

# Index

- access to citizenship in South American countries, 165
- access to education and health care in South America, 160
- African descendants, 35, 36, 40, 41, 42, 43, 114
- African Spaniard*, 41
- American Convention on Human Rights (ACHR), 5, 115, 127, 149, 153, 210
  - Protocol of San Salvador, 160
  - right not to undergo torture or cruel, inhuman or degrading punishment or treatment (Art. 5), 165
  - right to a nationality (Art. 20), 166
- American Declaration of the Rights and Duties of Man, 19
- anarchism, 95, 97
- Andean Community
  - Andean Committee of Migration Authorities, 20
  - Andean Court of Justice, 190
  - Andean Labour Migration Instrument (Decision 116) of 1976, 176
  - Andean Labour Migration Instrument (Decision 545) of 2003, 177, 183
  - Andean Migration Forum, 20
  - Andean Migration Statute proposal, 178, 194
  - Cartagena Treaty of 1969, 176
  - direct effect of Andean Community law, 189
  - Simón Rodríguez Socio-labour Integration Covenant of 1973, 176
  - Statute on Human Mobility, 178, 183, 194
  - supremacy of Andean Community law, 189
- Argentina, 5, 10, 38, 42, 48, 86, 93, 140
  - Constitution of 1994, 150
  - emigration from Argentina, 180
  - expulsion of foreigners, 127
  - expulsion of irregular migrants, 131
  - migration law of 2004, 143, 149
  - naturalisation, 166
  - regularisation of irregular migrants, 133, 137, 145
  - regulation to law on immigration of 1923, 98
  - Residence Law of 1902, 96
- asylum seekers, 126, 145
- Australia, 200
- Belgium, 12
- Belize, 79
- best interest of the child, 135–136, 153
- block of constitutionality, 115, 139, 188
- block of conventionality, 116, 188
- Bolivia, 12, 38, 42, 77, 84, 93, 133–135, 137, 159, 166
- Brazil, 5, 10, 16, 38, 42, 48, 60, 74, 83, 93, 143
  - Act of expulsion of 1907, 96
  - decree of 1941 banning immigration, 109
  - Haitians in Brazil, 133
  - Immigration Act of 1921, 98
  - regularisation of irregular migrants, 138, 145
- Buenos Aires, 95
- Cádiz Constitution of 1812, 32, 34, 40–41, 43–44, 51, 54, 55, 85
- Calvo Doctrine, 52, 72
- Canada, 200
- Carlos Calvo, 52
- carrier sanctions in South America, 126
- catholicism, 50, 80
- Chile, 11, 38, 42, 48, 93, 140, 176
  - political rights for foreigners, 162
  - regularisation of irregular migrants, 145
- China, 12, 81
- Chinese in South America, 92–93
- citizenship in the nineteenth century, 39–42

- Cold War, 5, 101, 114, 156  
 Colombia, 11, 38, 42, 48, 64, 75, 83, 92, 100, 108, 118, 157, 166  
     Constitution of 1886, 58, 82  
     Constitution of 1991, 156  
     expulsion of Cuban nationals, 146  
 Committee Against Torture (CAT), 25, 188  
 Committee on Migrant Workers (CMW), 18, 140, 153, 187  
 Community of Latin American and Caribbean States, 21  
 compliance and international law, 139–140  
 consular protection abroad in South America, 67  
 Costa Rica, 70, 78, 84  
 Court of Justice of the European Union (CJEU), 153  
 Creole elites, 35, 42, 60, 61, 80, 201, 203  
 Creolism, 81  
 Croatia, 12  
 Cuba, 125, 133  
 Cuban revolution, 101  
  
