of Foreign Affairs has not sent the Mercosur Residency Agreements to congress. ... They still have not done it because they are cowards. They are afraid because right now you ask people if there is discrimination in Chile and they respond, "Yes, there is." Currently, the Chilean people, especially those who in the North, are really against Colombian immigration. It's an irregular immigration. The people do not come from Bogotá [Colombia]. They come from Valle del Cauca and Buenaventura. They are Caribbean, they are strong, tall, big, loud. They are complex people. A political leader who gives automatic legal residency [by fully internalizing the Residency Agreements] to Colombians, Peruvians, and Ecuadorians can say goodbye to his [or her] political career. The political cost is high.

As Alvaro explained, the societal nativism is directed towards immigrants from the newer Mercosur states (Colombia, Peru, Ecuador) who are currently excluded from the Visa Mercosur that was created by the director of the National Direction of Immigration under the Ministry of Interior. As immigration from these three countries has grown, so has the nativism against these migrants.

Colombians immigrants, in particular, are often stereotyped as criminals and drug dealers by mass media and the political discourse of right wing governing coalitions. Fully internalizing the Residency Agreements would entail extending the benefits of the agreements to these new Mercosur states who are applying the legislation in their countries. Thus, the bureaucrats at Ministry of Foreign Affairs in charge of sending the Residency Agreements to congress have not sent them because they are afraid of the political ramifications, backlash, and growing nativism. In sum, over time it has become more politically costly to support inclusive immigration policy models and to internalize the agreements as national law.

Sixth, since 2002 the left- and right-wing governing coalitions have not provided consistent support for immigration reform proposals that expand immigrants rights and access to legal residency. Chile's political context oscillates between center-right governing coalitions who oppose immigration reforms and center-left governing coalitions who support the Residency Agreements and a broader liberal immigration reform. For example, Ricardo Lagos (2000-2006) governing coalition under the center-left Party for Democracy supported the signing of the Residency Agreements and supported the Ministry of Foreign Affairs when they sought to internalize these agreements as national law via a decree. The center-left governing coalition of President Michelle Bachelet (2006-2010) also supported the ratification of Residency Agreements. However, she left office before they underwent implementation. Then, the center-right National Renewal political coalition of President Sebastián Piñera (2010-2014) ceased support for an immigration reform that would fully internalize the Residency Agreements and expand immigrants' access to legal residency and rights more broadly. When President Michelle Bachelet was reelected (2014-2018), her center-left governing coalition supported immigration reform that focused on regional integration as well as immigrant's inclusion and rights (Chilean Migration Department 2017). However, President Sebastián Piñera (2018-present) is currently taking a much stricter stance on immigration.

According to Ricardo, the civil servant at the Ministry of Foreign Affairs overseeing migratory issues, one of the main reasons his team has not been able to send the Residency Agreements to congress is because they have not been able to secure consistent support from the governing coalitions.

Ricardo: The Comptroller General Office determined that the Residency Agreements had to go through the national congress. But around that time President Piñera took office [from March 11, 2010 to March 11, 2014]. President Piñera rejected the elaboration of a migration reform policy proposal. When President Piñera's government ends [in 2014], President Bachelet takes office and we have been waiting to elaborate the message so that congress takes on this policy. We are waiting.

Ricardo continues to wait for the political context to become more receptive to the Residency Agreements and less costly for his office to send them to congress. While some left-wing governments have expressed support, this dwindles when more conservative right-leaning presidents take office. Thus, the obstructionist legal requirements coupled with unfavorable legal context continue to prevent the full incorporation of the Residency Agreements.

Finally, there has not been a sustained grassroots mobilization to build political support to reform the immigration law or fully implement the Residency Agreements as national law. The Mercosur Residency Agreements have been ratified and partially internalized by state actors in top-down manner that did not involve civil society actors. At the national level, some international organizations such as the ILO and IOM as well as domestic NGOs, labor unions, and government officials starting to mobilize to reform the restrictive immigration law in 2015. Business associations have not been engaged in migratory policymaking and are only recently being brought into policy

consultancy instances by the Ministry of Labor, the International Organization for Migration, and the International Labor Organization. However, the mobilization for immigration rights is very new and, thus far, has not effectively garnered sufficient political support to have an actual impact. For example, during Michelle Bachelet's 2014 to 2018 administration, the director of the Migration Department created the Civil Society Consultancy Group under the Migration Department is within the Ministry of Interior. He invited representatives of nongovernmental organizations, immigration activists, migration experts, and immigrants to share their insights and help design of new immigration policy proposal. However, in 2017 the Minister of Interior rejected the Migration Directions policy proposal and sent a different policy proposal to President Bachelet who then sent it to congress. As a consequence, the migration director resigned and the feedback of the civil society actors was ignored and failed to have an actual impact on policy outcomes. Overall, in Chile the obstructionist political and legal-bureaucratic contexts and relatively weak coalition for immigrants' rights has prevented the complete internalization of the Residency Agreements.

DISCUSSION AND CONCLUSION

Mercosur's regionalism and the Residency Agreements helped transform the immigration legal systems of Argentina, Brazil, Bolivia, and Uruguay. At the national level, five key factors explain why Argentina, Brazil, Bolivia, and Uruguay completely internalize the agreements as national legislation. These four countries had receptive legal-bureaucratic and political contexts that circumvented barriers imposed by economic downturns and nativism. Specifically, the liberal immigration reform efforts in these countries were tied to broader legal-bureaucratic efforts to improve the states' democracy. Furthermore, these countries had presidents from left-wing governing coalitions that were highly committed to regional integration. These progressive governing coalitions were backed by diverse and long-standing coalitions of civil society actors, such as labor unions and human rights

activists, who supported the expansion of immigrants' rights and legalization. This receptive political context prevented nativism from obstructing immigration reforms.

In contrast, in Chile and Paraguay, Mercosur's regionalism and the Residency Agreements partially changed the immigration legal systems. Chile and Paraguay were unable to reform their restrictive immigration laws to completely internalize the agreements because they had obstructionist legal-bureaucratic and political contexts. In these two countries, the presidents were not highly committed to Mercosur's regional integration. The governing coalitions oscillated between left- and right-wing presidents in Chile and have been predominantly right-wing in Paraguay. This matters because whenever left-wing or moderate governments supported more liberal immigration policy changes, subsequent right-wing governing coalitions regressed these advances. Finally, the immigrant rights coalitions in these two countries were new and too weak to prevent nativism against intra-regional immigrants from obstructing liberal immigration reform proposals.

More broadly, these findings show that migrant sending and receiving states can expand immigrants' access to legal residency and rights even if they are in the midst of nativism and economic crisis. From this perspective, immigrant opposition can be overrun as long as governments are committed to regional integration that protects the rights of all nationals, and to broader legal-bureaucratic reforms that expand democratic representation and promote the participation of civil society. This means that the political and legal-bureaucratic contexts are the most important determinants of immigration policy outcomes within the Mercosur states.

In addition, these findings confirm and expand previous arguments that regional integration is a key factor leading to inclusive immigration policy changes in South America (see Acosta 2018; Acosta and Freier 2015; Marguerites 2013; Marmora 2010). This research points out that the governing coalitions' consistent commitment to regional integration via Mercosur is one of the key factors leading to inclusive immigration legislation. This continuity allows state and non-state actors

to build support for immigration reforms over time. Efforts to reform restrictive immigration laws were backtracked whenever right-wing governing coalitions that were not committed to regional integration via Mercosur came into power.

The study's cross-national comparison also fine-tunes the argument that immigration policy proposals tied to human rights instruments and discourse have been key to the passage of rights-based immigration laws in South America (see Acosta 2018; Acosta and Freier 2015; FitzGerald and Cook-Martin 2014; Hines 2010). I find that legal-bureaucratic contexts that seek to expand democratic representation facilitate the passage of inclusive immigration laws. Sometimes these legal-bureaucratic contexts focused on human rights. This was the case in Argentina and Uruguay, where immigration reforms were tied to the transitional justice efforts to remove remnants of the military dictatorships from state institutions. However, in the case of Bolivia, the immigration reform was tied to legal-bureaucratic reforms that focused on removing remnants of settler colonialism and creating a state that recognizes and represents its 36 indigenous nations. In the case of Brazil, the immigration reform was led by the senate and created policymaking spaces for diverse stakeholders to flesh out policy ideas about how to expand immigrants' rights and access to legal residency.

Findings reveal that coalitions of immigrant rights supporters are more successful in passing inclusive immigration laws when business associations are decentered or excluded from the negotiations. Within Argentina, Brazil, Paraguay, and Uruguay business associations have obstructed the national implementation of Mercosur policy proposals that expand the labor rights and protections of intra-regional immigrants. They were concerned with keeping the cost of labor low. The labor unions of the six original Mercosur states have created a network to support regional integration by protecting the rights and working conditions of all Mercosur workers, including intra-regional immigrants. These labor unions backed left-wing governments. Thus, when presidents from

left-wing governing coalitions were elected in Argentina, Brazil, Bolivia, and Uruguay, they partly relegated the interests of business associations and prevented them from obstructing the passage of rights-based immigration laws. These findings indicate that business associations in South American countries are not invested in promoting immigration, as has been assumed by immigration policymaking theories that are largely based on high income countries in the Global North (see Peters 2017; de Haas and Natter 2015; Odmalm 2011; Perlmutter 1996; Freeman 1995).

Additionally, this study does not find strong evidence that the economic context is the key factor facilitating or obstructing inclusive immigration reforms proposals within the six South American countries. Recall that some migration scholars contend that economic growth facilitates support for less restrictive immigration policies (de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000) while others argue that in South America economic crisis facilitates the passage of inclusive immigration legislation (Marguerites 2013; Ceriani Cernadas 2015). I did not find a clear pattern or strong support for either claim. Among the countries that fully internalized the Residency Agreements, two experienced economic downturns during their immigration reforms (Brazil and Argentina) and two experienced economic growth while reforming their legislations (Uruguay and Bolivia). The two countries that have not reformed their immigration laws (Paraguay and Chile) have experienced consistent economic growth and have not been able to pass less restrictive immigration laws as most immigration policymaking theories predict (see de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000).

Furthermore, this study's findings do not provide strong evidence for the argument that economic crisis and increased immigration heighten nativism and block the passage of inclusive immigration policies (see de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000). In Argentina, Brazil, Chile, and Uruguay the majority of the population preferred policies that imposed medium to high restrictions on immigration. Nativism against intra-Mercosur immigrants

was also important in Paraguay and Bolivia. In Paraguay, nativism was directed at Brazilian immigrants and in Bolivia it was directed against Peruvian and Colombian immigrants. In Chile and Paraguay, opposition to immigrants persisted during economic growth and obstructed immigration reforms. Specifically, Chile's economic growth increased immigration flows to the country, decrease emigration, and augmented nativism against intra-Mercosur immigrants. As a consequence, these patterns have increased the political cost of supporting immigration policy proposals that lessen restrictions to entry, legal status, and rights to South American immigrants. In Paraguay, economic growth, decreasing immigration, and increasing emigration has not diminished nativism against Brazilian immigrants or led to the passage of an inclusive immigration policy. Furthermore, in Argentina and Brazil economic downturns and nativism did not obstruct the passage of rights-based immigration laws. Only Bolivia and Uruguay reformed their immigration laws and fully internalized the Residency Agreements during economic growth and low levels of immigration. These findings indicate that the relationship between economic trends, immigration flows, and nativism does not consistently determine immigration policy outcomes within the Mercosur countries.

Overall, findings show that we cannot simply build on the assumptions of the immigration policymaking literature that were built on case studies and comparisons between countries in the Global North. Scholars are encouraged to test the impact of the factors this study has identified with quantitative models that confirm which factors are most important. Future research could also examine the factors and actors that shape immigration policymaking in other regions of the Global South. Other intra-regional cross-country comparisons or comparisons across regions (e.g., Africa, Southeast Asia, Central America, South America) would allow us to further develop and test a theoretical framework on the determinants of immigration policymaking in the Global South. Furthermore, this study focused on the six countries that create and first adopted the Mercosur Residency Agreements. Future research can examine what factors and actors facilitated the

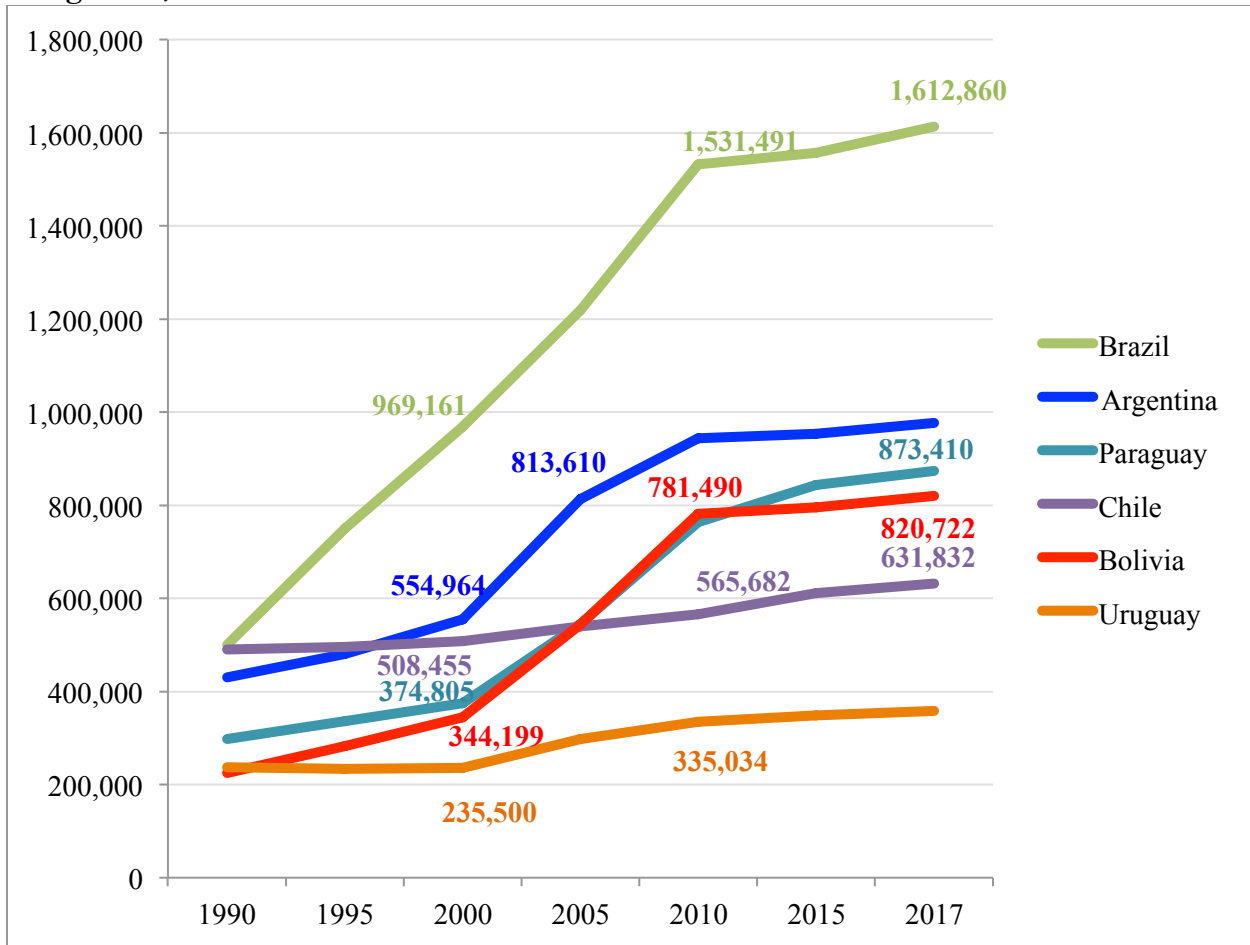
internalization of the agreements among the late adopters (Peru, Ecuador, and Colombia) and why Venezuela never signed on to the agreements before it was suspended from Mercosur. Scholars are also encouraged to examine how governments that completely and incompletely internalized the Residency Agreements are responding to Venezuelan immigration—one of the largest immigration influxes in South American history.

This study has implications for migration policymaking beyond the South American context. Immigrant rights advocates could join broader civil and human rights movements and tie rights-based immigration policy proposals to broader legal-bureaucratic reforms and instances that seek to enhance the state's democracy. Policymakers and advocates could also tie immigration reforms to regional efforts that aim to advance regional economic stability and protect the rights of people residing in migrant sending and receiving states within a region. For example, Mexico could collaborate with other migrant sending Central American countries to promote the legalization of their emigrant populations and to counter pressures from the U.S. to restrict immigration. More broadly, this study helps us envision an alternative and more humane model for immigration governance.

