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# The Chilean State and the search for a new migration policy<sup>1</sup>

## El Estado Chileno a la búsqueda de una nueva ley migratoria.

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**Palabras Claves:** Inmigración, Emigración, Política migratoria, Chile.

**Keywords:** Immigration, Emigration, Migration Policy, Chile.

**Resumen:** Considerar a Chile como un país receptor de inmigrantes es algo definitivamente nuevo. De hecho la migración neta en Chile aún es negativa. Durante los últimos veinte años, sin embargo, se ha observado un cambio en los flujos migratorios al país. Esto ha sido resultado del proceso de democratización luego del fin de la dictadura de Pinochet, un progreso económico continuado durante este período, y a la percepción de un país social y políticamente tranquilo en comparación con sus vecinos. Entre los años 1992 y 2012 el *stock* migratorio en Chile aumento desde 114 mil personas a unas 352 mil; provenientes principalmente de Perú, Argentina y otros países de las Américas. Los gobiernos democráticos posteriores a la dictadura han tenido desde 1990 un comportamiento errático respecto de este aumento migratorio. Mientras que en el discurso el Estado plantea que los inmigrantes deben ser recibidos con respeto a los tratados internacionales

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firmados por el país, en la práctica se utilizan las mismas leyes migratorias desarrolladas y aplicadas durante la dictadura. De la misma manera, la implementación de nuevas políticas y leyes ha sido igualmente inconsistente. Mientras algunos organismos del estado crean programas para promover la integración social de los inmigrantes, otros restringen la adaptación e interpretan negativamente las resoluciones judiciales con relación a los inmigrantes. En este contexto burocrático, este artículo examina los últimos intentos que el estado chileno a seguido para construir una nueva ley migratoria, así como su posible implementación y los efectos que estas leyes y políticas puedan tener en los procesos de desarrollo social, político y económico del país.

**Abstract:** Considering Chile an immigration country is a new thing; in fact its net migration is still negative. The last twenty years, however, have seen a change in the migration flows to the country. This has been result of the democratization process after the end of Pinochet's dictatorship, a continuous economic progress and a perception of a country in social tranquility when compared with its neighbors. Between 1992 and 2012, immigration has increased from about 114,000 people to 352,000, primarily from Peru, Argentina and other South American and Latin American countries. The democratic governments have had since 1990 an erratic approach to this increase in migration. While in the discourse the state argues that migrants must be received with respect to migration international treaties signed by the country; in practice the same migration policies and laws developed during the dictatorship are still in use. Consequently, policy implementation has been equally inconsistent; some departments create programs to encourage social integration, while others attempt to restrict immigrant adaptation and have mismanaged judicatory claims. Within this bureaucratic context, this paper examines Chile's current attempts to construct migration policies and its implementation, and the possible effects that these policies might have in the social, political and economic development of the country.

## Introduction

Cornered in the southeast extreme of the Americas, Chile developed as a socially and culturally insular country unaccustomed to the presence of large numbers of foreigners. Its geographic isolation between the Andes mountains and the Pacific Ocean set up early European immigrants as arbiters of who could arrive next, engendering early discriminatory migration policies. The desire by established immigrants to encourage other white Europeans to populate the country and "improve the race" was evident in policies that resulted in the influx of European immigration in the 19th and 20th centuries. Although the overall number of immigrants during this early period was relatively small, compared to the other

countries in the Southern Cone of America, their presence transformed the country technologically, economically, and culturally. Notwithstanding, throughout most of its history the foreign-born have remained between 1 percent and 2 percent of the total population, and Chile has been mostly known as a sending country. Between 750,000 and 1 million Chileans live abroad (about 6 percent of the country's population), according to the latest governmental estimates in 2005 (Estrada 1992; Martínez Pizarro 2003; Norambuena Carrasco 2000; Pellegrino 1995).

