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South America's Central Role in Migration and Citizenship Law

The human right to migration and the recognition of migrants as Subjects of Law must be at the centre of States' migration policies. In line with this, the South American Conference on Migration claims the unconditional respect of the Human Rights of migrants and their families and we condemn all xenophobic, discriminatory and racist acts, as well as the utilitarian treatment of migrants, regardless of their migratory status, and reject any attempt to criminalise irregular migration.[1]

Introduction

Migration and citizenship or nationality laws define who does, and who does not, legally belong in any given society; who is entitled to particular rights and public goods; and who can be discriminated against in certain contexts. Migration and citizenship laws transform political membership and the linkage between borders, territory and population.[2] 'Citizens and noncitizens are not beings found in nature; they are made and unmade by way of law and politics, and their making and unmaking can have momentous consequences.'[3] This is precisely the interest of this book in a region – South America – with two centuries of experience in regulating migration and citizenship.[4]

[1] The South American Conference on Migration (SACM; note that the Spanish acronym for the conference is CSM) Buenos Aires Declaration. Positioning before the II UN High Level Dialogue on International Migration and Development, Buenos Aires, 28 August 2013, signed by all twelve governments in the region (author's translation). 'El derecho humano a la migración y el reconocimiento de las personas migrantes como Sujetos de Derecho, debe estar en el centro de las políticas migratorias de los países. En ese sentido, la CSM reivindica el respeto irrestricto de los Derechos Humanos de las personas migrantes y sus familiares y condena todo acto de xenofobia, discriminación y racismo, así como el tratamiento utilitarista de los migrantes, independientemente de su condición migratoria, y rechaza todo intento de criminalización de la migración irregular.'

[2] S. Castles and A. Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging* (New York: Routledge, 2000).

[3] L. Bosniak, 'Persons and Citizens in Constitutional Thought', *International Journal of Constitutional Law*, 8 (2010), 9–29, on 11.

[4] This book refers to South America as the geographical area located between Colombia and Venezuela in the north and stretching to Argentina and Chile in the south. For reasons explained in footnote 10, this book does not study Guyana or Suriname. At times, there will be references to Latin America, which includes Central America, Mexico and the former Spanish colonies in

Migration has become one of the world's most debated and politically contested issues. Reactions are seen daily in the form of Brexit; the response to refugees from Syria; discussions on reintroducing border controls in the EU's Schengen area; critiques of the treatment of migrant workers building football stadiums for the 2022 World Cup in Qatar; or proposals for a wall between the USA and Mexico. Current international migration and citizenship debates can be framed within the context of transformations brought by globalisation. States have lost control of various global aspects, notably financial matters, affecting their decision-making capacity as sovereign entities.[5] Migration and citizenship law has been defined by Dauvergne as 'the last bastion of sovereignty'[6] through which governments try to offer 'an appearance of control'.[7] With legislative frameworks in constant flux everywhere, it is challenging to assess whether the overall picture is becoming either more open or restrictive. Yet, there is a general perception that the tendency is towards a harder line – especially since the terrorist attacks on 11 September 2001 – both in the global North and South, with migration being perceived as a security issue and, at times, being coupled with growing anti-Islamic ideology.[8] The opening up of certain categories, such as highly skilled workers or students, is balanced everywhere with a closing down of others, such as family members or undocumented migrants. That is, everywhere except in South America.[9]

This book analyses the legal construction of the national and the foreigner in ten countries in South America over a period of two hundred years and

the Caribbean – namely Cuba and Dominican Republic. Some scholars also incorporate Haiti in this enumeration. References to Hispano-America include all the former Spanish colonies in the Americas, and thus exclude Brazil and Haiti. For a critical analysis on conceptualising Latin America and its boundaries, see: W. D. Mignolo, *The Idea of Latin America* (Oxford: Blackwell Publishing, 2005).

[5] S. Sassen, *Losing Control? Sovereignty in an Age of Globalization* (New York: Columbia University Press, 1996).