Table 2. Comparison of Factors Between Countries that Completely versus Incompletely Internalize the Residency Agreements (RA)

Different Factors	Complete Internalization (Argentina, Brazil, Bolivia, Uruguay)	Incomplete Internalization (Chile and Paraguay)
Legal-bureaucratic Context	Receptive	Obstructionist
Presidential Commitment to Regional Integration	High	Low
Political Orientation of Governing Coalitions 2002-2017	Left and center	Left, center, and right
Nativism against Intra-Mercosur Immigrants obstructed immigration reform	No	Yes
Pro-immigration coalitions	Diverse and strong	New and weak
Common Factors	Complete Internalization	Incomplete Internalization
Increased Global Emigration	Yes	Yes
Increased Intra-Mercosur Immigration	Yes	Yes
High Nativism	Yes	Yes
Mercosur Trade Interdependence	Yes	Yes
Economic Decline during signing of RA	Yes	Yes
Insulated migration consultancy groups of state and non-state actors	Yes	Yes

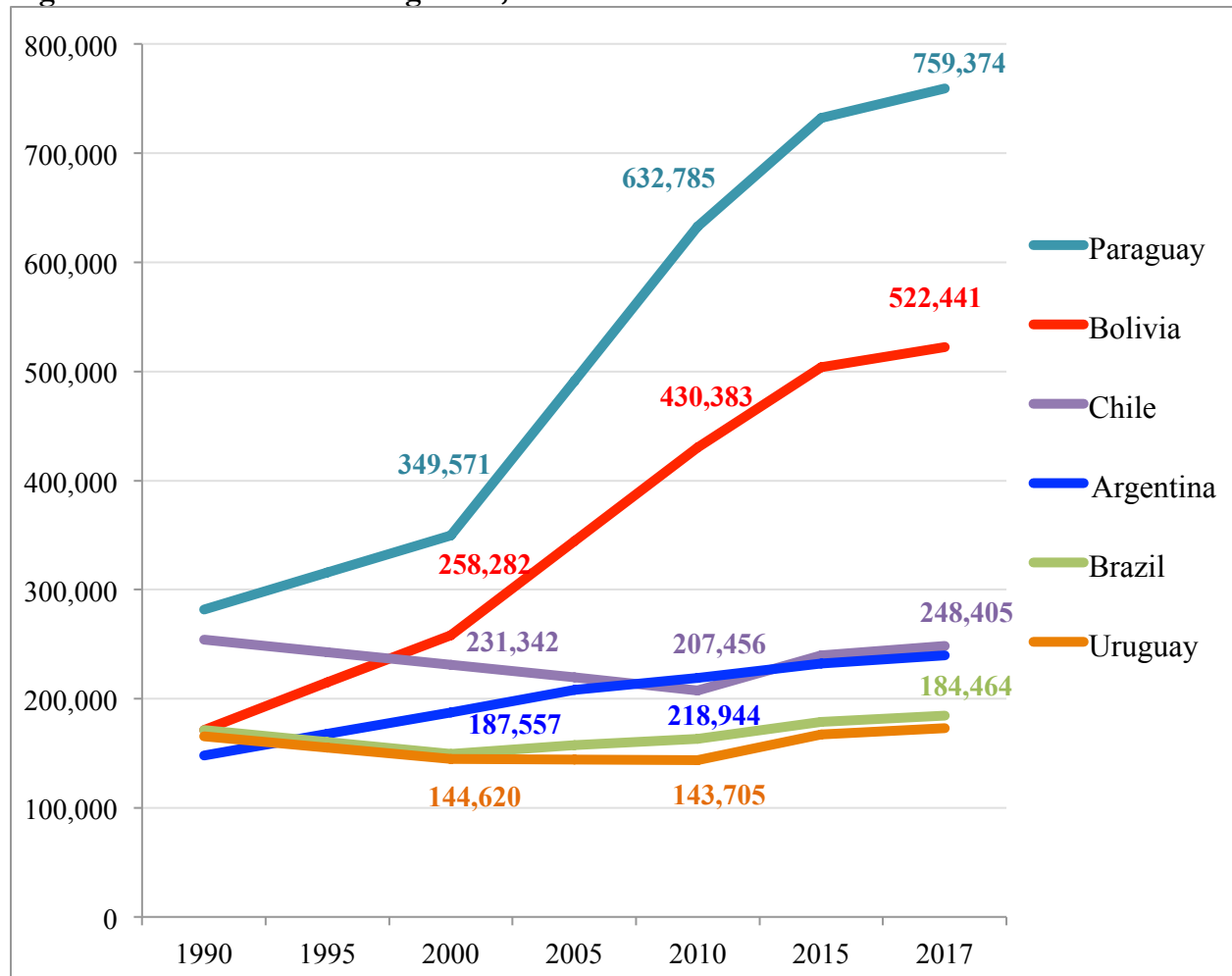
Figure 3. Argentine, Brazilian, Bolivian, Chilean, Paraguayan, and Uruguayan Global Emigration, 1990-2017*



Author's analysis draws on the UN Migrant Stock data. Data undercounts irregular immigrants.

***Global Emigration** represents the total number of people from a specific Mercosur country of origin that have exited the country and settled in any other part of the world.

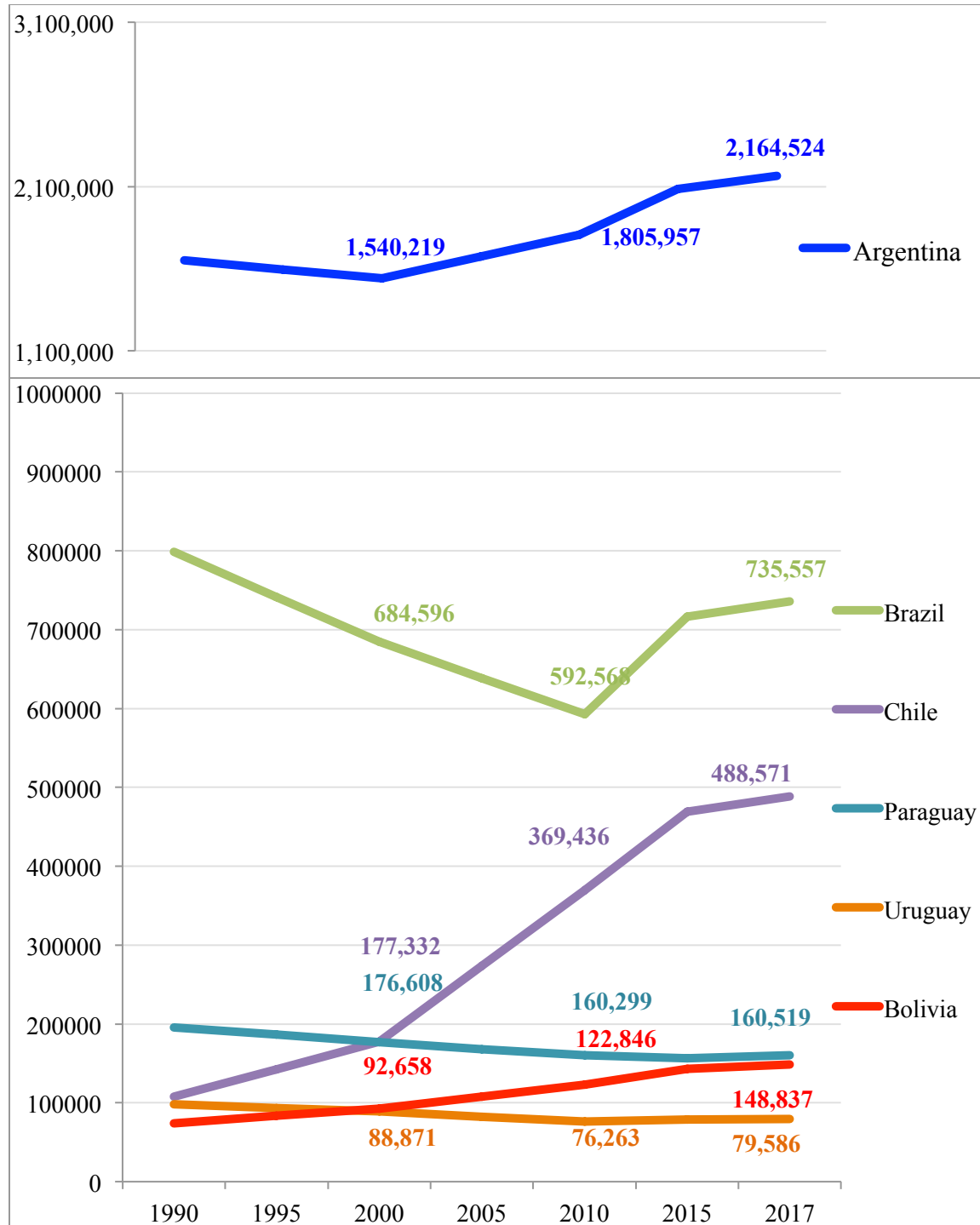
Figure 4. Intra-Mercosur Emigration, 1990-2017*



Author's analysis draws on data from the UN Migrant Stock. Data undercounts irregular migration.

***Intra-Mercosur Emigration** represents the total number of people from a specific Mercosur country of origin that moved to the other five Mercosur states.

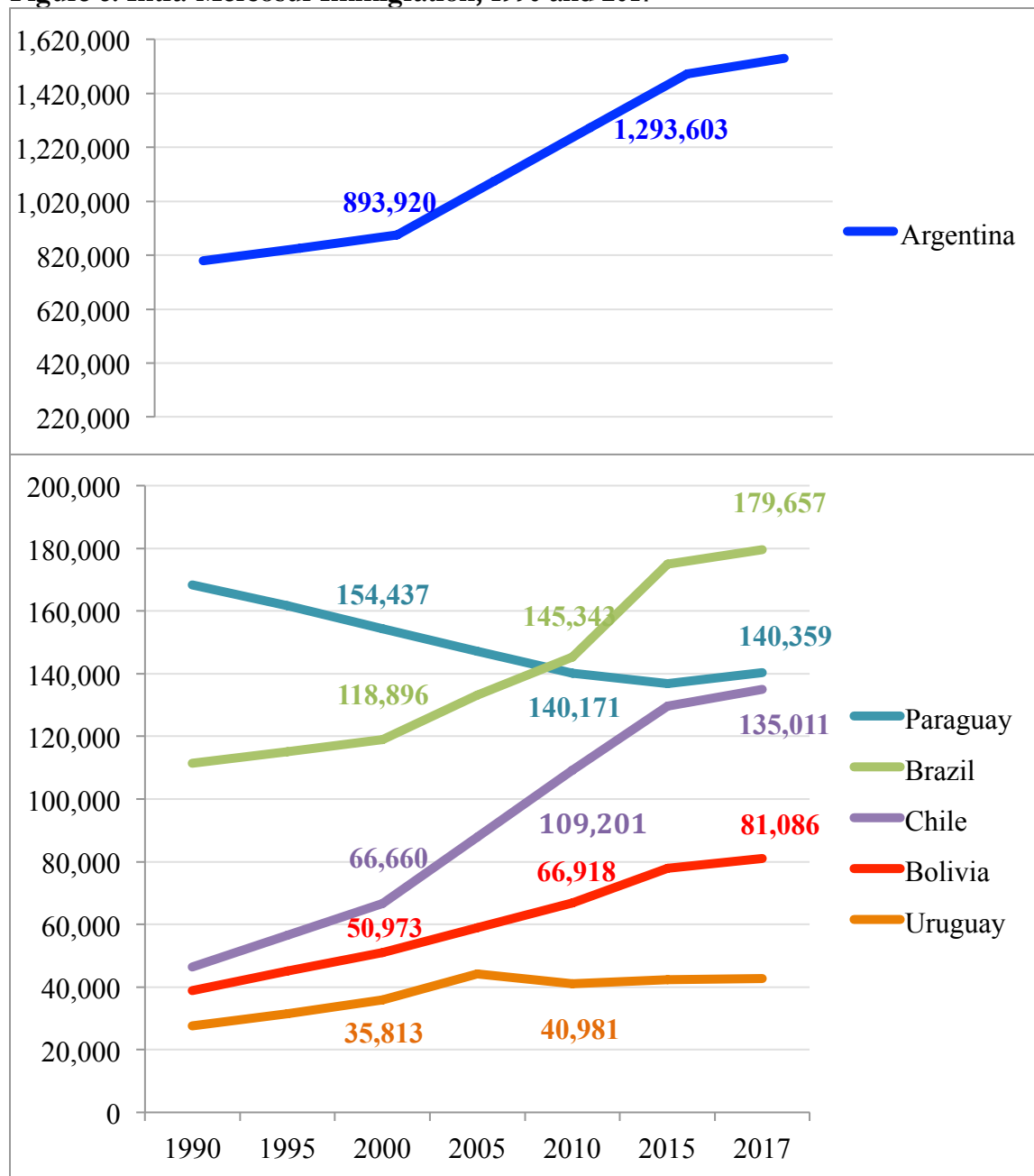
Figure 5. Global Immigration in Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay, 1990-2017*



Author's analysis draws on the UN Migrant Stock data. Data undercounts irregular immigrants.

***Global Immigration** represents the total stock of immigrants from the rest of the world who are residing in each of these countries.

Figure 6. Intra-Mercosur Immigration, 1990 and 2017*



Author's analysis draws on the UN Migrant Stock data. Data undercounts irregular immigrants. **Intra-Mercosur immigration** represents the total number of immigrants who are nationals of a Mercosur state and are residing at the country of destination.

Table 3. Percent of Population who Supported Open, Mid-Restrictive, and Very Restrictive Immigration Policy Before and After the Signing of the Residency Agreements (RA)

Survey Wave	Public Opinion on Immigration Policy	Argentina	Uruguay	Brazil	Chile
1995-1999 Before Signing RA	% Very Open	8%	12%	25%	11%
	% Mid-Restrictive	49%	53%	36%	50%
	% Very Restrictive	40%	31%	38%	38%
	Total N	1079	1000	1143	1000
2005-2009 After Signing RA	%Very Open	14%	22%	9%	6%
	% Mid-Restrictive	44%	53%	46%	49%
	% Very Restrictive	39%	19%	43%	42%
	Total N	1,002	1000	1,500	1000

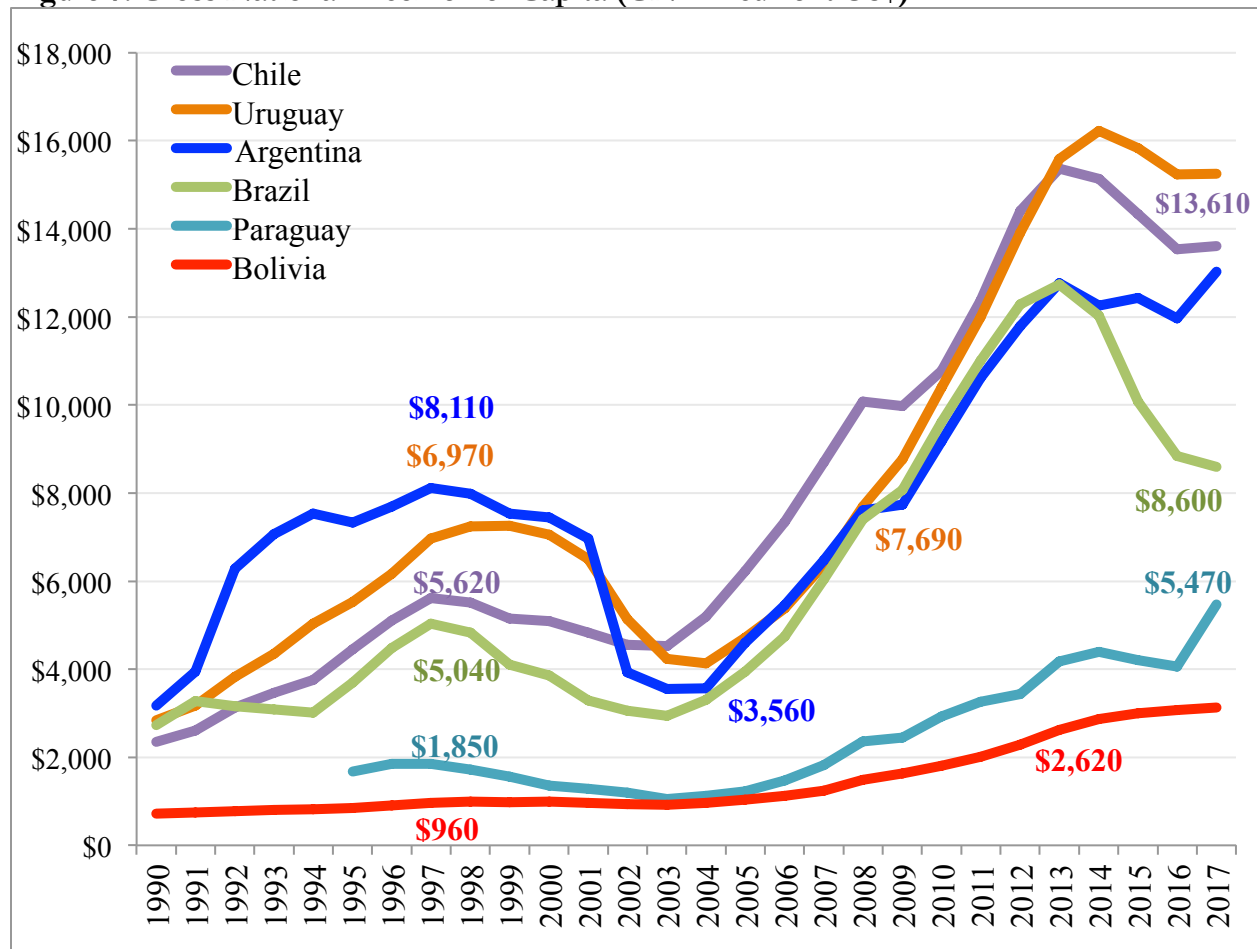
The author's analysis draws on data from Waves 1995-1999 and 2005-2009 of the World Values Survey. The World Values Survey did not collect data on the Bolivian and Paraguayan populations' position on immigration policy. Percentages do not include respondents who did not answer this.