 Declaration of the Rights of Man of 1789, 32  
 demise of citizenship, 208  
 denizenship, 208  
 deportation of irregular migrants in South America, 130  
 detention of irregular migrants in South America, 130–131  
 diplomatic protection abroad, 72  
 discrimination between natural and naturalised citizens in South America, 49–50, 168, 193, 207  
 Dominican Republic, 79, 84, 125, 133, 139  
 dual citizenship, 5, 24  
     in South America, 155–158  
  
 economic crisis of 1929, 99  
 economic and social rights in South American countries, 160–161  
 Ecuador, 11, 38, 42, 48, 76, 92  
     Constitution of 2008, 114, 117, 150  
     expulsion of Cuban nationals, 146  
     Organic Law on Human Mobility of 2017, 117, 140  
     political rights for foreigners, 162  
     visa policy in Ecuador, 125  
 El Salvador, 71, 79, 84  
 emigration from South America, 13–15, 23, 118, 144, 170, 204, 211  
 employers ‘and landlords’ sanctions, 127  
  
 entry bans in South America, 130  
 EU citizenship, 152, 174, 192, 209  
 European Court of Human Rights (ECtHR), 127, 136, 149, 153  
 European Union, 122, 200  
     criminalisation of irregular migration, 124  
     deportation of family members, 136  
     regulation of irregular migration, 128  
     Returns Directive, 142  
 exclusions in South America  
     based on morals, 97  
     based on political ideology, 95–97  
     based on race and ethnicity, 91  
     based on social class, 99–101  
 expulsion and deportation of migrants in South American countries, 163  
 external citizenship, 211  
  
 family reunification in South America, 152–155  
 Federal Republic of Central America, 78  
 Fernando Enrique Cardoso, 180  
 FitzGerald and Cook-Martin, 92, 106, 109, 142  
 France, 12  
 Francisco de Miranda, 45, 63  
 French Constitution of 1791, 32, 39  
 French Revolution, 32, 39, 209  
  
 gender discrimination, 201  
 Germany, 12, 207  
 Ghana, 134  
 Global Compact on Migration, 214  
 globalisation, 2  
 Great Britain, 12, 83  
 Guatemala, 78, 212  
  
 Haiti, 17, 61, 79, 125, 133  
     Revolution, 36, 61  
 Hiroshi Motomura, 7, 121  
 Hispano-American legal figure, 4, 61, 82–83, 107, 202, 209  
     as a bilateral concern in the nineteenth century, 70–74  
     as a constitutional concern in nineteenth century South America, 74  
     as a multilateral concern in nineteenth century South America, 66–70  
 Honduras, 78, 84  
 Hugo Chavez, 141  
 human dignity, 105, 116, 118, 127, 151, 169, 171, 205

- indigenous communities, 42
- Inter-American Commission on Human Rights (IACHR), 19, 117, 160
- Inter-American Court of Human Rights (IACtHR), 5, 19, 119, 127–128, 130–131, 135–137, 138–140, 154, 210, 213
  - doctrine on conventionality control, 115
  - pro homine* principle of interpretation, 116–117, 139, 169, 171
- International Labour Organization (ILO), 18
- International Organization for Migration (IOM), 20
- Italy, 12
- ius sanguinis*
  - in the nineteenth century, 38
- Ius soli*, 12
  - in South America, 6, 165, 207
  - in the nineteenth century, 33–39
- Japan, 12
- Japanese in South America, 93
- Jews in South America, 50, 93, 94
- José Moya, 10, 53
- Juan Bautista Alberdi, 44, 47
- Latin American Free Trade Association (LAFTA, ALALC in its Spanish acronym), 175
- Lebanon, 12
- legal transplants in South America, 56
- Lima Congress of 1848, 67
- Lima Congress of 1864–65, 68
- Lula da Silva, 120n. 1, 142
- market citizenship in South America, 192
- Mauricio Macri, 22, 23, 23n. 134, 25, 119, 196
- MERCOSUR
  - Asunción Treaty of 1991, 179
  - Decision 64/10 on citizenship of 16 December 2010, 181
  - Migration Forum, 20, 186, 194
  - Olivos Protocol of 2002, 186
  - Ouro Preto Protocol of 1994, 179
  - Proposal for a new consolidated MERCOSUR Migration Agreement, 194
  - Socio-Labour Declaration of 1998, 180
- MERCOSUR Residence Agreement, 5, 135, 181, 183–185, 194
  - interpretation, 186
  - number of permits granted under the agreement, 196
  - pro homine* principle of interpretation, 189
- Mexico, 79, 84, 139, 212
- military dictatorships in South America, 5, 101–104, 113, 204
- Monroe Doctrine of 1823, 61
- Montevideo, 95
  - Treaty of 1960, 175
- Napoleon Bonaparte, 43
- naturalisation of foreigners in the nineteenth century, 42–50
- Nestor Kirchner, 104, 118, 144
- Netherlands, the, 12
- New Latin American Constitutionalism, 10, 114–117, 170
- Nicaragua, 79, 212
- non-criminalisation, 3, 5, 23
- non-discrimination, 127, 129
- North America Free Trade Agreement (NAFTA), 174
- open borders, 3, 4, 23
  - as a civilisation project in the nineteenth century in South America, 47
- open discourse on migration in South America, 199
- Organization of American States (OAS), 19, 101
- Pacific Alliance, 20, 182
- Pacific War, 69
- Palestine, 12
- Panama, 79, 84, 139
  - Congress of 1826, 66–67
- Pan-American Conferences, 91
- Paraguay, 12, 38, 42, 48, 78, 93
- path dependency in South America, 57
- Patria Grande*, 211
- Peru, 11, 38, 42, 48, 77, 93
- Philippines, the, 40
- Poland, 12
- political rights for foreigners in South American countries, 161–162
- Portugal, 12
  - Portuguese constitution of 1822, 38
- postnational citizenship, 62, 209