[6] C. Dauvergne, *Making People Illegal. What Globalization Means for Migration and Law* (Cambridge University Press, 2008), p. 2.

[7] D. S. Massey, J. Arango, G. Hugo, A. Kouaouci, A. Pellegrino and J. E. Taylor, *Worlds in Motion: Understanding International Migration at the End of the Millennium* (Oxford University Press, 1998), p. 288.

[8] C. Dauvergne, *The New Politics of Immigration and the End of Settler Societies* (Cambridge University Press, 2016); S. W. Goodman and M. M. Howard, 'Evaluating and Explaining the Restrictive Backlash in Citizenship Policy in Europe', *Studies in Law, Politics and Society*, 60 (2013), 111–139; R. Rubio-Marín, 'Human Rights and the Citizen/Non-Citizen Distinction Revisited' in R. Rubio-Marín (ed.), *Human Rights and Immigration* (Oxford University Press, 2014), pp. 1–18, on p. 2.

[9] De Haas *et al.* have pointed out how migration policies have become less restrictive since 1945, although they show important divergences across migrant categories and policy types. They conclude that South America presents a historical exception by having opened up their migration regimes since the 1990s. In their analysis, Latin America (South America plus Mexico) is measured as the least restrictive region globally. H. de Haas, K. Natter and S. Vezzoli, 'Growing Restrictiveness or Changing Selection? The Nature and Evolution of Migration Policies', *International Migration Review*, Fall (2016) online early view version DOI: 10.1111/imre.12288, 1–44.

attempts to put the region on the agenda of migration and citizenship scholars.[10] Since the turn of the century, South American governments and regional organisations have adopted the world's most open discourse on migration and citizenship.[11] This discursive openness has made its way into numerous laws and policies at both the national and regional level, representing a unique phenomenon worldwide. In contrast to the USA, Europe and other countries and regions, South American politicians and civil servants stress the universality of migrants' rights and the inefficacy of restrictive responses.[12] Three principles guide this approach: the non-criminalisation of undocumented migration; considering migration as a human right; and, finally, open borders. These three principles form part of a more wide-ranging promotion of equal treatment between nationals and foreigners in a process striving towards some sort of universal citizenship. While some principles overlap with what is offered to certain migrant categories in other legal systems (e.g. the EU), what distinguishes South America is its aspirational universal application.

At a time when restrictive choices seem to be increasingly predominant around the world, South American policy makers and scholars alike have presented this attitude towards universality as both an innovative and exceptional 'new paradigm' and part of a morally superior, avant-garde path in policy making.[13] The aim of this book is to provide a critical examination of the South American migration and citizenship legal framework through a historical and comparative analysis. This allows us to then assess whether it is truly innovative

[10] In alphabetical order: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela. Suriname and Guyana have been excluded due to their distinct colonial history. These states did not gain independence until 1966 and 1975 respectively, which strongly affects their legislative choices on this matter, as well as their weaker association with regional integration processes. They are not full members of the Common Market of the South (MERCOSUR), nor the Andean Community (CAN). It is for the same reason that this book also omits Mexico, Central America and the former Spanish possessions in the Caribbean, namely Cuba and Dominican Republic. None of these countries – except for Mexico's membership in the Pacific Alliance – is a member of any of the regional processes taking place in South America: Union of South American Nations (UNASUR), MERCOSUR and CAN. Consequently, whilst some of these countries have a similar colonial history, recent developments distinguish them from South America, notably when it comes to the ongoing process towards the free movement of people and eventual establishment of a regional citizenship. Nonetheless, the book will make references to these and other countries when needed.

[11] 'Open' in this context refers to policies aiming at securing migrants' rights and striving towards free mobility for all, without discrimination. In turn, 'openness' refers to any policy change towards less control over or fewer restrictions on migration.