Table 4. Top 20 Trade Partners of Exports and Imports of Goods and Services Among Mercosur Countries, 2017

Argentina	Uruguay	Bolivia	Brazil	Paraguay	Chile
Top Destinations of Exports					
Brazil (1)	Brazil (2)	Brazil (1)	Argentina (3)	Brazil (1)	Brazil (5)
Chile (4)	Argentina (5)	Argentina (2)	Chile (6)	Argentina (2)	Bolivia (12)
Uruguay (13)	Paraguay (13)	Chile (16)	Paraguay (20)	Chile (3)	Argentina (15)
Paraguay (15)	Chile (15)	Paraguay (20)		Uruguay (8)	Paraguay (20)
Top Origin of Imports					
Bolivia (10)	Brazil (2)	Brazil (3)	Argentina (3)	Brazil (2)	Brazil (3)
Paraguay (11)	Argentina (3)	Argentina (7)	Chile (10)	Argentina (3)	Argentina (4)
Chile (13)	Chile (12)	Chile (9)		Chile (11)	
Uruguay (20)	Paraguay (13)			Uruguay (13)	

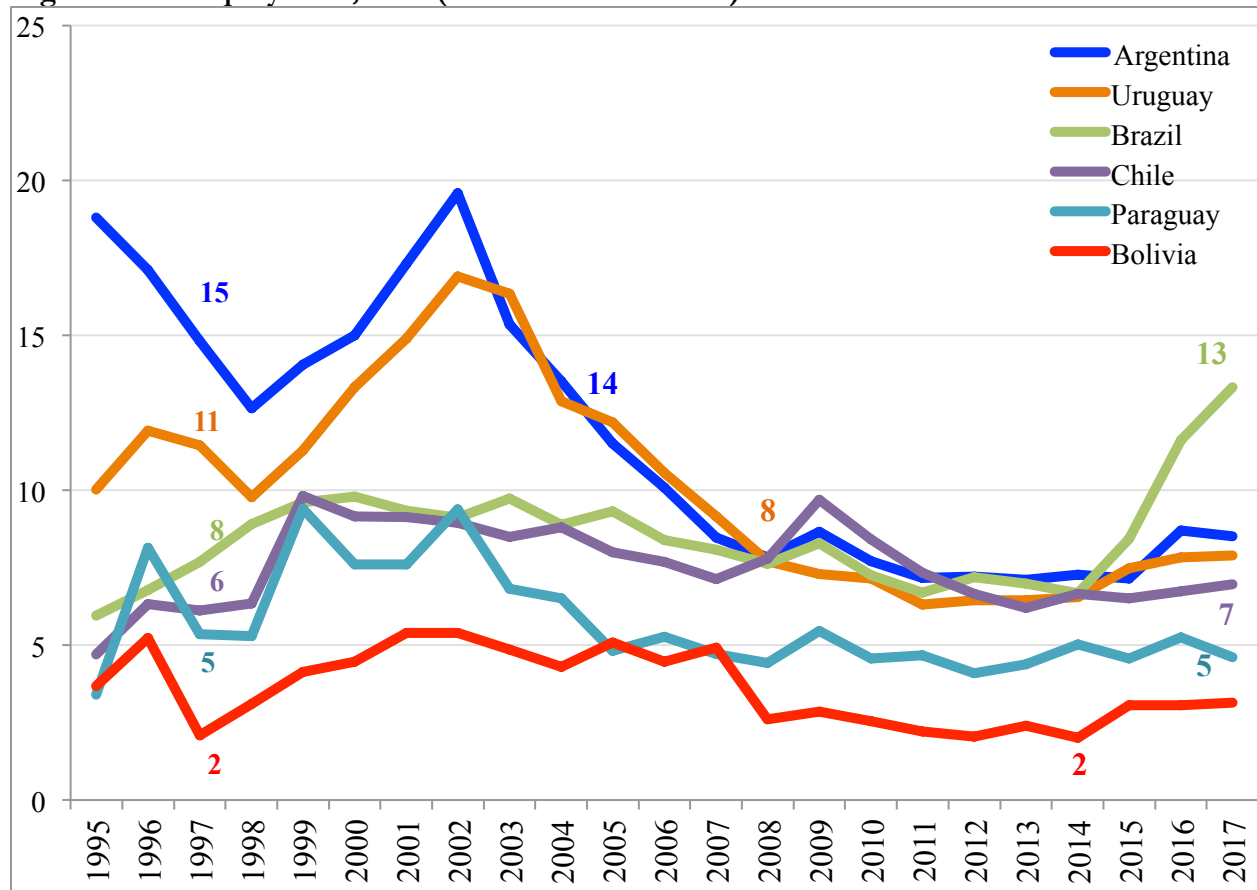
Author's analysis draws on data on Exports and Imports of Goods and Services Trade Partner Rankings by the World Integrated Trade Solutions.

Figure 7. Gross National Income Per Capita (GNIPP current US\$)



Author's analysis of World Bank GNIPP data.

Figure 8. Unemployment, total (% of total labor force)*



* Modeled ILO estimate. Author's analysis of World Bank data on unemployment.

Appendix B. National Internalization of the Mercosur Residency Agreements (MRA), 1970 to 2017

Country	Ratified	National Immigration Law	Dictatorship Immigration Law	Internalization
Argentina	Law N° 25.903 (6.9.2004)	Law N° 25.871 (2003-2004)	No	Complete
Bolivia	Law N 2.831 (9.3.2004)	Law N° 370 (2013) Supreme Regulatory Decree N° 1923 (2014)	No	Complete
Uruguay	Law N° 17.927 (12.19.2005)	Law N° 18.250 (2008) <ul style="list-style-type: none"> • Art. 34 temporary legal residency for Mercosur nationals Law N° 19.254 (2014) <ul style="list-style-type: none"> • Allows relatives of Mercosur national to get permanent residency • Gives Mercosur nationals permanent residency and ability to get residency from consulate and in country of origin 	No	Complete
Brazil	Legislative Decree N° 925 (9.15.2005)	Estatuto do Estrangeiro Law N° 6.815 (1980) <ul style="list-style-type: none"> • Proposed in 2013, approved in 2017, and in effect since November 2017 Law N °13.445 (2017)	No	Complete after 2018
Chile	Oficio Circular (Visa Mercosur) N°26.465 (12.4.2009)	Decree Law N° 1094 (1975) Supreme Decree N°597 (1984)	Yes, same	Incomplete
Paraguay	Laws N° 3.578 (8.14.2008)	Law N° 978 (1996) <ul style="list-style-type: none"> • Similar to Law N° 470 (1974) 	Yes, similar	Incomplete

Sources: Author's policy compilation, IOM (2018), CMS (2014), and interview data.

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ENDNOTES

ⁱ Author's analysis of UN Migrant Stock Data

ⁱⁱ These coalitions do not include left-wing labor unions that favor welfare state protectionism and immigration restrictions (de Haas and Natter 2015). They also do not right-wing cultural conservatives support restrictive immigration policies in order to protect the national identity and culture of the nation-state (de Haas and Natter 2015; Odmalm 2011; Perlmutter 1996).

ⁱⁱⁱ In contrast, in 2017 Bolivia only had 96,956 immigrants and Uruguay only had 42,854 immigrants from the other Mercosur eight states.

^{iv} Source of the immigration reform congressional debates: "Republica Argentina Diario de Sesiones Cámara de Senadores de la Nación" Reunión 41 Sesión Ordinaria 21 (2003) p. 89-93; Accessed: September 12, 2016.

^v "Que el Parágrafo V del Artículo 14 de la Constitución Política del Estado [2009], determina que las leyes bolivianas se aplican a todas las personas, naturales o jurídicas, bolivianas o extranjeras, en el territorio boliviano. Que el Parágrafo VI del Artículo 14 del Texto Constitucional, establece que las extranjeras y los extranjeros en el territorio boliviano tienen los derechos y deben cumplir los deberes establecidos en la Constitución, salvo las restricciones que ésta contenga." (Regulatory Decree 1923: 1).

^{vi} From the left wing political party El Frente Para la Victoria.

^{vii} This identity construction project drew inspiration from the ideology of the independence wars leaders Simón Bolívar and José de San Martín in the 19th century. Simón Bolívar helped many South American colonies win their independence from the Spanish monarchy under the auspices of creating a Great Motherland that included all the Spanish-speaking territories of the Americas.

^{viii} Venezuela was suspended from Mercosur in 2016. Peru and Ecuador ratified the Residency Agreements in 2011 and Ecuador ratified them in 2013 (CSM 2014).

CHAPTER 4

“They don’t know they have papers”:

How low infrastructure power of the sending and receiving state derails indigenous immigrants from Bolivia into irregularity within South America

ABSTRACT

The South American governments have implemented the Mercosur Residency Agreements, an innovative legislation that makes legal status a substantive right. Yet, many immigrants, particularly those who are indigenous from Bolivia, remain undocumented in Argentina, Brazil, Chile, Paraguay, and Uruguay. Previous research assumes that if immigrants qualify for one of the visa categories (e.g., family reunification, employment-based, or humanitarian visas) they will acquire legal residency status. I contend that this approach reduces the complexity of legal status acquisition process to formal laws and categories. Hence, this study identifies the sources of irregularity among indigenous Bolivian immigrants who are residing in the countries that have implemented the Residency Agreements. This research draws on 130 in-depth interviews with directors and staff of government and non-government organizations involved in the creation and implementation of immigration laws in six countries. This study also draws on governmental and NGO archives and original databases of immigration laws. Findings show that there are five sources of irregularity. First, the Bolivian state does not allocate the public funds, government offices, and roads needed to reach its rural areas where most indigenous ethnic groups reside. As a result, the Bolivian state has not provided indigenous populations with the identification documents needed to emigrate through legal channels. Second, indigenous populations in the periphery of the state retain pre-colonial logics of land and mobility that motivate some to migrate through irregular channels out of necessity or because they resist the surveillance of the state. Third, at the countries of destination, many of these indigenous Bolivians remain undocumented as they remain detached from the state or struggle to prove their national origin with state-issued identification documents as required by the Residency Agreements. Fourth, the receiving states do not fully reach marginalized undocumented populations and implement the Residency Agreements in a way that breeds fear of the government and irregularity among indigenous immigrants. Fifth, indigenous immigrants' resistance of, fear of, or

detachment from the state enables non-state actors to exploit and promote their irregularity. These findings indicate that immigration policy solutions that build on liberal notions of rights and rely on the capacity of the sending and receiving states to register and document their populations indirectly impose excessive barriers to the legalization of indigenous immigrants.

Key Words: Indigenous Immigrants, State Infrastructural Power, Irregularity, Mercosur Residency Agreements

INTRODUCTION

In the last 20 years, the South American governments have responded to increases in undocumented immigration from neighboring countries by passing policies that facilitate migrants' access to legalization and rights (Acosta 2018; Mármora 2010; Alfonso 2013). Of particular importance, in 2009 six South American countriesⁱ—Brazil, Bolivia, Chile, Paraguay, and Uruguay—adopted the Mercosur Residency Agreements as national policies and became the first states in the world to make legal status a substantive right (Acosta 2018). These agreements were negotiated under the institutional apparatus of Mercosur, which is a regional trade agreement with an intergovernmental organization.ⁱⁱ Despite the wide implementation of the Residency Agreements, many qualifying immigrants, who are of low socioeconomic status and indigenous, remain in irregularity—or people who move across international and reside in a country without legal authorization (IOM 2018; IOM 2012). Statistics of the number of undocumented Bolivian immigrants in South America are not available. Although some studies indicate that many low income Bolivians are undocumented in Argentina (IOM 2018; FOPEA 2016; AMURA 2014) and in 2011 there were approximately 100,000 irregular Bolivians in Brazil and 30,000 in Chile (IOM 2011). It remains largely unknown what factors explain why Bolivian immigrants continue to migrate through non-official channels and remain irregular in countries where the immigration laws gives them access to legal residency status and rights.

According to the migration literature, if immigrants meet the requirements of a visa category at the country of destination they should be able to access legal residency (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990; Portes and Zhou 1993). The vast majority of the literature on migrants' acquisition of legal residency status focuses on the receptivity of the governmental policies in the destination country (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and

Rumbaut 1990; Portes and Zhou 1993). Scholars concur that the governmental context of reception is most hostile to undocumented immigrants who have limited paths to legalization and most welcoming to accepted refugees who receive government assistance to resettle in the new country (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990; Portes and Zhou 1993). These approaches assume that as long as there is a path to legal residency, the migrants will access legal status. However, this conceptualization of the governmental context of reception focuses primarily on the immigration law's formal rules and categories. The implementation of immigration policy is discretionary and immigrants' process of acquiring legal residency is complex.

Drawing on state capacity and registration literatures, I contend that even in a receptive governmental context there are three sources of irregularity. These include (1) migrants' inability to acquire identification documents at the country of origin, (2) the receiving states' administration of the formal immigration laws, and (3) the migrants' relationship with government agencies in the sending and receiving states. First, the migrant-sending states' capacity to administer identification documents, such as international passports and national identification cards, could determine whether its emigrants meet the requirements of the immigration laws in the receiving states. Passports and other internal identification documents help states monopolize the legitimate means of movement within its territory and across international borders (Torpey 2018; Torpey 1998) and provide people with a legal personhood and a means for accessing the entitlement programs, goods, and services of the state (Breckenridge and Szreter 2010; Szreter 2007). However, the state's ability to enforce an identity registration system is contingent on its level of infrastructural power, that is, its capacity to enforce state decisions among the population within the bounded territory it claims to govern (Mann 2008; Mann 1984). In states that have low infrastructural power to monitor and control the movement of people, migrants can easily cross international borders through informal

channels. Second, governments at the receiving states can perpetuate irregularity when they do not allocate sufficient public resources to legalize marginalized immigrants or impose extra hurdles on migrants who are unable to prove legal entry or provide identification documents. Third, the mobile populations' relationship with the sending and receiving states can also affect legal status acquisition. Research shows that state infrastructural power is reflected in its ability to make nationality the main source of identity (Loveman 2005; vom Hau 2008) and that states in the global South with low infrastructural power unintentionally allows other non-nationalized forms of identity to flourish (Scott 2002). Thus, it is possible that marginalized populations outside the reach of the state retain non-nationalized practices that promote emigration through non-official channels and irregularity at the countries of destination.

This study further examines this relationship through the case of Bolivia, which includes 36 distinct indigenous groups and is one of the main migrant sending countries in South America (Postero 2016; Yoshar 2007). For example, Bolivian emigration to Argentina, Brazil, Chile, and Paraguay increased by 205% between 1990 and 2017—or from 171,316 to 522,441.ⁱⁱⁱ These countries are among the top nine destination for all Bolivian emigrants (IOM 2011^{iv}). Some of Bolivia's indigenous ethnic groups retain pre-colonial conceptualizations of land, identity, and movement (Postero 2016; Mardones 2015; Yoshar 2007). These pre-colonial logics do not coincide with notions of territory, international borders, and immigration control under the Westphalian interstate system (Mardones 2015; Quijano 2000; Yoshar 2007). Therefore, it is possible that indigenous populations who retain non-nationalized norms of identity, mobility, and land may actively resist or involuntarily remain marginalized from the services and provisions of the state in Bolivia and in the countries of destination. Moreover, it is also conceivable that pre-colonial notions of land and mobility coupled with detachment from the state promote irregularity. To further examine these dynamics, this study addresses the following research questions: How does the

migrant sending state's administration of identification system and control of movement of people and the receiving states' implementation of inclusive immigration policies affect migrants' acquisition of legal status acquisition? How do indigenous immigrants' avoidance of or resistance to state legal logics affect their legal status acquisition?

To answer this question, I draw on 130 in-depth interviews with government officials, staff and directors of non-governmental organizations (NGOs), and migration experts involved in the implementation of immigration policies in Argentina, Brazil, Chile, Bolivia, Paraguay, and Uruguay. I focus on these six countries because their government officials designed the Residency Agreements to eradicate undocumented immigration and were the first to implement them.

I find that indigenous people cross international borders irregularly because they either do not have the identification documents needed to cross through border checkpoints or resist the imposition of international borders on their ancestral lands. At the country of destination, the receiving states foster irregularity in two manners. First, they do not allocate sufficient public resources to bring legal residency services to marginalized undocumented Bolivians. Second, the states implement the Residency Agreements in a way that creates excessive hurdles that fosters distrust and fear among indigenous migrants. Alternative movements practices have filled the void of the state. Relatives, friends, acquaintances, and smuggling services help indigenous immigrants migrate irregularly to urban centers in the other South American countries. Thus, I argue that the sending states' low infrastructural power to administer identification documents and control movement and the receiving states' uneven implementation of the Residency Agreements are sources of irregularity among immigrants who are indigenous.

In the following sections of this manuscript, I will discuss the governmental context of reception, state capacity to administer identification systems and monitor movement, and indigenous

Bolivians' mobility practices. Then, I will review my methods, present the main results, and discuss the theoretical contributions of these findings.