Today, its continuing economic growth and reconsolidated political stability has positioned Chile as a developing country of destination, with a steady increase in its foreign-born population in the past three decades. But because of its isolation and history of emigration, Chile has few formally established migration policies, and the ones in force are outdated. With a large community abroad and the increase in intra- and extra-regional immigration during the past decade, the country has shown the need for a modernized and coherent migration policy. However, governmental efforts toward comprehensive migration policy have been mostly piecemeal, making this goal elusive (Cano Christiny et al 2009; Martínez Pizarro 2008; 2011).

### **Immigration to Chile: From the Origins of the Republic to the 1973 Military Coup**

The first admission of immigrants to Chile was selective. In 1824, the government enacted a law to encourage Europeans (primarily Swiss, Germans, and English) to establish factories in urban centers as well as to populate sparsely inhabited southern areas. By 1865, the census showed approximately 20,000 foreigners, most of them German colonists (Table 1). In 1882, this effort was reinforced through the establishment of the country's General Immigration Agency in Europe, which provided Chilean land in uncultivated areas to settler families. Between 1883 and 1895, more than 31,000 northern Europeans settled in the southern colonies of Llanquihue and Valdivia. By the beginning of the 20th century, Croatians were settling in at the time isolated regions in the far north and far south (Mezzano 1995).

Table 1

Chile (1865-2009 est.): Total and Foreign-Born (FB) Population

Census Year	Total Population	Inter census growth of total Population	Foreign-born Population	% of Total Population	Inter census growth FB Population	% of Europeans Over FB	% of Latin Americans Over FB	% of Others Over FB
1865	1,819,223		21,982	1.21		53.7	41.4	4.9
1875	2,075,971	14.1	25,199	1.21	14.6	62.3	33.0	4.7
1885	2,057,005	-0.9	87,077	4.23	245.6	30.1	67.2	2.7
1895	2,695,652	31.0	79,056	2.93	-9.2	55.4	41.8	2.8
1907	3,231,496	19.9	132,312	4.09	67.4	53.3	42.7	4.0
1920	3,731,593	15.5	114,114	3.06	-13.8	59.9	31.2	8.9
1930	4,287,445	14.9	105,463	2.46	-7.6	60.0	24.6	15.4
1940	5,023,539	17.2	107,273	2.14	1.7	67.2	21.7	11.1
1952	5,932,995	18.1	103,878	1.75	-3.2	55.9	23.4	20.7
1960	7,374,115	24.3	104,853	1.42	0.9	60.9	26.1	13.0
1970	8,884,768	20.5	90,441	1.02	-13.7	53.3	34.4	12.3
1982	11,275,440	26.9	84,345	0.75	-6.7	31.8	54.5	13.7
1992	13,348,401	18.4	114,597	0.86	35.9	20.1	65.1	14.8
2002	15,116,435	13.2	184,464	1.22	61.0	17.2	71.8	11.0
2009 (est.)	16,928,873	12.0	352,344	2.08	91.0	n/a	n/a	n/a

SOURCE: Martínez (1997); INE 2002, Chile. Departamento de Extranjería 2012.

The selective policies achieved their aims. On average, more than 52.5 percent of total foreigners residing in Chile between 1865 and 1920 were Europeans. The exception was in the census of 1885, when Latin Americans accounted for 67.2 percent of the foreign-born. This phenomenon was a result of the 1879-1893 War of the Pacific, when Chile's northern borders were redrawn (Table 1). This period also saw the first immigration of Chinese in the northern part of the country as well as Catholic-Arab migrants from Syria, Lebanon, and Palestine; which at the time were still part of the Ottoman Empire. Neither of these two immigration flows was welcomed by the Chilean elites, despite the fact that the Chinese, for example, had an active and relevant role in the war against Peru and Bolivia. At the time, Middle Eastern immigrants were considered as ethnically different and negatively stereotyped by some of the leading intellectuals and the press (Agar and Reboleldo 1995).