[12] See references and discussion on the dichotomy between discourse and outcomes in South America in D. Acosta and L. F. Freier, 'Turning the Immigration Policy Paradox Up-side Down? Populist Liberalism and Discursive Gaps in South America', *International Migration Review*, 49 (2015), 659–697, on 662–664.

[13] There are, of course, examples of critical approaches to this alleged 'new paradigm'. See, among others: E. Domenech, '"Las Migraciones son como el Agua": Hacia la Instauración de Políticas de "Control con Rostro Humano." La Gobernabilidad Migratoria en Argentina', *Polis Revista Latinoamericana*, 35 (2013), 1–20; P. Ceriani, 'Luces y Sombras en la Legislación Migratoria Latinoamericana', *Nueva Sociedad*, 233 (2011), 68–86.

and exceptional, as well as permitting us to evaluate its feasibility, strengths and weaknesses. The following chapters interpret the history of migration and citizenship regulation in ten South American states through a descriptive and explanatory investigation. I show not only how citizenship and migration laws have functioned during the last two centuries but also why states have opted for certain regulation choices. The legal construction of the national and the foreigner as categories is a political choice. Considering South America's central historical role as both a destination and source of migration flows – combined with its two hundred years of legal and political discussions on the matter – it is crucial for all those interested in migration and citizenship debates at the global level to better understand this region.

In the nineteenth century, South American countries became the precursor of open borders for individuals: their Constitutions enshrined clauses guaranteeing the right of any foreigner to enter and settle in their territories as well as receive equal rights with nationals. Today, the right to migrate understood as a human right emerges again in the South American discourse and law. Open borders was originally a civilisation project in an effort to create nations out of weak nascent states which had recently gained independence. The agents of the civilisation effort were to be white, male, industrious Europeans. The ideal migrant was to populate regions presented as deserted, bring industries needed to participate in global markets, and contribute to the whitening of mixed-race populations. Unlike what we may imagine today, the motive behind these open borders and recruitment was absolutely not a humanistic project, but a utilitarian one.

South America distinguished itself early on from other settler societies, namely the USA.[14] For example, South Americans largely abolished slavery much faster. They also granted nationality to those born within the territory through *ius soli* – this included *all* those born there, not only free white persons. Although comprising numerous contradictions, this approach permitted building 'formally inclusionary nations, but on deeply hierarchical grounds'.[15] Membership was, however, not necessarily structured around nationality. For example, Hispano-Americans – a category that included those from the former Spanish colonies in South America, Central America, Mexico and the Caribbean – enjoyed privileged legal treatment. Thus, South America became a fascinating hub of state- and nation-building processes related to government, territory and population.

Initially, South America was not completely successful in attracting migrants. However, between the 1870s and 1930s, the region became the second-largest global recipient of migrants, following the USA. Millions arrived spontaneously,

[14] H. Motomura, *Americans in Waiting: The Lost History of Immigration and Citizenship in the United States* (Oxford University Press, 2006).
[15] M. Loveman, *National Colors: Racial Classification and the State in Latin America* (Oxford University Press, 2014), p. 5.

mainly from Europe, although a few thousand migrants travelled with subsidised passages to Argentina or Brazil.[16] Within this period, doubts also progressively arose regarding the previous openness towards foreigners. The same states that had been precursors of open borders were then among the first to eagerly experiment with restrictions against foreigners on ethnic, racial, political and moral grounds. Later, during the Cold War, migration and citizenship exclusions peaked during the 1970s military dictatorships: the foreigner was portrayed as a dangerous threat to national security.

Following re-democratisation in the 1980s, South America transformed from a region of immigration to one of emigration. This process, which had begun during the military regimes in the 1970s, accelerated as economic instability dominated throughout the following two decades. Democracy sealed constitutional reforms that put more of a spotlight on international human rights law, mainly the American Convention on Human Rights (ACHR) and its interpretation by the Inter-American Court (IACtHR).[17] The resulting legal architecture on migration, mobility and citizenship, which continues to affect us in the twenty-first century, is striking.