THEORY AND BACKGROUND

The Governmental Context of Reception

Portes, Rumbaut, and Zhou were the first scholars to conceptualize how the receptivity of the governmental policies greatly impacts immigrants' ability to access legal immigration status (; Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990; Portes and Zhou 1993). The receiving state's governmental policies determine the legal rights, benefits, protections, and economic opportunities available to immigrants throughout their process of incorporation into the host country (Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990; Portes and Zhou 1993). Immigrants face governmental policies that are hostile, passively receptive, and actively encouraging (Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990; Portes and Zhou 1993). Hostile immigration policies seek to prevent immigration and limit migrant's paths to legal residency and rights (Portes and Rumbaut 2014). A passively receptive governmental context allows the migration flow to continue and permits immigrants to access legal residency and rights, but the policies do not help immigrants settle into the host society (Portes and Rumbaut 2014). Finally, an actively encouraging governmental context of reception helps migrants access rights and benefits to assist in their incorporation into the host society (Portes and Rumbaut 2014). This is particularly the case for some refugees who are given government assistance to resettle after passing the scanning and vetting process. Portes, Rumbaut, and Zhou measure governmental context of reception by comparing different national origin groups that experienced a hostile, passively receptive, or actively encouraging context in the United States. For example, the United States was receptive to Cubans refugees between 1960 and 1980s and

Cambodians and Hmong refugees after 1975 (Portes and Rumbaut 2014). However, this measurement governmental context of reception is problematic because it uses national origin as a proxy.

To disentangle governmental context of reception from national origin, Luthra, Soehl, and Waldinger (2018) operationalize the governmental context of reception using a continuum of immigration statuses instead of national origin. At one end of the continuum are undocumented immigrants who experience a negative governmental context of reception because they have very limited paths to legal residency, have few rights and benefits, and face the threat of deportation (Luthra, Soehl, and Waldinger 2018). Legal permanent residents and migrants with fixed term visas experience a neutral government context of reception because their immigration is encouraged, they have more rights and benefits than undocumented immigrants, and they are not under the threat of deportation (Luthra, Soehl, and Waldinger 2018). Finally, admitted refugees had a welcoming governmental context of reception because the government provides them with services, rights, and benefits to help them integrate, facilitates family reunification, and helps them become naturalized citizens (Luthra, Soehl, and Waldinger 2018). In sum, these approaches assume that as long as there is a path to legal residency, the migrants will enter the country through official channels and then access legal status. Immigrants who are unable to find a path to legalization under the existing visa categories (e.g., humanitarian, employment based, family reunification etc.) tend to remain undocumented (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Zhou 1993; Portes and Rumbaut 1990).

However, this conceptualization of the governmental context of reception does not fully capture how the sending and receiving states affect migrants' legal status acquisition as it focuses on the official immigration policies and legalization visa categories. Moreover, this conceptualization does not capture other dimensions of the law in action that can determine how and whether

migrants can access legal residency. The way migrant receiving states implement and administer the formal immigration laws can either facilitate or obstructs migrants' access to benefits and resources. Furthermore, how migrants relate to receiving states' government agencies and officials can also impact their willingness and ability to complete their immigration adjustment of status applications. It is also possible that receiving states with subnational variation in the resources they allocate to legalizing immigrants will be unable to help marginalized irregular migrants or provide them access legal residency status they are entitled to by law. In sum, this study further disaggregates the governmental context of reception by examining how the migrant receiving states' implementation of formal immigration laws and migrants' relationship to the government institutions affects their legal status acquisition.

Irregularity and the Migrant Sending and Receiving State

The migrant sending state's capacity to register its population, administer identification documents, and monitor emigration in a way that informs migrants about their rights at the host society can also determine whether migrants access legal status in the country of destination with a receptive governmental context. The identity registry systems of modern nation-states are the key mechanism through which the modern state penetrates and embraces its society and defines an "us" versus "them" under the international nation-state system (Torpey 2018; Torpey 1998). The states sole authority to administer identification documents gives it a monopoly over the legitimate means of movement (Torpey 2018; Torpey 1998). States use these identity documentation to verify whose citizens belong to which nation-state, to determine who gets access to the benefits of the state, and to administer who exits and enters its territory (Torpey 2018; Torpey 1998). States also use international passports, visas, residency cards, and other identification documents to determine who is authorized to reside in the territory (Torpey 2018; Menjivar and Abrego 2012). Those who do not

have authorization to reside often face exclusion, sanctions, and deportation (Torpey 2018; Menjívar and Abrego 2012).

People cannot simply escape the need for identification documentation by leaving a nation-state (Robertson 2010). While international law guarantees the right to exit, with the exception of refugees, people need international passports and oftentimes visas to enter the territories of other nation-states (Torpey 2018; Szreter 2007). Thus, the need for international passports to verify and certify identity within the interstate systems of nation-states has made nationality one of the most legitimate forms of identity (Torpey 2018; Robertson 2010). The identification procedures are becoming more invasive and inescapable. Technological advances that rely on biometric data have rendered the individual's body as an integral part of identification procedures and are putting the body under the constant surveillance (Shachar 2009).

While encroaching, passports and other internal identification documents are also beneficial to bearers because they give them legal personhood, public recognition, and a means for accessing the entitlement programs, goods, and services of the state (Breckenridge and Szreter 2010; Szreter 2007). The identity registration procedures create a social obligation between the state and the inhabitants of their bounded territory (Szreter 2007). It is for this reason that the United Nations (UN) International Covenant on Civil and Political Rights (Article 24, Clause 2) and the UN Convention on the Rights of the Child (Article 7) promotes individual registration and advises nation-states to register all children after birth (Article 24, Clause 2; Szreter 2007). Thus, states that do not have the capacity to build identity registration systems might impede its population's ability to access public benefits, exercise their human rights within that country, and access legal protections in other nation-states (Breckenridge and Szreter 2010; Szreter 2007).

The state's ability to implement an identity registration system is highly entwined with its infrastructural power—or capacity to reach its population within its bounded territory and enforce

its decisions (Mann 2008; Mann 1984). The state uses roads, government offices, educational, communication, and officials to radiate out throughout its territory and penetrate the society it claims to govern by enforcing its decisions (Mann 2008; Mann 1984). Torpey builds on Michael Mann's conceptualization of state strength, but to a great extent focuses on states that have high infrastructural power to penetrate and embrace nationals residing within their territories and control their international migratory movements. Even when Torpey (2018) qualifies that some people eschew the state's embrace by migrating through unofficial channels or with counterfeit passports, he builds on the assumption that people are deliberately escaping the reach of a state that has the infrastructural power to reach them. Thus, Torpey's assessment is better suited to explain how states monopolize the legitimate means of movement in high-income and industrialized nation-states in the Global North (i.e., the US and in Europe) and cannot fully explain the dynamics of states with low infrastructural in the Global South.

Low- and middle-income states might not have the infrastructural power or choose to not allocate public resources to provide identification documents or to monopolize the legitimate means of movement (Soifer and vom Hau 2008; Soifer 2008). High-income states already struggle to verify the identity of all people crossing their porous international borders (Scott 2002). This situation might be exacerbated in states with limited resources and subnational variation in infrastructural power in the Global South. It is possible that states that are unable or unwilling to send bureaucrats or build government agencies that register people in hard-to-reach areas lose their monopoly over the legitimate means of movement. For example, in Mexico after World War II many subnational bureaucracies did not prevent emigration as they were directed to do so by the national government because they used emigration as a safety valve (FitzGerald 2006).

States with low infrastructural power can allow non-nationalized practices around identify and movement to thrive. For instance, states with high infrastructural power to reach and be present

across its territory create a sense of national belonging among its citizens or *taken-for-granted-ness* of the legitimacy of state authority (Loveman 2005; vom Hau 2008). Conversely, the states with low infrastructural power may intentionally or unintentionally allow other systems of group membership to predominate the meanings of identity and movement. Furthermore, some populations may actively resist the embrace of the state. For example, the people of Zomia region in Southeast Asia deliberately create non-state spaces to avoid the negative consequences of state control such as taxation, conscription, appropriation, and force labor among others (Scott 2009).

Finally, people who move across international borders further complicate this tension between the state and members of its society who actively avoid the reach of the state. When irregular international migrants cannot verify their nationality with identification documents they will struggle to access legal status and rights in the receiving state and the benefits of their own state through its consulate services. Thus, this study addresses the first research question: How does state capacity and willingness to administer identification systems, control movement, or implement an inclusive immigration policies affect migrants' acquisition of legal status?

Indigeneity and Irregularity:

The Case of Indigenous Immigrants from Bolivia in South America

Immigrants' relationship to sending and receiving state institutions, legal systems, and officials can affect their legal status acquisition. In particular, the relationship between the state's ability to control movement and international migration comes in tension when we focus on indigenous populations who migrate between countries that were former settler colonies and who resist state logics. In the Americas, settler colonialism and state building impose legal narratives of territorial borders that deliberately tried to eliminate pre-existing indigenous peoples' relation to their ancestral land and community (Mardones 2015; Quijano 2000). Various indigenous peoples have distinct

relationships and conceptualizations of land as a place where processes of meaning take place through communal sharing and consensus—or storied land (Mardones 2015; Coulthard 2014; Goeman 2008; Wolfe 2006). In this manner, storied land is alive, dynamic, dialectical, and layered with collective memories (Goeman 2008). For some indigenous groups, ancestral lands also serve as the nexus that generates a sense of collective belonging and identity (Coulthard 2014; Goeman 2008; Wolfe 2006). These notions of land and identity do not coincide with the bounded territory and imagined community of the nation-state (Mardones 2015). In South America, European settler colonialism and state building after the independence wars erased, repressed, and subordinated indigenous knowledge, including their distinct conceptualizations of land, identity, and self-governance (Quijano 2000). During both processes, European settlers took indigenous lands and used state laws to turn these lands into territories of the nation-state (Wolfe 2007; Coulthard 2014; Quijano 2000). European logics of governance through liberal states and territorial ownership were superimposed upon indigenous knowledge and understandings of land (Quijano 2000). National identity also imposes the state’s legal narratives of sovereign territory and nation-states on indigenous population (Goeman 2008). In South America, the state’s erasure of these indigenous non-nationalized narratives of land and belonging were particularly aggressive (Sieder and Sierra 2011). Unlike the United States and Canada, the South American states have not given indigenous populations subnational sovereignty^v over ancestral lands (Sieder and Sierra 2011).

Despite these state efforts to erase indigenous knowledge, some indigenous populations in South America resist state logics and have preserved indigenous and non-nationalized conceptualizations of land and identity (Postero 2016; Sieder and Sierra 2011). For example, Bolivia’s President Evo Morales has used state-led reforms, such as rewriting the constitution, to create a plurinational state that legally recognizes 36 different indigenous populations as part of its imagined community (Postero 2016). This so called “indigenous state” mixes seemingly opposing

notions of membership and belonging, some of which are pre-colonial and others Western and liberal (Yoshar 2007). Although, President Evo Morales has not fully decolonized Bolivia or given full autonomy to the various indigenous populations, some indigenous communities have used these trends to fight for autonomous governance (Postero 2016). For example, the Guaraní indigenous peoples of Bolivia successfully mobilized to gain subnational decision-making autonomy in Charagua (Postero 2016). The Guaranis in Charagua build on their Ñandereko way of being to create a decentralized and horizontal system of communal decision-making and self-governance (Postero 2016).

Hence, it is possible that non-nationalized norms of movement may dominate movement across international borders in places where indigenous populations resist the reach of the state or in parts of the territory that the state apparatus has intentionally or unintentionally neglected. Indigenous migrants who resisted or were neglected by the state of their country of origin might continue to do the same at the country of destination. Thus, this study addresses the second research questions: How is the legal status acquisition of indigenous immigrants affected by their own avoidance of or resistance to state legal logics and the migrant sending state uneven capacity to register and monitor its society?

DATA AND METHODS

Case Selection

To answer these questions, this study examines the case of the Mercosur Residency Agreements and how these affect the ability of indigenous immigration from Bolivia to acquire legal residency status at the South American countries of destination. First, I focus on the Residency Agreements because these are the first legislation to makes legal status a substantive right, instead of a procedural right—as done in the U.S. and Europe (Acosta 2018; Acosta and Geddes 2014; Alfonso 2013). When access to legal status is a substantive right, deportation is under-emphasized

and the state becomes responsible for legalizing undocumented immigrants, even if it means creating new paths to legal residency (Acosta 2018). The Residency Agreements also make access to legal residency easier than in the European Union's treaties,^{vi} because the agreements do not require intra-regional immigrants to show proof of employment, sufficient resources, or health insurance in order to become legal residents. In 2009, Argentina, Brazil, Bolivia, Chile, Bolivia, Paraguay, and Uruguay ratified and adopted the Residency Agreements in some form of national law or administrative procedure. In this manner, the South American countries have promoted the creation of a very welcoming governmental context of reception among its signatory states.

—Insert Table 5—

Among the Mercosur states, Bolivia has historically been one of the main migrant sending countries (IOM 2018; Grimson and Soldán 2000; Jelin, Grimson, and Zamberlin 2006). As seen in Table 5, Bolivian immigration has been steadily increasing to Argentina, Brazil, and Chile since the 1990s. These are the main migrant destinations and the central focus of this study. Furthermore, according to the Bolivian census most Bolivians self-identified as indigenous. In the 2001 census, 62% of the Bolivian population over the age of 15 self-identified as indigenous. By 2012, only 41% of the Bolivian population over the age of 15 (or 2.8 million out of 6.9 million) self-identified as indigenous. It is important to clarify that the number of people who others perceive as indigenous and who do not have identification documents may be much higher than the figures from the 2012 census. This is mainly because indigenous self-identification is a social construct that can change over time (Pastero 2016). For instance, some Aymaran Bolivians who are merchants and live in urban centers no longer consider themselves indigenous because they associate indigeneity with living in a rural areas and working as peasants (Postero 2016). Furthermore, President Evo Morales and his political party have showcased a limited form of indigeneity that does not capture the diversity of the 36 indigenous ethnic groups living in Bolivia (Postero 2016). In this manner,

President Morales's governing coalition has limited the legitimate forms of indigeneity. As a consequence, many indigenous ethnic groups who do not feel connected to this state's imagery of indigeneity or who dislike the governing coalition stopped identifying as indigenous (Postero 2016). In sum, the number of Bolivians who are perceived as indigenous by others and who do not have identification documents may be higher than what the Census figures indicate.

Bolivian immigrants in other Mercosur states are legally entitled to legal residency, social, economic, civic, and cultural rights under the Residency Agreements. If we focus on formal immigration policies, Bolivian immigrants will encounter the same welcoming governmental context of reception in each of the Mercosur states. In this manner, this case allows us to examine how other dimensions of state capacity and the implementation of immigration laws affect immigrants' ability to access legal residency status. Overall, this study examines how the capacity of the migrant-sending state's to administer identification documents and control exit, the migrant-receiving states' implementation of immigration policies, and indigenous peoples relationship to state institutions affect their ability to acquire legal residency status in the countries of destination.

Data Sources

The study's empirical base consists of 132 in-depth and semi-structured interviews, government and NGO archives, and an original database of immigration laws from 1970 to 2017. In-depth and semi-structured interviews were conducted between September 2015 and June 2018, lasted between 25 to 140 minutes, and took place at respondent's preferred location (usually in their office or a cafe). I interviewed actors involved in migration policymaking processes at Mercosur and in Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay between 1994 and 2018. Interviewees were selected because of their involvement in some aspect of the immigration policymaking process. Interviewees included the High Authority of Mercosur and staff, delegates to Mercosur meetings that deal with migration^{vii}, and government officials who work in ministries that have jurisdiction

over the creation, management, or implementation of migration policy. These included bureaucrats from the Ministries of the Interior, the Ministries of Foreign Affairs, the Ministry of Labor, and the Ministry of Justice. I also interviewed the general consuls or ambassadors from Bolivia to Argentina, Chile, and Brazil. Non-governmental actors who work on immigrants and emigrants were also interviewed. These included the directors and staff at labor unions in charge of migration, NGOs who work on migration, and private sector associations involved in migratory issues. Finally, I included academics and legal experts who have been involved in the migration policymaking processes at Mercosur and at the national level. These expert interviewees shared their vast knowledge of regional and national migration policymaking process and systems.

I also analyzed governmental and NGO archives, which included organizational reports, programs, and immigration policy implementation efforts. I selected archives that focused on either (1) irregular migration, (2) migrants' awareness of immigration policies and their rights, (3) on how immigration policies were implemented, and (4) Bolivian emigration. Finally, I compiled an immigration policy database of the six countries from 1970 to 2018. The policy database includes the Mercosur immigration policies, national level immigration laws as well the policies that governments used to implement these laws.

Measurements

For the interviews, an in-depth and semi-structured interview protocol was developed and modified as new themes emerged during the interview process. During interviews, I asked respondents (1) what were the main barriers to implementing the national policies that internalized the Mercosur Residency Agreements; (2) how did immigrants learn that they could legalize their immigration status or access rights; (3) why did some qualifying immigrants remain undocumented; and (4) how they built awareness of the new policy that adopted the Residency Agreements. I measure state infrastructural power in two ways. First, I examine the state efforts to administer

identification documents, control exit of people from the bounded territory it claims to govern, or administer immigration legalization laws. This is a modification of the common measure of infrastructural power that focuses on state expenditures (see Soifer 2008). The second measurement of infrastructural power looks at the weight of the state, or by analyzing to what extent the citizens within territory identify with the nation (Soifer 2008) or how the citizen and noncitizen population in its territory relates to the state institutions and actors.