- pro homine* principle of interpretation, 184, 189
- protestants in South America, 50
- racial democracies, 105
- racial discrimination, 37, 53, 91, 101, 106, 147, 152, 201
  - in Spain, 40
- reciprocity in South America, 80
- regularisation in South America
  - as a first option, 138
  - of irregular migrants, 132–138, 205
    - due to family life, 137
- remittances, 23
- return migration to South America, 16
- right of entry for South Americans, 191–192
- right to health care and education for irregular migrants in South America, 129
- right to migrate as a Human Right, 4, 149
- right to work for foreigners in South American countries, 159
- Rio de Janeiro, 95
- Roma in South America, 93
- Ruben Giustiniani, 199
- Santiago de Chile Congress of 1856, 67
- Santo Domingo, 68
- securitisation in South America, 206
- Senegal, 125, 133
- September 11, 2001, 2
- Simón Bolívar, 32, 45, 46, 56, 60, 61, 64
- slavery, 4, 11, 31, 36–37, 92
- smuggling, 138
- South American citizenship, 6, 181–183, 192–196
- South American Conference on Migration (SACM), 19, 23, 140, 155
- South Korea, 133
- south-south flows, 8
- Spain, 12
  - as a destination country, 16
- state and nation-building, 9, 55, 61, 63, 107, 203
- supranational citizenship, 62, 209
- Supreme and Constitutional Courts in South America, 171
- Switzerland, 12
- Syria, 12
- territorial sovereignty, 121, 148, 171
- trafficking, 138
- transnational citizenship, 209, 210
- Triple Alliance War, 69
- UN Convention on the Rights of Migrant Workers (ICMW), 18, 127, 139, 153, 159, 169, 210
- UNASUR, 20, 182, 187, 212
  - South American citizenship, 182
- universal citizenship, 3, 114, 117, 125, 148, 150, 197, 199, 213
- Universal Declaration of Human Rights (UDHR), 101, 148
- Uruguay, 10, 38, 42, 48, 78, 93, 143
  - Constitution of 1967, 150
  - implementation of MERCOSUR Residence Agreement, 184
  - legal citizenship, 157
  - migration law of 2008, 149
  - political rights for foreigners, 162
  - right to migrate, 151
- USA, 4, 31, 53, 61, 69, 81, 122, 200, 206
  - Chinese Exclusion Act of 1882, 87, 92, 105
  - criminalisation of irregular migration, 123
  - deportation of family members, 136
  - Immigration Act of 1917, 98
  - ius soli* in the USA, 33
  - Nishimura Ekiu v. United States USA Supreme Court* 1892, 87
  - Quota Act of 1921, 89
  - regulation of irregular migration, 128
- Venezuela, 11, 38, 42, 48, 75, 84, 93, 141, 143, 177
  - expulsion of migrants, 141
  - Venezuelan Constitution of 1811, 46, 56
- visa policy in South America, 125
- Washington Congress of 1856, 68
- whitening of populations in South America, 4, 26, 31, 59, 105, 201
- William Burke, 31, 44