First, practices of 'external citizenship'[18] have become widespread, notably through states accepting dual citizenship as well as extending the franchise to nationals residing abroad. This also impacts immigrants living in South America, who can now enjoy dual citizenship as well as political rights, particularly at the local level. Three out of the five countries in the world that extend the franchise to foreigners in national elections without discriminating by citizenship are located in the region: Chile, Ecuador and Uruguay.[19]

Second, new migration laws in various countries enshrine the non-criminalisation of undocumented migrants and position the right to migrate as a human right. In various forms, this holds true in Argentina (2004), Uruguay (2008), Bolivia (2013), Brazil (2017), Ecuador (2017) and Peru (2017), and it is present in law proposals in Chile (2017) and Paraguay (2016).[20] Globally, this approach is unique since no international instrument has recognised these principles as universal nor as an individual right.

Third, there is a strong push towards open borders at the regional level. The 2002 MERCOSUR Residence Agreement, which is in force in nine out of

[16] In the case of Argentina, immigration agents granted 133,428 free passages to Buenos Aires amongst various European countries between 1888 and 1890. However, this represented only 2 per cent of the total number of migrants who arrived to Argentina. J. C. Moya, *Cousins and Strangers: Spanish Immigrants in Buenos Aires, 1850–1930* (Berkeley, CA: University of California Press, 1998), p. 52. In the case of Brazil, see J. Sacchetta, *Laços de Sangue: Privilégios e Intolerância à Imigração Portuguesa no Brasil (1822–1945)* (São Paulo: Edusp/Fapesp, 2011), p. 179.

[17] See Part II, Consolidation, pp. 113–117.

[18] R. Bauböck, 'Introduction' in R. Bauböck (ed.), *Transnational Citizenship and Migration* (London and New York: Routledge, 2017), pp. 1–18, on p. 3.

[19] See Chapter 6, pp. 161–162.

[20] The laws referred to throughout this book are valid as of 1 October 2017.

the twelve South American countries, has transformed the mobility regime. It grants South American nationals a right to reside and work in any other state that is part of the agreement. It also offers migrants various rights, such as equal treatment in working conditions, social and economic rights, and family reunion. Proposals have also advanced the possible adoption of a South American supranational citizenship, which would incorporate not only South American nationals but also foreigners permanently residing in the region. An extensive regional citizenship as such would establish a new international 'gold standard' and place South America as a leading innovative force in migration law.

Finally, South American citizenship laws are peculiar in a comparative perspective. *Ius soli* represents the general rule and residence periods before naturalisation are short, allegedly resulting in possibly the least restrictive regimes worldwide.[21]

The aim of this book is to see whether this framework through which the national and the foreigner are legally constructed confirms the claims of innovation and exceptionalism. A comparative and historical analysis of ten cases across two centuries uncovers wider transnational trends and legal mechanisms that are hidden while merely juxtaposing national studies. The book contains two parts: the first (Chapters 2–4) analyses the construction of the 'national' and the 'foreigner' since the early nineteenth century until the end of the twentieth century, and assesses to what extent these concepts are actually novel and innovative. Many of the regulatory choices these countries made immediately following independence are, perhaps surprisingly, still in force today. The second part of the book (Chapters 5–7) thoroughly dissects the three potentially ground-breaking principles emerging in the region during the twenty-first century: non-criminalisation; migration as a human right; and open borders. These three combined aspirations are a unique phenomenon at the global level: rather than the deprivation of rights when crossing a border, it points towards equal treatment as a general rule throughout the region in an effort to make migration and citizenship law more enlightened and humane. A careful analysis of these three principles – including their actual scope when materialised into rights – allows us to evaluate the true reach of the exceptionalism claim, as well as its contradictions and flaws.