Analysis

To analyze these interviews, I began by identifying the most common themes through an inductive process. I coded as “non-nationalized notions of mobility” when respondents described immigrants who did not have a conceptualization of territorial barriers between nation-states, did not see the need for state documentation, or who belonged to indigenous communities that cut through borders. I also coded as “role of country of origin” for instances when respondents mentioned processes and factors in Bolivia that perpetuated irregular emigration. When respondents identified different ways government agencies, actors, or policies perpetuated irregularity I coded these as the “role of migrant-receiving state.” I also coded “migrants’ relationship to state” whenever interviewees attributed migrants’ irregularity to their fear, apprehension, avoidance, or resistance of state institutions and actors. Finally, I coded “role of exploitative non-state actors” whenever respondents described instances when non-state actors capitalized, exploited, or were invested in indigenous immigrants’ irregularity. A research assistant reviewed all codes to increase reliability and validity of coding scheme. Organizational archives and the policy database were used to triangulate, contextualize, and corroborate the key processes and factors that were identified in the interview data.

RESULTS

I find that indigenous people from Bolivia tend to migrate to Argentina, Chile, Brazil, and Uruguay through irregular channels. Once at the countries of destination, many remain undocumented. This continues to happen even after the Mercosur states implemented the Residency Agreements (2009) as national policies and allow these migrants to enter legally through international borders and access legal residency and rights in their countries. Six separated but interconnected factors at the country of origin and the country of destination explain why indigenous immigrants migrate irregularly and remain undocumented even though they face a welcoming immigration legal context.

Bolivia, the Migrant Sending State

In Bolivia, the country of origin, indigenous people do not migrate through official border checkpoints because of three interconnected factors. First, the Bolivian state has unevenly implemented programs to register its population, provide identification documents, and control emigration. Second, indigenous people tend to reside in the geographically difficult to reach places where the implementation is most limited. Many of these indigenous peoples preserve their own distinct norms regarding divisions of land, identity, and mobility. As a result, some indigenous peoples move across indigenous lands without passing through official checkpoints because they actively resist the imposition of international borders. Other indigenous people exit the country through irregular channels because they lack the identification documentation needed to cross via international border-checkpoints. Third, smugglers, relatives, and friends recruit indigenous Bolivians and charge them to help them migrate through non-official channels—or irregularly. In this section, I will discuss each of these processes in more depth.

(1) The Bolivian State's Uneven Registration of Its Population and Control of International Migration

One of the factors that explain why Bolivians migrate through irregular channels is that the Bolivian government does not allocate the public resources and infrastructure (e.g., roads and government offices) needed to register its population, provide them with identification documentations, or monitor emigration flows. Bolivia is divided into nine subnational governmental departments and 112 provinces. Yet, there are only nine civil registry offices in the entire country. Six of these offices are in urban centers^{viii} and are not easily accessible to people who live in more isolated rural areas. In 2001, 38% (or 3,109,095 people) of the 8.3 million Bolivians lived in rural areas. This trend has remained more or less the same. In 2012, 33% (or 3,270,894) of the 10.1 million Bolivians lived in rural areas.

Data from government archives and interviews confirm that Bolivians who live in rural areas that are difficult-to-reach tend migrate through unofficial channels because they lack state-issued identification documents such as birth certificates, identification cards, or international passports. They lack state-issued identification documents because the civil registry offices are not accessible. For example, Fernando, the director of an immigrant and emigrant serving organization in La Paz, explained that her NGO often helps Bolivians in other South American countries obtain state-issued identification documents so they can file for legal residency at the countries of destination. Fernando explained that the Bolivian state's inability to administer identification documents to people who live in rural parts of the territory is the cause of this phenomenon:

Fernando: It is much easier for people from urban contexts to be registered by the state than those who live in rural contexts. It is much easier for those from urban sectors to have an

identification card; if they have an identification card that means that they have a birth certificate.

Other migrant serving NGO directors shared similar perspectives. For example, Paulo is the director of a transnational NGO that works with irregular migrants and victims of human trafficking throughout Bolivia. He often travels to other South American countries to meet with immigrants and migrant-service providers. Through this work he helps Bolivian migrants access legal residency at the countries of destination. He finds that Bolivians who live in isolated rural parts of the country are more likely to go unregistered and undetected by the state. He explained:

Paulo: People who live in the Altiplano, in the interior of the Southern part of Bolivia in the departments of Potosí, Oruro, and southern La Paz. Many of these people are in the middle of the mountains, hills, as well as deep valleys and ravines. Most of them were born and live in the countryside. The mothers have babies in the middle of nowhere. It is difficult for them to get registered in an office of the Civil Registry.

Paulo experience indicates that the Altiplano's geographic extremity, high altitude, and difficult terrains disincentivize government officials from bringing services to the people who live there. Furthermore, these geographic barriers also prevent people's ability to travel and access the state's civil registry offices to get identification documents. The departments of Potosí, Oruro, and the southern part of La Paz are located in the harsh terrain of the Altiplano. However, only three government civil registry offices cover this entire territory. Thus, Bolivians who live in urban centers near the civil registry offices are more likely to obtain birth certificates and other identification documents needed to verify in their identity and Bolivian nationality. However, for many rural

Bolivians it is difficult to obtain identification documents because they live in parts of the country that are geographically isolated, hard-to-reach, and unlinked to major highways and roads.

More broadly, even state actors who have the political will to provide services to people in isolated, rural, and treacherous territories often fail in their efforts. During my interview with the former Minister of Education of Bolivia under President Evo Morales she confirmed that the government tried to reach more isolated parts of the country to install schools or other public facilities. However, there were not enough roads to reach many of these isolated terrains.

The Bolivian government's limited allocation of resources to agencies with jurisdiction over monitoring who exits the country also enables irregular emigration, particularly in rural parts of the country. This is particularly evident in President Evo Morales's governing coalition support for the passage of Law N. 263 (2012) and Resolution N.001 (2014) that seek to prevent irregular emigration along with human trafficking. The Bolivian Ministry of Justice conducted a study to evaluate subnational efforts to control undocumented emigration to the neighboring countries. They found that the state had not allocated sufficient resources to monitor international movement. For example, most officials at border checkpoint had not been trained on how to implement these legal changes. Also, only 13 out of the 31 international border checkpoints had installed the FROMPAZ information system, which is used to verify peoples' identity (Bolivian Ministry of Justice 2014:109-110). According to the law, the Armed Forces and Bolivian Police have jurisdiction over controlling migratory flows and addressing human trafficking. However, the report finds that the Armed Forces and Bolivian Police do not have state funding to hire personnel and purchase the equipment needed to monitor the movement of people (including, irregular emigration) in the provincial routes they are in charge of supervising (Bolivian Ministry of Justice 2014:109-111). Additionally, the Direction of Migration has not sent enough personnel to monitor international flows and has left several border crossings checkpoint without any staff (Bolivian Ministry of Justice 2014).

Furthermore, even though the Mercosur states created material to help people learn about how to migrate legally and access legal residency via the Residency Agreements at the countries of destination, Bolivia does not effectively disseminate these and potential migrants remain uninformed. Most respondents in the six countries agreed that the lack of dissemination about legal changes that promote immigrants access to legal residency is one of the reasons why people migrate without authorization. In the case of Bolivia, Romina who a director of a migrant serving NGO in La Paz explained:

Romina: In the countries of origin, in this case Bolivia, I tell you that they don't have enough information. They have this little sign at the airport that says, "You Have the Right to Migrate." ... But it's a tiny sign and that's it.

This indicates that Bolivian state is not effectively disseminating information to its citizens about how to emigrate through its legal channels. In other words, Bolivians can use Mercosur's Residency Agreements to exit the Bolivian territory and enter the territory of other signatory states legally and easily. However, the Bolivian government's limited efforts to widely disseminate information about these legal migration avenues leaves many of their citizens unaware. In sum, the government entities in charge of controlling movement within, into, and out of its territory do not have the public funds, staff, software, supervision, or training needed to complete the task. The Bolivian state's uneven registration of its people and migration controls help explain why many people emigrate through irregular channels.

(2) Indigeneity and Non-nationalized Understandings of Land and Movement

The uneven provision of state-issued identification documents disproportionately affects rural communities where indigenous people live. The limited presence of government agencies and services permits indigenous logics of lands, identity, and mobility to prevail. These indigenous logics promote irregular migration in two ways. Some people do not use border checkpoints because they actively resist the imposition of international borders on their indigenous lands and mobility practices. Other indigenous people find it easier to migrate through non-official channels because they do not have the required identification documents to pass through official border checkpoints.

The state's uneven registration of the Bolivian population in rural areas disproportionately affects marginalized indigenous people. In 2001, 46% of the indigenous population lived in rural parts of Bolivia (CEPAL 2004). In comparison, only 21% of non-indigenous population lived in rural areas (CEPAL 2004). Furthermore, a higher proportion of indigenous Bolivians lack identification cards. Specifically, in 2012, 20% of the Bolivian population (10,059,856) reported not having a state issued identification card, or what is called a "Carnet o Célula de Identidad."^{xix} Among these 2.1 million Bolivians without identification documents 755,995 people self-identified as indigenous.^x A large proportion of Bolivians emigrants were indigenous and from rural areas. For example, in 2012 approximately 38% of the 283,134 Bolivian who emigrated were from rural areas.^{xi} This figure undercounts most of the irregular emigration that goes undetected by state agencies (Bolivian Ministry of Justice 2014).

Many indigenous people migrate through unofficial channels to resist the imposition of international borders. Many of these indigenous communities, particularly those in rural areas, demarcate land in ways that do not coincide with the territorial divisions within and between nation-states. As such, indigenous people who retain non-nationalized notions of land resist the legal logics of the nation-state and its territorial divisions. Romina explained:

Romina: One has to understand that ... the population in Bolivia is an indigenous population. ... They talk about the Abya yala [instead of America]. The Abya yala is a community of indigenous peoples. So to tell you our basic problems are ... our country is divided into departments, provinces, and municipalities. But suddenly indigenous people tell you, “Ah no! ... What happens is that your territorial divisions are affecting us because it turns out that our peoples are divided in two by that municipality. ... Our peoples are in two municipalities, they are not one, even though we are one [indigenous] community.” So borders fall under that same logic, there are none.

The imposition of territorial demarcations during settler colonialism, state building processes after the independence wars, and currently by the international nation-state system erases indigenous knowledge of land and separates their communities. Thus, various indigenous ethnic groups in Bolivia resist this imposition and prioritize notions and demarcations of land that existed before settler colonialism and that coincide with the land where their indigenous peoples reside. For instance, Abya yala is a pre-colonial name that the Kuna indigenous population in Panama used to describe the Americas and it means land of life and vitality (Quillaguaman and Salazar 2015). When the Aymaran leader Fakir Mamani learned of Abua yala he started promoting its usage over “America” to replace the name imposed on indigenous peoples by colonizers (Quillaguaman and Salazar 2015). Abya yala caught on because it fits with the non-nationalized conceptualization of land among some indigenous peoples of Bolivia. The usage of Abua yala instead of America is one of the many ways that international and subnational territorial divisions created by the nation-states do not fit with indigenous understandings and divisions of land by indigenous community.

Indigenous populations with conceptualizations of land and movement that differ from Western legal systems also engage in irregular border crossings to resist “arbitrary” imposition of

nation-state borders and nationality. A Paraguayan government official with extensive knowledge of indigenous immigrants in South America was tasked with figuring out how to protect migrants' labor rights within South American countries. She explained that some indigenous peoples moved between Bolivia and Paraguay (as well as other Mercosur countries) without passing through official border checkpoints because they resisted the imposition of nation-state borders:

Monica: Indigenous Bolivians cross over [to Paraguay] because they have relatives of the same ethnicity. ... For them it's something as simple as, "I am going to my niece's wedding." So the border between Bolivia [and Paraguay] is just a dry land with some markers. There is no need to migrate, to do any migratory procedures [at the border check points], or to use documents. ... If you ask an indigenous person what nationality they are they will say, "I am indigenous," "I am Ate," "I am Nivaclé," [or] "I am Ayoreo." [Even] if you ask, "Are you Paraguayan or Argentine? What does your identification card say?" [They respond,] "I am Nivaclé." ... They were here before the creation and spread of state borders, it's something of a resistance and protest to say, "I am indigenous, that is my reality, nobody is going to impose their limits." And they are completely right.

Indigenous populations resist crossing through border checkpoints that divide their indigenous communities. For some indigenous populations, the nation-states that we widely recognized as delimited units such as Argentina and Paraguay are arbitrary impositions that divide their indigenous communities and lands. Indigenous populations sense of belonging and identity is deeply embedded in distinct indigenous populations and they resist the imposition of national identities tied to territories (i.e., Paraguayan or Bolivian). These non-nationalized conceptualizations of land, identity, and community coupled with the state's low infrastructural power explain why indigenous

immigrants migrate through unofficial channels and without identification documents even when they might be knowledgeable of nation-state documents and borders.

Other indigenous people cross international borders through unofficial channels to avoid the hassle of acquiring the identification documents or interacting with border control officials. For these indigenous migrants the irregular border crossings are less of an act of resistance and more of *taken-for-granted way of doing things* that is not nationalized. Paulo leads an organization that services Bolivians before and after they migrate in Argentina and explained how non-nationalized notions of movement and inaccessibility of state-issued identification documents among rural indigenous peoples has normalize irregular emigration practices:

Paulo: For example, if you go to Oruro's Pisiga-Colchane border checkpoint between Chile and Bolivia ... the control is there ... That is the official border checkpoint where they ask you for your identification card. If you walk 100 meters, there is a small wire fence. So what do the locals do, they go underneath that fence. ... [I] have asked them, "Why?" If you talk with the local people, they tell you "They ask me for my documents, I don't have documents. Why am I going to cross there [at the border checkpoint]?" They are moving; this is an emigration. ... People tell you, "That land is mine, that place is mine, I come and go as I want. If you ask me for documented I am not going to give them to you. I can cross 100 meters away from here on my own."

Many respondents who work directly with Bolivian emigrants agreed with Paulo's assessment.

Interviewees explained that many rural Bolivian emigrants do not see the point of acquiring identification documents such as passports or registering their entrance and getting a visa to enter at a border checkpoint. Under this non-nationalized logic, the land belongs to their indigenous peoples

and it is part of their common practices to move freely. Thus, many indigenous migrants avoid the extra hassle of acquiring passports and identification documents to migrate through official border check points, where they are asked to prove the validity of their Bolivian national identity.

Other interviewees agreed that the limited presence of government agencies and indigenous non-nationalized logics together normalize irregular international migration. A director of regional immigration rights religious organization explained:

Mauricio: The Bolivians who emigrated, but used to live in ... the interior of Oruro [or] in the interior of Potosí, those are indigenous cultures who do not have ... [state-issued identity] documents. Then of course, they emigrate completely undocumented. ... They do not have the culture [or practice] of having identification documents.

Bolivians who live in the Altiplano and other rural areas tend to live without state-issued identification documents. Those who live in the Altiplano tend to migrate clandestinely to Argentina, Chile, and Peru. Those who live in rural parts of the Amazonian jungle or the tropical lowlands of Santa Cruz migrate through unofficial channels to Brazil and Paraguay. These indigenous Bolivians tend to migrate without documents and without crossing official border checkpoints because it is normalized and more convenient. In sum, indigenous populations that reside in geographic locations that are hard-to-reach have normalized non-nationalized free movement practices that are not aligned with the Western notion of international border control.

(3) Toxic Ties and “Paveros” Sell Irregular Emigration to Indigenous People

Finally, an informal smuggling industry profits from the irregular emigration of indigenous Bolivians. According to interview data, government reports, and NGO studies, indigenous people in

Bolivia emigrate through unofficial channels because “paveros” recruit them with promises of high paying jobs. These paveros charge people to migrate through non-official channels because the migrants are unwilling to or unaware they could migrate for free through official channels.

According to a national study by the Bolivian Ministry of Justice’s report on irregular migration they found that the paveros perpetuate irregularity because:

There are people dedicated to facilitating illegal migration. ... They identify their potential client. They offer the possibility of moving them securely to Argentina for just 50 to 100 bolivianos. ... Once they have successfully enter Argentina’s territory, the paveros only return identification documents at a new price, one that is much higher, between \$100 and \$200 dollars. They threaten them [the migrants] of turning them to the Argentine immigration officials if they do not pay (page 61).

The paveros recruit poor and misinformed migrants and offer to help them migrate safely through irregular channels. The paveros even help migrants get identification documents, which could have facilitated legal migration, but then use these identification documents as leverage to increase profits for the irregular migration service.

The paveros also take migrants’ identification document and force them into exploitative labor conditions (FOPEA 2016; AMURA 2014; Bolivian Ministry of Justice 2014). A study by a migrant serving NGO in Buenos Aires on 1000 South American women (250 were from Bolivia) found that:

The women are brought to Argentina with the lie that they will have better labor market opportunities. Contrary to what they were promised, these women are isolated from their

families, their documents are taken away, and they don't let them get their identification documents. One of the most worrisome findings is that the women who suffer this skullduggery know the people who recruited them with work opportunities (AMURA 2014:65).

AMURA's study shows that many paveros recruit from their own social networks of relatives, friends, and acquaintances and use the trust embedded in the relationship for profit. Many other interviewees had seen similar process unfold in their countries (IOM 2011). Most agreed that Bolivians are often recruited and brought into irregularity by these toxic relatives and friends who profit from their irregular migration and subsequent exploitation.