My main focus is on legal texts, both domestic and international, as well as academic sources. When necessary, administrative regulations, case law and reports by national and international actors serve as supplementary material. One of the greatest challenges of analysing ten countries over two centuries is that for each generalisation or common legal historical regional pattern I reveal, there are partial exceptions, opposing examples or national oddities. While the book shows a strong convergence of migration and citizenship regulation over two hundred years, it also unearths country-specific peculiarities.

[21] See Chapter 6, pp. 165–169.

Administrative practices are of course also central in understanding how law works in practice since – regardless of what the law states – they sometimes serve as tools for selecting certain migrants.[22] Motomura has distinguished between immigration law on the books versus immigration law in action. He argues that 'immigration law itself can operate outside the rule of law' since immigration law in action depends on 'countless government decisions that reflect the exercise of discretion, which responds to political and economic pressures that fluctuate'.[23] At times, discretion depends on normative preferences. For instance, for years Argentina did not detain undocumented migrants, despite it legally being possible. This changed in 2016 with a new government, which had a more restrictive discourse and opened a new detention centre.[24] Consequently, readers who are interested in the challenges surrounding implementation will find numerous examples and bibliographic pointers throughout the chapters. When needed, I highlight the gaps requiring further research. However, this does not deviate the book from its main focus, which is not to offer country case studies of implementing migration and citizenship law in practice but rather to elucidate general trends at the regional level through a panoramic, historical and comparative vision.

This book's substance stems from my understanding of migration and citizenship law in South America. I have gained this knowledge through my comparative and historical legal analysis, from participating in more than twenty research and conference visits to the region since 2009, as well as from conducting over 100 interviews with government officials, legal practitioners, academics, and individuals within international organisations, NGOs and migrants' associations.[25]

Contribution to Academic Debates

This book fills a central gap in the existing literature, as well as contributing to various debates. First, and most obviously, it fits into the vast literature on domestic and comparative migration and citizenship law.[26] This represents an opportunity to study a major aspect of a region in the Global South, whose countries emerged two hundred years ago. The analysis of South America

[22] D. S. FitzGerald and D. Cook-Martin, *Culling the Masses. The Democratic Origins of Racist Immigration Policy in the Americas* (Cambridge, MA: Harvard University Press, 2014), pp. 331–332.

[23] H. Motomura, *Immigration Outside the Law* (Oxford University Press, 2014), p. 4.

[24] See Chapter 5, pp. 130–131.

[25] Around sixty of these interviews were conducted within the framework of the five-year Prospects for International Migration Governance (MIGPROSP) project. The research leading to these results has received funding from the European Research Council under the European Union's Seventh Framework Programme (FP/2007–2013) / ERC Grant Agreement n. 340430.

[26] The number of works within this area is too extensive to make reference to here, but the countries most often analysed are Australia, Canada, the USA and a few states in Western Europe – mainly France, Germany, the Netherlands and the UK.

expands our understanding of alternative ways to regulate migration and citizenship. It also provides tools for challenging taken-for-granted assumptions currently embedded into legal concepts and practices in Europe, North America, Australia and beyond. This work generates regional knowledge regarding South America but moreover on the individual ten countries under analysis as well. Given the fact that more than 40 per cent of all international migration comprises South–South flows,[27] it is a grave concern that analysing immigration and citizenship law beyond Western liberal democracies has overall been neglected.[28] This book is a challenge to those who generalise Western models into universal social facts and a boost to others to look outside the usual suspects for paradigms.

Second, this book also advances the literature on international migration law and human rights.[29] There is basic intrinsic importance in understanding the relationships between the international, regional and domestic levels in South America. Moreover, at the outset it must be highlighted that many ideas that historically first appeared as part of a Latin or South American regional consensus – such as peaceful solution of controversies or non-intervention – were later converted into general international law.[30] For example, the 1984 Cartagena Declaration expanded the 1951 Convention's definition of 'refugee' and has since been praised as pushing the boundaries of asylum law.[31] Whilst refugee law is not the core subject of this book,[32] the region plays a central

[27] United Nations (UN), Department of Economic and Social Affairs, Population Division (2015). International Migration 2015 Wallchart (United Nations publication, Sales No. E.16.XIII.12).

[28] There are an increasing number of academic works investigating South–South migration. See, for example, P. de Lombaerde, F. Guo and H. Póvoa Neto, 'Introduction to the Special Collection. South–South Migrations: What is (Still) on the Research Agenda?', *International Migration Review*, 48 (2014), 103–112.

[29] See, among others: M.-B. Dembour, *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint* (Oxford University Press, 2015); V. Chetail and C. Bauloz (eds), *Research Handbook on International Law and Migration* (Cheltenham: Edward Elgar, 2014); B. Opeskin, R. Perruchoud and J. Redpath-Cross (eds), *Foundations of International Migration Law* (Cambridge University Press, 2012); P. de Guchteneire, A. Pécoud and R. Cholewinski (eds), *Migration and Human Rights: The United Nations Convention on Migrant Workers' Rights* (Cambridge University Press, 2009).

[30] A. Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (Cambridge University Press, 2014).

[31] E. Arboleda, 'Refugee Definition in Africa and Latin America: The Lessons of Pragmatism', *International Journal of Refugee Law*, 3 (1991), 185–207.

[32] The legal regulation of refugees and asylum seekers is not the subject of this book since it deals with individuals leaving their country of origin due to persecution. The distinction between forced and other modalities of migration is not an easy or definitely settled one, but it is generally accepted by most scholars for methodological purposes. With this in mind, the current volume engages in an investigation of non-asylum-related mobility in South America, leaving aside refugee law questions, which do not form the focus of this research. The tradition of asylum has, however, been historically important in Latin America, with its roots in the nineteenth-century practice of extending asylum to politically persecuted individuals. Nonetheless, in 1950 the International Court of Justice held that diplomatic asylum was not part of customary international law: instead, the Court established that it depended on reciprocal action between states through bilateral or multilateral treaties. See the Colombian-Peruvian Asylum Case, Judgment, 20 November 1950: I.C.J. Reports 1950. For a historical investigation,

role, notably through the jurisprudence of the IACtHR, in developing human rights and international law on migration and citizenship in numerous other aspects.[33]

Third, the book adds to the discussion on the evolving relationship between nationality and alienage. Beginning in the 1990s, a large body of literature has questioned the traditional definitions of the legal categories of the foreigner and the national, arguing that they do not correspond with reality. Scholars have coined terms such as denizens or postnational, flexible or transnational citizens to label those who, even if residing in a territory for a long time without citizenship, nonetheless enjoy a number of civil, social and, to a lesser extent, political rights.[34] Central to the discussion has been the allegedly declining role of the state, alongside new emerging modalities of membership.[35] These theories have been utilised while analysing a limited number of cases in Western liberal democracies, as well as on European citizenship as a new legal status. Identifying applications outside this sample has substantial value for theory building – especially when aspects such as the extension of rights to foreigners has taken place in South America for two centuries.

Fourth, the book is relevant for those interested in state- and nation-building processes.[36] In the early nineteenth century, ten new states emerged from the previous Spanish and Portuguese possessions in South America, and thus are among the oldest in the world. With their newly gained independence, South Americans turned their attention to asserting their statehood through the delineation of three constitutive elements: government, territory and population. This was a state- and nation-building exercise in a transitional period from colonial societies into republics, where collective identities were forming and where the relationship with foreigners was vital in both determining the polity's boundaries and in constructing the nation.[37]

see: N. Ronning, *Diplomatic Asylum. Legal Norms and Political Reality in Latin American Relations* (The Hague: Martinus Nijhoff, 1965). For a more current analysis of refugee law in South America, see: D. Cantor, L. F. Freier, and J. P. Gauci (eds), *A Liberal Tide? Immigration and Asylum Law and Policy in Latin America* (London: Institute of Latin American Studies, 2015).