The Migrant Receiving States

—Insert Table 6—

At the country of destination, indigenous immigrants of low socioeconomic status who migrate through irregular channels tend to remain undocumented. This is particularly impactful for indigenous people who migrate to an urban center of another country such as Buenos Aires in Argentina, Santiago in Chile, Montevideo in Uruguay, or São Paulo in Brazil. At these urban centers, immigrants are not simply crossing an international border to meet neighboring relatives and friends from the same indigenous community. Instead, they have to navigate daily life transactions, transportation, employment, healthcare access, the educational system for their children, and other aspects of life that may require identification documents and proof of legal residency in the new nation-state. Yet, many indigenous immigrants from Bolivia remain undocumented even though the Residency Agreements are implemented to different degrees in the receiving countries. As seen in Table 6, Argentina and Uruguay have completely reformed their immigration laws, internalized all

aspects of the Residency Agreements, and made migration a human right. This means that the Mercosur nationals who reside in Argentina and Uruguay are able to access the full benefits of the Residency Agreements if they apply. In contrast, Chile implemented the Residency Agreements via an administrative procedure called the Visa Mercosur. This visa operates within the restrictive immigration decree law that was enacted during the Augusto Pinochet dictatorship (1973-1990). Only nationals from Argentina, Bolivia, Brazil, Paraguay, and Uruguay can access Chile's Visa Mercosur. This leaves out nationals from Venezuela that never signed on the Residency Agreements and nationals from Ecuador, Colombia, and Peru who that ratified them after 2010. Brazil also had a restrictive immigration law until this was reformed at the end of 2017. The Mercosur legal residency category operated within the broader restrictions of the Brazilian immigration law N° 6.815 (1980). The impact of this reform (Law N° 13.455 of 2017) is very recent and not captured by this study. In the case of Paraguay, they have internalized the Residency Agreements through a new category for legal residency, but the Law N° 978 (1996) has many of the restrictive elements of the immigration law 470 (1974) that was enacted during the Alfredo Stroessner dictatorship (1954-1989). In sum, Bolivian nationals are able to access legal residency via the Residency Agreements in the main countries of destination even though some countries have more welcoming legal frameworks (e.g., Argentina, Uruguay) than others (e.g., Chile and Brazil).

Three separate but interconnected processes explain persisting irregularity. First, the receiving states do not allocate sufficient resources to help legalize the most marginalized undocumented immigrants. Second, the Residency Agreements are implemented in a manner that creates additional hurdles for immigrants seeking to adjust their migratory status. Both of these processes exacerbate the migrants' reluctance to interact with government officials and agencies at the destination country. Third, exploitative employers who benefit from an undocumented work force try to keep migrants undocumented by misinforming them about their ability to access legal residency or by

making it difficult for migrants to file their adjustment of status applications. In this manner, even though the destination countries have laws that expand their access to legal residency, the vulnerability of indigenous Bolivians becomes reproduced in the country of destination through the mechanisms that foster irregularity. Each of these processes will be discussed more in-depth in this section.

(4) States' Insufficient Resources to Reach and Legalize Undocumented Immigrants

Interviews with government officials in charge of implementing immigration laws and staff at non-governmental organizations (NGO), consulates, and labor unions who work with migrants in Argentina, Chile, Brazil, and Uruguay agreed that the governments at these countries of destination are also responsible for perpetuating irregularity. This is mainly because the government offices in charge of implementing the national level policies and laws that adapt the Residency Agreements do not allocate sufficient resources to informing immigrants about legal changes that facilitate their access to legal residency. Consequently, the most marginalized immigrants, particularly those who are indigenous, remain undocumented and uninformed. Thus, indigenous immigrants who were disconnected from the Bolivian government goods and services tend to remain detached from the goods and services of the state in the country of destination.

For example, during my interview with Noelia who is an immigrant and runs a migrant serving NGO in Buenos Aires, explained that their study with 1000 undocumented women (that included 250 Bolivians) found that 87% of the respondents remained undocumented because they did not know about the immigration law (N. 25871 of 2004), which implements the Residency Agreements and provided these women a path to legalization (AMUMRA 2014). To address this problem her teams runs campaigns and programs to build legal awareness among undocumented women, who tend to be indigenous. She explained:

Noelia: We have four centers that service migrant women in the low-income neighborhoods. ... We go and do a lot of awareness raising work in the neighborhoods. We spread the word, do a lot of word-of-mouth, and use the community radios as well.

Noelia and her staff are trying to create a bridge between the Argentinean immigration laws, the National Migration Direction, and undocumented immigrants by helping the women learn about their ability to access to legal residency and other rights. Oftentimes, they help the women fill out their applications and accompany them to the National Migration Direction to finalize their paperwork. Thus, even in Argentina where the Residency Agreements have been fully internalized into the legal framework, immigrants remain undocumented because they are not fully informed about the rights they are entitled to by law. In other words, the government agencies with jurisdiction over the implementation of immigration policies run legalization programs that do not reach the entire undocumented immigrant population. NGOs, labor unions, and consulates attempt to fill this gap and help immigrants figure out how to adjust their immigration status. However, many of these organizations cannot reach all undocumented immigrants in Argentina because they do not have offices in all the provinces and have limited resources.

This disconnection between the government agencies of the receiving country and indigenous immigrants from low socioeconomic backgrounds was common in the other Mercosur states. Respondents in Chile, Brazil, and Uruguay agreed that it was difficult to reach the most marginalized immigrants and inform them of their rights. Two interviewees in particular explained:

Emelia: There are several nongovernmental organizations, but I do not think they are sufficiently visible. I would include my organization in this critique. They are there. For example, Diego Portales University has a clinic dedicated exclusively to providing

immigrants free legal services, [and] then there are several other organizations that also provide free services. However, immigrants learn about this social network when they are organized, after they joined the organization, not necessarily before (NGO director in Chile).
Diego: Immigrants have rights. The problem is that they do not know it. We work on explaining that they can work, that they can get documents. But it is not easy. (Labor Union director in Brazil)

Both Emilia and Diego explained that the most marginalized immigrants, particularly those who are indigenous, are not always connected to networks of NGOs and services that seek to help them learn about their rights and facilitate their legal residency application process. However, civil society organizations generally lack the resources and capacity needed to disseminate information about paths to legal residency across the entire country or immigrant populations.

It is important to specify that some pro-immigrant governments have supported initiatives to legalize immigrants because it serves their larger political platform and pleases their base. As indicated in Chapter 2 and 3, left-wing governing coalitions in Argentina and Brazil supported liberal immigration policies to build support among their base—a coalition of pro-immigrant labor unions leaders, experts, and NGOs. However, the allocation of public funds to legalization efforts are discretionary and when new governing coalitions take office, they can choose to allocate the resources differently for political reasons or because they have other priorities. For example, the left-wing governing coalitions of Argentine President Nester Kirchner (2003-2007) and President Cristina Kirchner (2007-2015) helped advance the implementation of the Residency Agreements through three processes. First, their coalition supported an immigration reform (Law N° 25.871 of 2004) that included the articles of the Residency Agreements, thus, ensuring that these agreements were fully implemented and protected by law. Then, President Cristina Kirchner's governing

coalitions funded a program “Abordaje Territorial,” which sent vans with officials from the National Direction of Migration to provinces, impoverished immigrant communities, and rural areas where there were not any migration offices where migrants could apply for legal residency. These vans were equipped with all the technology needed to legalize all qualifying Mercosur nationals. The staff of the migration direction in charge of implementing these legalization caravans partnered with migrant serving NGOs and migrant associations to inform people that the vans were coming. These partnerships sought to build trust among community leaders, who evaluated the caravan’s program before recommending it to other marginalized immigrants. However, these programs were defunded and discontinued as soon as the right-wing governing coalition of President Mauricio Macri (2015-present) took office. This is part of President Macri’s larger agenda to restrict immigration. For instance, according to interviews and institutional documents, President Macri started defunding legal clinics that helped immigrants access the justice system and restricting immigrants rights through presidential decrees (Gil 2019). These findings indicate that the state-led initiatives and efforts to legalize of marginalized undocumented immigrants do not adequately address the problem and even the best intentions are ephemeral.

(5) The Implementation of Immigration Policies Impose Hurdles that Breed Irregularity

Finally, the way governments implement the Residency Agreements is another source of irregularity because it imposes cumbersome hurdles on migrant applicants. When immigrants encounter these extra barriers to accessing legal residency they become distrustful and fearful of government agencies and officials. The Residency Agreements in Brazil, Chile, and Paraguay are implemented under restrictive laws; thus, immigrants have to show proof of economic solvency for themselves and family members (IOM 2018). For example, in Paraguay immigrants have to show a bank statement with about US\$4,200 (IOM 2018: 48-49). This requirement can deter and make

legalization almost impossible for low-income indigenous immigrants working in the informal sector. In contrast, the immigration laws in Argentina and Uruguay do not have these requirements.

However, Argentina still imposes other hurdles on immigrants during their application process. In 2014 Argentina's National Migration Direction started implementing the "Falso Turista"^{xii} (or Fake Tourist), which requires that immigrants show proof that they crossed an official border checkpoint and that they specified that they are seeking to apply for legal residency in order to successfully adjust their status. This means that state officials reject the adjustment of status applications of immigrants who immigrated through unofficial channels like many indigenous Bolivians and who entered as tourists. The Bolivian vice-consul to Buenos Aires, Argentina worked on agrarian reform movements before Bolivian President Evo Morales appointed him as vice consul. He has work extensively with indigenous people in Bolivia and continued the work in Argentina. He started a weekend program to educate marginalized and indigenous Bolivian immigrants in Buenos Aires about their access to legal residency and labor rights. Whenever he encounters somebody who entered through irregular channels and does not know how to adjust their immigration status, he explains:

Victor: We tell them, "If you don't have papers you are condemning yourself to being exploited here, they are not going to pay you what you deserve, and if you want to have rights like a citizen here you are going to have to exit from Bolivia again. You have to come back and register yourself with the Bolivian immigration when you leave and then register yourself with the Argentinean immigration when you enter. By doing that you will be entering legally. Argentina will receive you like a Bolivian citizen who is immigrating. If you entered through a river, you have not entered through the legal channels. You are not legally residing in Argentina. You are physically here, but legally you are not here. Argentina is never going to

look at you, you are a ghost.” ... They need to buy a ticket to the border with Bolivia. ... Once they get to the border. ... [They say] “I don’t want to pay any immigration fines when I exit,” [and I tell them,] “If you have not entered through the legal channels tell them [the Argentine officials at the border checkpoints] that you do not have the card with the immigration proof of entry to Argentina. That you have been here more than three months and overstayed and want to leave the country and want to pay [the fine]. Then you pay.” If you don’t do this, they might detain you and deport you and tell you that you to never return [to Argentina].

The consul and other staff at the Bolivian consulate in Argentina tries to help indigenous Bolivians who are undocumented get legal status by first resolving issues associated with their irregular border crossings. For many of these migrants, adjusting their legal status entails a complicated procedure. The staff at the counsel recommends undocumented Bolivians to return to the nearest Bolivia-Argentina border checkpoint and to declare that they want to pay the fine for losing their proof of entry documents and for overstaying the three-month tourist visa. Immigrants who are not careful can be detained and deported and barred from re-entering the country. Thus, if immigrants do not carefully redo the immigration process through legal channels they risk losing their right to legal residency. The fees and trips required to redo the process entails a very high cost for indigenous immigrants who work in low income informal sectors and struggle to take time off from work to do their paperwork in the first place. Some migrants simply do not have the resources to travel and, thus, choose to remain undocumented despite having a path to legalization.

Furthermore, interviewees in Chile, Brazil, and Argentina explained that indigenous immigrants often remain undocumented because they fear interacting with state agencies. This is particularly salient in Brazil, where migrants must process their adjustment of status applications at

the federal police. During our interviews, Sister Maria who has assisted immigrants through her work in the government and with NGOs in Brazil explained why this was so problematic for older migrants:

Sister Maria: One of the problems we have had for a long time here in Brazil is that some undocumented immigrants were here during the dictatorship. ... [For them] having to go to the Federal police to file their documents is torture. So they prefer to stay without papers. They prefer to not go, especially those who are older, over 50 years old [they say,] “Sister, why don’t you come with me, I don’t want to go alone?” [I tell them,] “No, fill this and this and everything will be ok.” Then, I am relieved that everything went well because some were beaten [during the dictatorship] ... so they have that fear [of government offices and officials].

Sister Maria refers to older indigenous Bolivians who migrated in the 1970s and 1980s and were exposed to the state brutality of the dictatorship. These older undocumented Bolivians remained undocumented for decades because they feared getting deported or hurt when they filed their applications with officials of the federal police who administer adjustment of status applications. Thus, a longstanding fear of the state apparatus served as strong disincentive to accessing legal status. Sister Maria often has to accompany these older immigrants through the entire application process to help them cope with their fears.

Younger Bolivian immigrants in Brazil also fear interacting with the federal policies more broadly because they fear the police in general. Brazilian labor union leaders explained that they have struggled helping undocumented immigrants exit exploitative work conditions and accessing legal residency, which would award them the authorization to work. They explained:

Mariana: In Brazil we have the problem that the Federal police has jurisdiction over immigration. This is absurd. Brazil should do this like in other countries, such as Argentina, where they have a government agency in charge of handling only migratory issues, not the federal police. This is a problem because the immigrants are afraid of getting deported.

During our interview, Mariana explained that immigrants saw the police as an entity that mainly serves to enforce the law through punishments, and for indigenous immigrants this meant deportation. Thus, more marginalized immigrants feared that if they committed any error during their application process they would suffer severe consequences. With these possible scenarios and fear in mind, many indigenous immigrants choose to remain undocumented.

Even though Mariana assumed that immigrants would be less fearful of government entities that focused exclusively on migratory issues, this was not necessarily the case. Indigenous immigrants from Bolivia who reside in Chile, Argentina, and Uruguay also fear interacting with government agencies. For example, when the National Migration Direction of Argentina implemented the *Abordaje Territorial* program, which sought to legalize the most marginalized immigrants, the government officials formed partnerships with local immigrant community leaders to address a common fear among marginalized immigrants that government officials could detain, punish, or deport them. In other words, government officials seeking to legalize undocumented Bolivians had to first win the trust of community leaders before entering the neighborhoods and contacting migrants. This also happens in Chile. A government official at the Ministry of Labor in Chile had build a network with NGOs, labor union leaders, and the International Organization of Labor to address migrants' fear the government:

Miguel: Immigrants are afraid of the state and state institutions and it is hard to convince them that our goal is to legalize them and not deport them. ... That is where we have to do our work. ... We want to show these workers that the state wants to legalize them more than deport them. ... They assume that they come here [to the Labor department] and that they will end up deported. ... Our conviction is that they are workers like any other worker.

Miguel started a program at the Ministry of Labor to help exploited migrants prosecute exploitative employers. Thus, he does not necessarily help immigrants apply for legal residency. But, through his work with workers, he has come to realize that marginalized immigrants, such as indigenous Bolivians, feel intimidated and distrustful of state authorities. Migrants also fear that the agencies of the Ministry of Labor could get them deported if they file a claim against an exploitative employer. For many migrants, their fear and distrust of government agencies and officials makes it feel safer to remain in irregularity and working in exploitative conditions of the informal labor market.

Given the prevalence of fear and distrust among indigenous undocumented immigrants, government officials who interact with them play a critical role in the legalization process. When the staff at government offices with jurisdiction over implementing national immigration laws welcome immigrants, explain procedures, and help them file their applications the process can be pleasant for migrants. However, most interviewees explained that street level bureaucrats who are inadequately trained or prejudiced towards indigenous peoples tend to misinform and discriminate them. Maltreatment and misinformation tends to prevent immigrants from successfully adjusting their immigration status. Victor, the Bolivian consul to Buenos Aires, Argentina explained:

Victor: The laws are the same for all of them, but the bureaucrat is something different because some tell them, “Bolivians, why don’t you return to your country? Why do you come here?”

The staff members at the Bolivian Consulate in Buenos Aires regularly see cases of immigrants who have tried to legalize their status and were turned away because they were indigenous and Bolivian. The street-level bureaucrats who attend immigrants when they file their adjustment of status applications deliberately turn them away. Instead of processing applications with a lens that takes immigrants’ substantive right to legal status seriously these officials approach their work through a racial and nativist lens. The indigenous Bolivians are not welcomed in Argentina and are treated as inferior.

In other instances, the government officials in charge of working directly with migrants are not properly trained and supervised to prevent racial discrimination against indigenous immigrants. This was particularly salient in Brazil where the migration officials that supported the construction of the Residency Agreements attempted to fast-track legalization processes by subcontracting personnel from agencies instead of the federal police force, which has a prestigious training program. The intention was to reduce the labor costs of legalization immigrants. However, these subcontracted employees were not fully trained and did not treat Mercosur nationals as worthy of legalization and rights. Cristobal, the director of a migrant serving NGO in São Paulo, Brazil explained:

Cristobal: The Federal police subcontracted personnel to attend immigrants. So they are people hired to say, “Well, I need those documents, you need to bring me this and this and that.” It’s mechanical work. ... The personnel who is subcontracted thinks that in essence

they are police officers; but they are not. But they act like this because they are under this institution. So they are not prepared because, for example, in their trainings ... are really fast. [They tell applicants]“ Ah, you need to have this, if you don't have it come back another day.” And the indigenous immigrants can't ask them a question because they say, “No, I already explained it.” ... The Bolivian immigrant ... will go one time, but they will not ask a second time because they are afraid that they will be detained ... because this is an institution of the police. When you talk about police it's like [talking about] the military. (Director of migrant serving NGO in São Paulo, Brazil)

The subcontracted personnel at the migration offices in Brazil see themselves as police officers, which they are not. As such, they approach the immigration legalization application process through a lens of security and enforcement. Thus, when indigenous immigrants make errors on their applications or need help understanding requirements they are punished and sent away. Some of these subcontracted personnel also hold nativist and racist views against indigenous immigrants and intentionally impose extra hurdles to prevent them from finalizing their legal residency applications. Given that many of these indigenous immigrants were apprehensive about interacting with government agencies in the first place, these negative experiences scare or misinform them about their ability to try again.