[33] See Chapters 5 and 6.

[34] T. Hammar, *Democracy and the Nation State* (Aldershot: Avebury, 1990); Y. N. Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (University of Chicago Press, 1994); A. Ong, *Flexible Citizenship: The Cultural Logics of Transnationality* (Durham, NC: Duke University Press, 1999); R. Bauböck, *Transnational Citizenship: Membership and Rights in International Migration* (Cheltenham: Edward Elgar, 1994).

[35] Sassen, *Losing Control?*; S. Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge University Press, 2004); L. Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press, 2006).

[36] The literature on state- and nation-building processes is very extensive. For a solid and comprehensive collection, see: J. Breuilly (ed.), *The Oxford Handbook of the History of Nationalism* (Oxford University Press, 2013).

[37] M. A. Centeno and A. E. Ferraro, 'Republics of the Possible: State Building in Latin America and Spain' in M. A. Centeno and A. E. Ferraro (eds), *State and Nation Making in Latin America and Spain. Republics of the Possible* (Cambridge University Press, 2013), pp. 3–24; B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).

Finally, advances in migration and citizenship law will interest constitutional researchers and are properly considered part of a new Latin American Constitutionalism.[38] This new approach grants international law instruments, notably the ACHR and its interpretation by the IACtHR, a central place in the domestic legal order. The Inter-American Court developed a legal doctrine of conventionality control, which obliges all national authorities to measure their actions' validity against the ACHR and the Court's interpretation. Some of the new constitutions and the IACtHR's jurisprudence extend numerous civil, social and political rights to foreigners, including to undocumented migrants, and thus conflict with the traditional understandings of which rights are associated with citizenship.

South America offers a truly captivating and rich history of legal regulation on the status of the national and the foreigner. The following pages will help the reader gain a better understanding of South America's idiosyncrasies through insights into migration flows, actors and regional debates, before concluding with a final section in this chapter where I summarise each of the remaining seven chapters.

Migration Flows in South America

Immigration in South America

During the late nineteenth and early twentieth centuries, South America was the second-largest recipient of migrants in the world, after only the USA. Argentina, Brazil and Uruguay were the true champions in a race to attract European settlers, a race in which all ten countries participated. Between 1856 and 1932, an estimated 6.4 million people arrived in Argentina, 4.4 million in Brazil and 700,000 in Uruguay.[39] Foreigners represented an impressive percentage of the total population in the three main destinations: one-third of the Argentinean population was foreign-born by 1914.[40]

Moya has identified five global revolutions of demographic, agricultural, industrial, transportation and liberal change to account for Argentina's prominent place in attracting migrants based on its incorporation into the world capitalist system. Argentina had fertile lands but lacked farmers. The

[38] See the references in Part II, Consolidation, pp. 113–117.

[39] H. Oddone and J. Guidini, 'Políticas Públicas sobre Migraciones y Participación de la Sociedad Civil en Paraguay' in L. M. Chiarello (ed.), *Las Políticas Públicas sobre Migraciones y la Sociedad Civil en América Latina: Los Casos de Bolivia, Chile, Paraguay y Perú* (New York: Scalabrini International Migration Network, 2013), pp. 243–390, on p. 251.

[40] IOM, *Perfil Migratorio de Argentina* (Buenos Aires: IOM, 2012), p. 17. In Uruguay, 17 per cent of its population was foreign-born by 1908, with more than 30 per cent of Montevideo's residents being foreigners. See IOM, *Perfil Migratorio de Uruguay* (Buenos Aires: IOM, 2011), pp. 43–44. In Brazil, 7.3 per cent of the total 17.3 million inhabitants and more than 20 per cent in the states of São Paulo and the former Guanabara (now part of the Rio de Janeiro state) were foreigners by 1900. See M. S. Ferreira Levy, 'O Papel da Migração Internacional na Evolução da População Brasileira (1872 a 1972)', *Revista Saúde Pública*, 8 (1974), 49–90.