More broadly, respondents in Argentina, Brazil, and Chile agreed that the officials at the migration departments and directions tend to treat indigenous migrants in a discriminatory and disparaging manner. When these indigenous immigrants are mistreated or misinformed they are less likely to go back to the migration departments and directors and to finish their adjustment of immigration status applications. Thus, state officials who deceive or mistreat immigrants perpetuate irregularity.

(6) Employer Exploitation in the Receiving State Perpetuates Irregularity Among Indigenous Immigrants

Finally, employers who want an exploitable and undocumented labor force create mechanisms to insulate their undocumented workers from accessing the legal residency and rights they are entitled to by the welcoming immigration laws. The receiving governments uneven implementation of the Residency Agreements coupled with the irregular immigrants' resistance to interact with state institutions leaves indigenous migrants vulnerable to these employers. Many employers who hire undocumented immigrants are invested in their irregularity because they want to have an exploitable workforce. Thus, they misinform undocumented workers about their ability to access legal residency and impose barriers that limit these migrants' ability to file their adjustment of status applications. Employer exploitation is part of a larger process that exacerbates the vulnerability and perpetuates the irregularity of indigenous immigrants who migrated through unofficial channels. In this section, I provide both an overview of the larger processes and show how these affect indigenous immigrants' ability to access legal residency.

Many employers are invested in having an irregular labor force and recruit among indigenous immigrants from Bolivia who migrate via unofficial channels. I find that indigenous people from Bolivia end up working in exploitative conditions at the countries of destinations through two processes. First, indigenous people rely on social networks to find employment at the country of destination. According to migrant serving directors and staff at NGOs and institutional reports, some relatives, friends, and acquaintances of indigenous migrants help them get employment at the same exploitative places where they work. Many of these relatives and friends work alongside the new immigrants they recruited and are exploited and undocumented themselves. Second, for other migrants, their toxic ties^{xiii} were paid by employers to recruit and entangle them in exploitative working conditions, which later prevent them from access to legal residency status (FOPEA 2016;

Bolivian Ministry of Justice 2014; AMUMRA 2014). Second, the smugglers who helped them migrate introduced them to employers and coerced them into working under exploitative conditions (Bolivian Ministry of Justice 2014). These trends were most common in Argentina, Brazil, Chile, and Uruguay where indigenous Bolivians are recruited to work in garment factories, as domestic workers, or in agriculture. For example, directors of one of the largest labor unions in Brazil explained:

Manuel: we have a serious problem with sub-human working conditions. In Brazil our salary is ... a bit more than US\$300. In Bolivia the [monthly] salary is about ... US\$30. When they come here and enter via trains, normally they come to work in garment factories, make clothes, and earn two to three times more than they would have earned in Bolivia. When they come with “agents,” who tend to also be Bolivian. A Bolivian who has been here for two years ... opens a garment factory and brings family members here. They tend to make them [the relatives] work in deplorable working conditions. They open a working space where the migrants live, sleep, and work 14 to 18 hours per day. It’s a subhuman condition.

Manuel experience with migrant workers from Bolivia indicates that toxic social ties help them migrate to Brazil via unofficial channels and keep them in informal and highly exploitative working conditions without any benefits. Manuel insights shed light into a larger phenomenon. Out of the 500,000 Bolivians who live in Brazil in 2014, between 50,000 to 100,000 live in “slavelike conditions, particularly in textile factories” (Bolivian Ministry of Justice 2014: 83). This indicates that employers recruit from within their social networks and deliberately promote the irregularity of their workers in order to exploit them in subhuman conditions.

This connection between irregular migration of indigenous people and exploitive working conditions was also prevalent in Argentina, Chile and Uruguay. In the case of Argentina, many indigenous immigrants from Bolivia work in agriculture in wineries of Mendoza^{xiv}. Florencia, the director of a migrant serving NGO in Argentina, explained:

Florencia: In the rural areas [of Argentina] has an important sector of immigrant agricultural labour. Since there is an immigration law that is supposed to empower immigrants, it is not in their benefit [the employer's] that the immigrants know about it. From the perspective of employers, the more vulnerable the immigrants the better.

Employers want their employees to think that they have to remain with an irregular immigration status because workers with legal status and labor rights can leave to work in the formal sector or would simply not put up with the deprivation of these working conditions. To enhance their profits and keep labor cost low, employers have to insulate their undocumented workers from the welcoming legal context that gives them access to legal residency status and labor rights among others benefits.

Interviewees confirmed that employers in Argentina, Chile, Brazil, and Uruguay misinform migrant workers about their ability to access legal residency and labor rights to keep them in irregularity and without protection of inclusive immigration policies. On the one hand, employers directly misinform employees and falsely tell them that they are deportable to deter them from interacting with government authorities and accessing legal status. For instance, Emilia, a director of a migrant serving NGO in Chile, explained, "They [the employers] threaten to report them [the immigrants] to immigration authorities." Employers use the threat of deportation to ignite fear of the state. If immigrants are afraid of interacting with immigration authorities because they are afraid

of deportation they are less likely to seek reliable information about their access to legal residency and rights from these agencies. Thus, employers use false threats of deportation and fear to control undocumented workers. In this manner, they maintain an exploitable workforce even in a welcoming legal immigration context.

On the other hand, employers also isolate irregular migrant workers from citizen and legal resident workers and organizations that could help them learn about how to access legal residency status and rights. For example, in Chile nationals from Bolivia, Argentina, Uruguay, Paraguay, and Brazil are able to get legal residency through the Visa Mercosur without the need to have a work contract^{xv}. These Mercosur nationals with a clean criminal record qualify for two years of temporary residency that can then be transformed into permanent legal residency status. However, many qualifying immigrants are not aware of this path to legal residency. Two leaders of Chile's largest labor union are in charge of working with immigrants and informing them about their labor rights. Through their work they have been exposed to a wide range of working conditions. During our interview Isabel explained:

Isabel: We find two types of migrant workers. Some have formal employment with the businesses [and] they are part of the labor union. And others are in smaller businesses without papers working shifts that the others do not work and for less income. The employers instill fear [by telling their employees,] "If they find you working they will deport you."... Employers treat workers differently, they differentiate between them [the immigrants without papers and those who have authorization to work because they are citizens or legal residents]. They tell you [the workers with legal residency], "Careful, those are the bad ones, you are the good ones." They use these strategies to make sure irregular migrant workers are not included in the labor union when they get their papers. ... [But] the

workers become friends. They see each other in the morning and ... they start saying “Hi, Hello,” and start talking. That is when they start to identify the employer’s abusive tactics.

Employers in Chile misinform undocumented immigrants from Bolivia (and other Mercosur states) about the possibility of a deportation mainly because these workers have access to legal residency via the Visa Mercosur. As Isabel illustrates, employers can actively promote the irregularity of migrant workers by isolating them from labor union representatives and other workers with rights and legal residency. By isolating undocumented workers, the employers make sure that these employees have no way to verify their misinformation and threats of deportation. In this manner, employers are able to make undocumented employees work under more precarious and dangerous conditions—such as construction during the night shift—and for less compensation than the documented workers. Furthermore, employers know that when undocumented and documented migrant employees begin to interact and share information, they can quickly detect the employers’ lies and exploitative tactics. Thus, employers use misinformation and isolation to exploit and control undocumented indigenous Bolivians who would legally have access to the right to reside, benefits such as employer-paid health insurance, higher compensation, and safe working conditions. The Chilean case helps highlight mechanisms that according to interview data and institutional archives are common in the other South American receiving countries.

Finally, employers deliberately impose barriers that limit the autonomy of workers to prevent them from learning about legalization options or going to the state agencies to process their applications. For example, in Uruguay indigenous women from Bolivia often work as domestic workers and without legal residency status. Employers impose barriers and hurdles that prevent them from accessing legal residency under the Uruguayan immigration Law N° 19.254 (2014), which is the most welcoming and liberal immigration law in the region (Acosta 2018). A leader at one of

Uruguay's largest labor unions in charge of working with migrant women explained why Bolivian domestic workers live without legal residency.

Jorge: Carrasco [, Uruguay] is a neighborhood with people who have the highest buying power. A lot of Bolivian and Peruvian women work there. They [the employers] take their passports, they [the migrant women] work all day long, and they do not get paid according to the hours they work and they don't get social security benefits. ... They don't know. They are in a dependent situation and very isolated. ... At the labour unions, we are working with domestic workers to help them place complaints against their employers and to conduct inspections and bring them into the labour union.

Throughout her work with migrant domestic workers Jorge has noticed that employers create barriers to deliberately prevent migrants from accessing legal status. Even among indigenous Bolivian women who have a passport are not immune from these tactics. Employers take away whatever identification documents their migrant domestic workers may have brought in order to make it more difficult for them to apply for legal residency. Emilia, a director of a migrant serving NGO in Chile has detected similar patterns. During our interview she explained:

Emilia: We have bad experiences in the sense that they [indigenous immigrants who are domestic workers] do not have formal contracts... and they work 24/7. They are practically slaves at the house. They do not have rest and they have to always be available.

When employers force immigrants to be on call to work all the time, these migrants become confined to the workplace. These demanding working conditions create barriers to legalization in

two ways. On the one hand, employers prevent employees from having the leisure time needed to expand their social network, acquire reliable information about their rights, or complete their legal residency applications. Over time, many of these indigenous and marginalized workers remain either unaware of their rights or unable to claim legal residency. The migrants' irregularly perpetuates their exploitation because legal residency status would allow them to gain authorization to work and work in formal working conditions with benefits.

Even if the immigrants eventually learn about the legal paths to residency and work authorization, some employers confiscate whatever identification documentation the migrants carry (e.g., birth certificates) and can use to prove their national origin. In this manner, employers prevent immigrants from accessing legal residency because national origin is the main requirement of the Residency Agreements. In other words, undocumented immigrants from Bolivia who cannot prove that they are nationals of Mercosur signatory states cannot adjust their migratory status through the national level procedures that implement the Residency Agreements.

This is a common practice in many other parts of the world. For example, employers isolate, overwork, and control domestic workers in many countries to prevent them from leaving exploitative working conditions (e.g., Parrenas and Silvey 2016; Rosales 2013; Parrenas 2011; Cranford 2005). However, it is important to note that within the Mercosur countries there is a larger welcoming immigration context that is seeking to facilitate legalization and immigrants rights. Thus, the employers in these South American countries have to work tenaciously to misinform, isolate, and create barriers that prevent their undocumented indigenous workers from accessing the protections and benefits they are entitled to by law. Through these tactics, exploitative employers carefully promote their employees irregularity.

DISCUSSION AND CONCLUSION

--Insert Figure 9--

As seen in Figure 9, the sending state's low infrastructural power to administer identification documents and to control movement out of its territory create a context that fosters irregular emigration. The Bolivian society is impacted by this uneven presence of the state. Indigenous peoples with limited interaction with government organizations cultivate non-nationalized practices of identity, movement, and land divisions. Some of these indigenous people actively resist crossing through border check points as an opposition to the state logics and others do not have the necessary documents and find it more convenient to cross via non-official channels. Some even go as far as to pay smugglers to help them cross through unofficial channels and remain unaware of the welcoming immigration policies at the receiving states. At the countries of destination, even a welcoming governmental context of reception can be a source of irregularity. This happens when governments, intentionally or unintentionally, do not allocate sufficient resources to implement immigration laws or to inform immigrants about their right to access legal residency. The governments at the country of destination also foster irregularity when they impose excessive hurdles during the administration of adjustment of status applications. Exploitative employers take advantage of these barriers to legalization and further promote the irregularity of their workers through misinformation, threats, and long-work hours in order to maintain their cheap labor supply.

These findings show that existing conceptualizations of the governmental context of reception do not capture how state implementation of identification and immigration legal systems affect migrants' legal status acquisition. Previous scholars build on the assumption that if the immigration laws of the country of destination have visa categories that provide immigrants paths to legalization, these migrants will take advantage of this opportunity and become legal residents (Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Rumbaut 2001; Portes and Rumbaut 1990;

Portes and Zhou 1993). However, qualifying immigrants can struggle to adjust their immigration status even in countries where the immigration laws facilitate their access to legal residency. This is mainly because formal laws are not the only aspect of governmental context that impacts legal status acquisition.

This article stresses that infrastructural power of the sending state impacts immigrants' legal status acquisition in the receiving state. This study identifies two general ways that state low infrastructural power is a source of irregularity. First, when the migrant sending state does not allocate the public funds, government offices, and roads needed to administer identification documents and monopolize the legitimate means of movement, it makes marginalized members of their population vulnerable to irregularity. Second, the resources and strategies the governments at the migrant receiving states use to implement the formal immigration laws can also foster irregularity. The two are connected because marginalized and indigenous people who migrate through irregular channels then struggle to take advantage of the rights, benefits, and protections they are entitled to in the country of destination.

This study also bridges the international migration and state capacity literatures. Previous scholars have shown that states with low infrastructural power allow non-nationalized practices to develop over time (Loveman 2005; vom Hau 2008). Some societies can actively resist the intervention of states with low capacity (Scott 2009). This study adds that the limited presence of the migrant sending Bolivian state indirectly promotes the irregular emigration of indigenous people in their population. Furthermore, modern states are assumed to have the infrastructural power to administer identity registration systems and to control movement (Torpey 2018; Torpey 1998). However, low- and middle-income states intentionally or unintentionally fail to register their population or monitor movement across its international borders. Social processes fill the void of the state and provide alternative identity, land division, and movement practices that further foster

irregularity. The absence of the state in the sending and receiving countries makes migrants vulnerable to exploitative irregular emigration enterprises and employers who profit from keeping them away from legal rights and in the vulnerability condition of irregularity.

Finally, this study also advances our understanding of indigenous immigration. This study contributes to the indigeneity and irregularity literature (see Asad Asad 2018; Mardones 2015) by identifying the processes and factors that reproduce the inequality of the country of origin at the country of destination. More broadly, these findings indicate that immigration policy solutions that rely on the capacity of the sending and receiving states to register, provide identification documentation, and legalize their populations indirectly impose extra barriers to the legalization of indigenous immigrants.

Future research can develop on these findings in two ways. First, this research relies mainly on the expertise and experience of government officials in charge of administering immigration policies and NGO service providers. While these interviewees shared candid accounts of how the migrant sending and receiving states perpetuate irregularity, it is possible that things might be much more difficult for migrants or that over time migrants have used social networks to circumvent these barriers. It is also possible that some indigenous immigrants' experience legal residency status as a form of state violence that infringes on their way of living life. Thus, scholars are encouraged to explore these dynamics from the perspective of the immigrants. Second, this article draws on qualitative interviews and comparative historical methodologies. While I identify key processes and factors that are sources of irregularity, future research can use quantitative methods to determine which factors are most likely to prevent immigrants from acquiring legal immigration status.

Finally, the results of this research have several implications for inclusive immigration governance. Considering that the South American governments have already created the Mercosur Residency Agreements, one of the most inclusive immigration systems, the implementation of this

set of regional treaties could reduce irregularity in several ways. Governments in migrant sending countries who want to help their emigrant population access legal status can disseminate information about official migration channels and legalization opportunities, provide marginalized communities identification documents, and create programs to expedite the distribution of identification documents through the consulates. Governments in the countries of destination need to eliminate extra obstacles that make it difficult for the most marginalized segments of the undocumented population to access their services. More broadly, incorporating indigenous knowledge and practices into the analysis or formulation of immigration solutions will help advocates and policymakers design better migration policies.

Table 5. Bolivian Immigrants in Argentina, Brazil, Chile and Paraguay

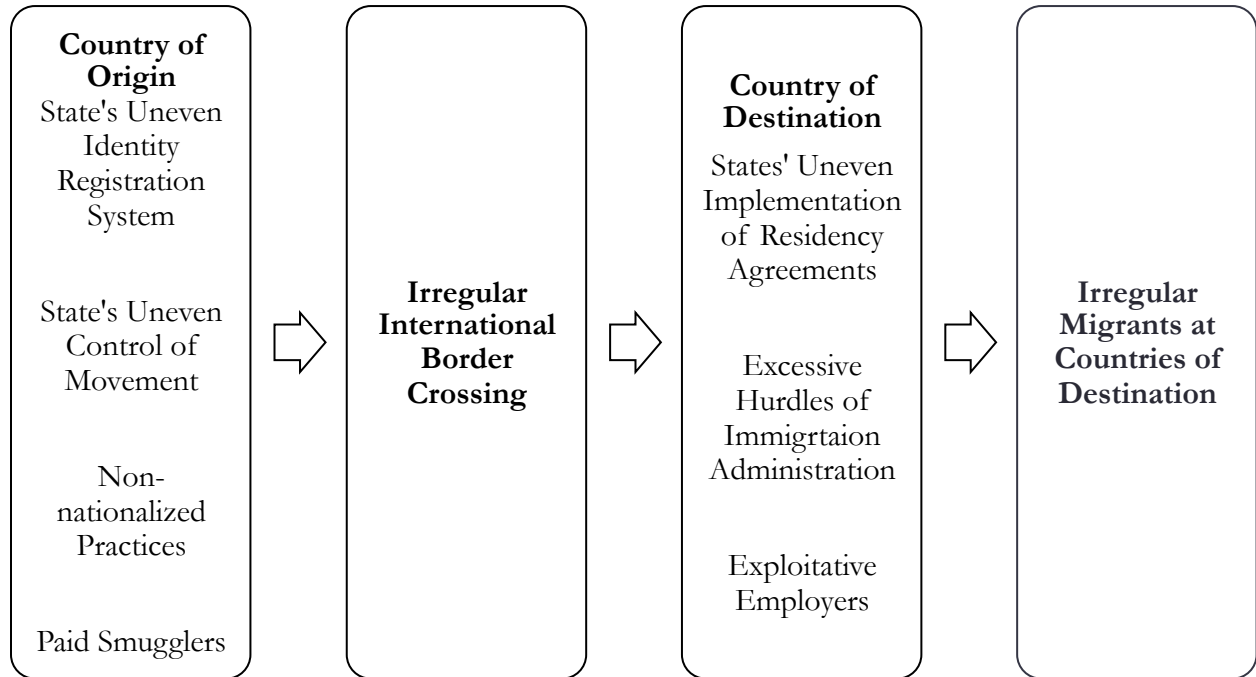
Year	Argentina	Brazil	Chile	Paraguay
1990	147,234	15,996	7,277	809
1995	186,685	18,217	8,923	976
2000	226,137	20,437	10,568	1,140
2005	294,640	29,671	19,148	1,086
2010	363,142	38,479	27,728	1,034
2015	419,048	46,336	37,554	1,009
2017	434,759	47,563	39,084	1,035

Author's analysis of UN Migrant Stock data. Data for Uruguay is not available.

Table 6. Level of Adaptation of the Residency Agreements in Argentina, Brazil, Chile, Paraguay, and Uruguay

Country	National Ratification of RAs	National Immigration Law	Complete Adaptation of RAs
Argentina	Law N° 25.903 (2004) Law N° 25.902 (2004) Presidential Decree N° 1169 (2004) Bilateral Agreements with Brazil, Uruguay, Chile, Bolivia, and Peru	Law N° 25.871 (2003)	Yes
Uruguay	Law N° 17.927 (2005) Law N° 18.250 art. 34 (2008) Law N° 19.254 (2014)	Law N° 19.254 (2014)	Yes
Brazil	Legislative Decree N° 210 (2004)	Law N° 6.815 (1980) Law N° 13.455 (2017)	Yes <ul style="list-style-type: none"> • Though, new immigration law is very recent • Law N° 6.815 (1980) was very restrictive
Chile	Visa Mercosur or Oficio Circular 26.465 (2009)	Decree Law N°1094 (1975) Law of Immigration Supreme Decree N°597 (1984)	No <ul style="list-style-type: none"> • Only for nationals of Argentina, Bolivia, Brazil, Paraguay y Uruguay • Immigration law restrictive
Paraguay	Law N° 3.565 (2008) Argentina reciprocity via Presidential Discretionary Action N° 9032 (2007)	Law N° 978 (1996) Presidential Decree N° 4483	No Immigration law restrictive

Figure 9. Sources of Irregularity Within a Welcoming Governmental Context of Reception



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ENDNOTES

ⁱ Colombia, Ecuador, and Peru ratified and internalized the Residency Agreements later.

ⁱⁱ Argentina, Brazil, Paraguay and Uruguay founded Mercosur by signing the Treaty of Asuncion in 1991 (Duina 2006; Vervaele 2005). In 1994, these countries strengthen their commitment to regional integration and signed the Protocol of Ouro Preto (1994) in order to establish the institutional structure of Mercosur (Duina 2006; Vervaele 2005).

ⁱⁱⁱ Author's analysis of UN migrant stock data. Data on Bolivian immigrants in Uruguay is not available.

^{iv} In 2011, the main countries of destination are as follows from highest to lowest number of Bolivian immigrants: Argentina, Spain, the United States, Brazil, Chile, Canada, Venezuela, Mexico, and Paraguay (IOM 2011).

^v Indigenous populations in the U.S. and Canada were given national sovereignty (Sieder and Sierra 2011).

^{vi} This is specified by the Maastricht Treaty (1993), the Treaty of Amsterdam (1999), and the Treaty of Lisbon (2009) for EU citizenship.

^{vii} These meetings include the TCSCT; the TCSCT's Migration Group; the SFM; the Sub-Working Group Number 11 (formerly N° 10) on Labor, Employment and Social Security Affairs; Working Group on Legal and Consular Affairs, and the Subgroup for Border Integration

^{viii} The Bolivian state has civil registries urban centers of following department: Oruru, Potosí, La Paz, Cochabamba, Tarija, and Santa Cruz. The Departments of Beni and Pando are in the northern Amazonian territories of Bolivia and generally rural.

^{ix} This figure is based on author's analysis of the 2012 Bolivian Census population questions on "carnet o cédula de identidad."

^x Put differently, among the 4.2 million Bolivians who identified as indigenous, 18% did not have state-issued identification documents. These figures are based on author’s analysis of the 2012 Bolivian Census population questions on indigenous self-identification and “carnet o cédula de identidad.” It is important to clarify that the number of people who others perceive as indigenous and who do not have identification documents may be much higher. Since the election of President Evo Morales, he has promoted an image of indigeneity that does not capture the various indigenous groups in the country and this in turns has disincentivize people who used to consider themselves as indigenous to stop self-identifying as such (see Postero 2016).

^{xi} This figure is based on author’s analysis of the 2012 Bolivian Census emigrant population data.

^{xii} Disposición 4362/2014

^{xiii} See Del Real (2018).

^{xiv} Interviews and IOM 2011.

^{xv} Specifically, the Sub-secretary of the Chilean Ministry of Interior passed the Visa Mercosur (or Oficio Circular 26.465 of 2009), which implements the Mercosur Residency Agreements through administrative channels.

CHAPTER 5
Conclusion

This dissertation “Documenting the Undocumented” identifies the mechanisms and factors that shaped the ratification and internalization of the Residency Agreements (2002). This project also finds that solutions that focus solely on legal rights cannot adequately address irregular immigration. The state logic of national identity, international border checkpoints, and formal residency status are legal constructs that contradict indigenous understandings of free movement across ancestral lands.

Specifically, Chapter 2 uncovers the factors and power dynamics that influenced the Mercosur states’ ratification of the Residency Agreements. Once an agreement is signed, all the Mercosur member states must ratify them at the national level. Policy ratification is a legal procedure that entwines diplomatic and domestic politics because it often requires executive and congressional approval (Evans, Jacobson, and Putnam 1993; Putnam 1988). In Chapter 2, the analysis focuses on how state diplomats influence immigration policy ratification within their own and in foreign governments.

Paraguay’s case shows that state diplomats exercised structural power to resist ratifying the Residency Agreements via two mechanisms: *stalling* and *finding strength in weakness*. The government officials used both strategies to protect state sovereignty and the interests of their economic elites from wealthy Brazilian immigrants. Paraguayan diplomats showcased their state’s low infrastructural capacity before the other Mercosur states to diplomatically justify delaying the ratification of the agreements. Consequently, Paraguay’s stalling strategy threatened to annul the agreements within Mercosur. In response, Brazil’s bureaucrats mobilized political support for the agreements among factions of the Paraguayan political elite by reframing Brazilian immigrants as undocumented and impoverished. Argentina’s government supported these efforts by convincing seven other South American countries to implement the Residency Agreements through bilateral agreements and invited three countries into Mercosur with the condition that they sign on to the agreements. Argentina’s diplomats exercised structural power because they reconfigured South America’s

migration governance and indirectly increased Paraguay's consequences of resistance. These regional efforts coincided with a shift in Paraguay's distribution of political power, which opened a space for policy change. In 2008, the right-wing Colorado Party lost the presidential elections for the first time in over five decades. Brazilian bureaucrats took advantage of this shift in political power and offered to pay for the implementation the agreements if the Paraguayan legislature ratified them.

Subsequently, the same Paraguayan right-wing president who had resisted the agreements decided to support their ratification before the end of his term. These findings demonstrate that if Argentina's and Brazil's state diplomats had not mobilized political resources in support for the Residency Agreements, Paraguayan would have not ratified them.

These findings also reveal that state diplomats use their relative autonomy from organized interest groups to build support for the ratification and diffusion of their preferred policy models within their own and in foreign governments. This study challenges the collaborate approach to policy diffusion, which deemphasizes the role of power and assumes that the mimetic pressures of cultural-cognitive consensus, norms, and socialization alone drive policy diffusion (Acosta 2018; Margheritis 2013; Boli and Thomas 1997; Meyer et al. 1997; Meyer and Rowan 1977). Instead, this research shows that Paraguayan, Brazilian, and Argentine state diplomats all exercise structural and agenda-setting power in a subtle manner to influence the ratification process of the Residency Agreements.

Chapter 3 focuses on the internalization of the Residency Agreements within the national legal system, which happens after states ratify them. To completely internalize the Residency Agreements, the South American governments had to reform their restrictive immigration laws. Argentina, Brazil, Bolivia, and Uruguay did this while Chile and Paraguay have not. Chapter 3 combines qualitative and quantitative data to identify the actors as well as the international, regional, and national contextual factors (i.e., economic, political, and legal-bureaucratic) that facilitated or

hindered the complete internalization of the Residency Agreements within the legal systems of these six countries.

Argentina, Brazil, Bolivia, and Uruguay successfully internalized the agreements because they had receptive legal-bureaucratic and political contexts that permitted immigrant rights advocates to overcome the barriers imposed by economic downturns and nativism. Immigration advocates tied the immigration policy proposals to broader legal-bureaucratic efforts that sought to improve democracy. In Argentina and Uruguay, advocates connected the immigration reforms to human rights and transitional justice processes, which were removing remnants of the military dictatorships from state institutions. Bolivia's immigration advocates linked the immigration reform to President Evo Morales' governing coalitions efforts to remove remnants of settler colonialism and create a plurinational state that represented 36 distinct indigenous groups. In Brazil, the senate created two conferences with civil society stakeholders to coauthor the immigration reform proposal. This cross-national analysis confirms that human rights instruments facilitate the passage of liberal immigration laws (see Acosta 2018; Acosta and Freier 2015; FitzGerald and Cook-Martin 2014; Hines 2010). They also show that legal-bureaucratic reforms that expand democratic representation facilitate the passage of rights-based immigration laws in South America.

The political contexts in Argentina, Brazil, Bolivia, and Uruguay were receptive to the internalization of the Residency Agreements. The left-wing governing coalitions in these four countries supported the immigration reform proposals because they were highly committed to regional integration. The coalitions for immigrant rights were strong because they were part of broader social movements such as those that promoted labor rights, human rights, or decolonization. Most importantly, the coalition for immigrant rights relegated anti-immigration interest groups such as business associations that did not support the expansion of immigrants labor's rights to the sidelines. These findings challenge the widely accepted assumption that business

associations support immigration (see Peters 2017; de Haas and Natter 2015; Odmalm 2011; Perlmutter 1996; Freeman 1995). I argue that business associations in South America do not support liberal immigration laws that provide immigrants with access to permanent legal residency, a path to citizenship, and access to labor rights and protections. More broadly, the immigrant rights coalitions, with the backing of left-wing governing coalitions, successfully supported the passage of rights-based immigration laws that completely internalized the Residency Agreements.

In contrast, the Chilean and Paraguayan governments were unable to fully internalize the Residency Agreements because they had obstructionist legal-bureaucratic and political contexts that allowed nativism against South American immigrants to obstruct liberal immigration reform proposals. Specifically, Chile's legal-bureaucratic context obstructed efforts to internalize the Residency Agreements through administrative decrees. In Paraguay, governments continue to use low state capacity to justify limited advances in immigration reforms. Both countries have had governing coalitions with low commitments to regional integration. These governing coalitions have also oscillated from left- to right-wing in political orientation. This oscillation mattered because when presidents from right-wing governing coalitions took office, they obstructed the inclusive immigration policy proposals developed by the former governments. Furthermore, despite economic growth in both countries, the nascent immigrant rights coalitions have been unable to counter the nativism directed against immigration from other South American countries.

I find only partial support for the claims that economic downturns, increased immigration, and heightened nativism lead to restrictive immigration policies (see de Haas and Natter 2015; Facchini et al. 2013; Massey 1999; Meyers 2000), or that economic crisis in South America lead to liberal immigration laws (Marguerites 2013; Ceriani Cernadas 2015). On the one hand, Argentina and Brazil passed rights-based immigration laws in the middle of economic downturns and high nativism. On the other hand, Paraguay has not reformed its restrictive immigration law despite

having consistent economic growth and decreasing immigration. Additionally, economic growth in Chile has increased immigration flows, nativism, and the political costs of supporting inclusive immigration policies. Only Bolivia and Uruguay reformed their immigration laws during economic growth. In sum, there is no clear relationship between these economic trends, the level of immigration flows, nativism, and immigration policy outcomes within the six Mercosur states.

Overall, the findings in Chapter 3 indicate that governments can pass rights-based immigration laws despite widespread nativism and economic downturns. For this to happen, three conditions must be met: 1) the governing coalitions need to be highly committed to regional integration; 2) the coalition for immigrant rights needs to be strong; and 3) immigration reform proposals need to be linked to broader democratic reforms. Future research could examine whether these dynamics are also found in other regions of the Global South.

Although all six Mercosur states have internalized the Residency Agreements as some form of national policy, there is evidence that many qualifying indigenous immigrants remain undocumented. Chapter 4 examines (1) the migrant-sending state's capacity to administer identity registration system and control of movement, (2) the migrant-receiving states' implementation of the immigration laws, and (3) how the indigenous migrants' relationship to both states affects legal status acquisition. Bolivia serves as a case study because it is a key migrant-sending country and has more indigenous people than the other South American states.

Chapter 4 shows that both the migrants and receiving states fail to fully reach and integrate the indigenous populations that move across international borders. The Bolivian state does not allocate sufficient public resources to build roads, hire personnel, purchase equipment, or build government offices that register its population, provide identification documents, or monitor exits in rural parts of the territory where indigenous people tend to reside. As a consequence, the state has not provided these populations with the identification documents needed to emigrate through legal

channels or informed its emigrant-prone population of the regional immigration policy changes that promise to give them access to legal residency status in the countries of destination. At the country of destination, the states also foster irregularity because their governments do not allocate sufficient resources to legalization. Thus, these state agencies do not reach marginalized and irregular indigenous immigrants and do not sufficiently disseminate information about immigrants' ability to access to legal status and rights. Furthermore, the countries of destination implement the Residency Agreements by imposing unnecessary and cumbersome hurdles that further deter indigenous immigrants from accessing legal residency status.

The indigenous population's relationship to the sending and receiving states also matters. In Bolivia, many indigenous people retain non-nationalized understandings of identity, land, and movement that function as an alternative system, which contradicts Westphalian notions of national identity, international borders between nation-states, and border checkpoints. Indigenous populations in Bolivia, particularly those in hard-to-reach terrains, derive their identity from their indigenous communities, conceptualize land as a place of meaning-making (not as territories of the state or private property of individuals), and retain pre-colonial traditions of free movement across the land. These non-nationalized understandings and practices contribute to irregular migratory movement. Some indigenous people in Bolivia migrate without crossing official border checkpoints to resist the imposition of state logics. Others engage in irregular migration because they do not have the identification documents needed to prove their national identity or because they are accustomed to moving freely across the land. Still others migrate through unofficial channels because relatives, friends, and smugglers tell them they cannot access legal immigration channels. At the countries of destination, many indigenous immigrants remain undocumented because they are afraid of state agencies or because employers (who exploit their irregularity) misinform them about their ability to access legal residency and rights. Many of these migrants also remain irregular because

they struggle to prove their national origin with state-issued identification documents or because they fear interacting with state agencies.

Findings from Chapter 4 contribute to the literatures on international immigration and state capacity in two distinct ways. First, these findings expand our understanding of how the governmental context of reception impacts legal residency status acquisition. Scholars tend to assume that immigrants will access legal residency status if they meet the requirements of a visa category that is not backlogged (see Luthra, Soehl, and Waldinger 2018; Portes and Rumbaut 2014; Portes and Zhou 1993; Portes and Rumbaut 1990). However, this study shows that migrant sending and receiving states as well as immigrants' practices can perpetuate irregularity even when the immigration laws of the destination country provide a clear path to legalization. Second, findings indicate that the states' uneven allocation of resources to identification systems and the implementation of immigration laws can derail indigenous immigrants into irregularity. Finally, the migrants themselves can perpetuate their own irregularity when they resist or fear state logics and agencies. In sum, these findings indicate that immigration policy solutions that rely on the capacity of the sending and receiving states to register, provide identification documentation, and legalize their populations indirectly impose barriers to the legalization of indigenous immigrants. Future immigration policy solutions can address this problem by integrating indigenous knowledge and practices into their policy models.

In conclusion, these three studies shed light on the construction of a rights-based immigration legal system that affects over 3 million South American immigrants. Most importantly, these findings show that scholars cannot explain dynamics in South America by building on the assumptions of the immigration policy literature, which is largely based on countries in the Global North.

Understanding how governments in the Global South negotiate immigration policies matters because half of all international immigrants are South-to-South migrants (International Organization

for Migration 2015). As North American governments ramp up immigration enforcement and increased the barriers to legal residency, immigration rights advocates could use the case of the Mercosur Residency Agreements to draw strategies and ideas on how to resolve immigration in a more dignified and humane manner.

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