World War I put an end to the selective encouragement of immigrants (Pellegrino 1995). Fears of an influx of refugees in the aftermath of the conflict encouraged lawmakers to restrict the entry of foreigners in 1918. The advent of World War II strengthened this position, with the government requiring all foreigners entering the country to have proof of sufficient funds to sustain themselves for six months. In addition, they largely limited immigration to immediate relatives of foreigners who had a minimum of two years residence in the country. Although there was a slight increase in European immigration at the end of World War II, in the late 1940s the foreign-born population began to decline. In the decades following the war, the number of immigrants decreased, both as a percentage of the total population of the country and as an overall shrinking of the stock of migrants (Martínez Pizarro 1995). For example, by 1982 Spanish immigrants were the second-largest foreign-born group in the country, mostly due to refugee immigration from the Spanish Civil War. Their numbers have since fallen, as older migrants died and fewer migrated to the country (Table 1).

Between 1907 and 1940, populations of Christian-Arab immigrants increased from Syria, Lebanon, and Palestine, due to many fleeing conflicts in the Ottoman Empire. Enough Arab migrants settled in Chile that by 1930 this group accounted for more than 15 percent of the foreign-born population, and by 1952 more than 20 percent. Although the total number of Arabs immigrants who arrived between 1885 and 1940 is between 8,000 to 10,000 people, they have been active participants in the economic, political, and intellectual life of the country (Agar and Saffie 2005; Agar and Rebolledo 1995).

## Immigration during Chile's Dictatorship

Following decades of democracy, a US-backed military coup in 1973 installed General Augusto Pinochet as Chile's dictator, marking a new period in migratory flows to and from Chile. During the economic and political crisis that followed, Chile became a country of emigration. In this era, more than 500,000 Chileans voluntarily left or were forced to flee for countries such as Argentina, Australia, Canada, Venezuela, France, and Sweden. At the same time, the new social, political, and economic order discouraged new immigrants from entering the country (Estrada 1995).

The dictatorship, which remained in power until 1990, imposed stricter controls on foreigners as part of its political agenda, while engaging in a new policy of encouraging foreign investment. This facilitated, without directly targeting, the arrival of migrants with higher levels of education and more economic resources. Foreign currencies and technology were given privileged status in Chile's new neoliberal economy, and the immigration that accompanied them was seen as beneficial to the country as well. Intraregional migrants replaced Europeans as the dominant migrant stock, but only in a relative sense, as European migration had dropped so sharply. At the same time, a relatively large number of Korean immigrants, attracted by economic incentives offered by the military regime, began to overshadow Arab migrants in terms of economic power and numbers (Vargas del Campo 1997). Despite the slight increase in educated and comparatively wealthy immigrants, the brutality and repression of the Pinochet regime discouraged most migrants from settling in Chile for its duration. As a result, in 1982 the number of foreign-born in Chile reached a historic low of 84,000, only 0.75 percent of the country's total population.

The most significant piece of legislation that emerged from this period was the 1975 Immigration Act, which defined various immigrant categories, as well as the functions of the office that regulated the entrance, residence, control, and expulsion of foreigners; the Departamento de Extranjería y Migración.<sup>8</sup> This law, which is still in effect today, was part of Pinochet's broader effort to control immigration. This policy viewed immigration through the lens of national security and sought principally to prevent the entry of "dangerous elements" or terrorists. To remain in the country, foreigners need to procure one of three visa categories: tourist, resident, or permanent. Within the

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<sup>8</sup> The *Departamento de Extranjería y Migración* (equivalent to the US Citizenship and Immigration Services) is the governmental office in charge of administrative actions regarding foreign citizens in Chile. It is part of the Ministry of the Interior.

“resident” category, there are five separate visas: contract, student, temporary, official, and refugee or asylee. Visitors with contract visas must be sponsored by a Chilean employer, while temporary visas are given to people considered to be beneficial for the development of the country, such as scientists, businessmen, and other professionals. Though the category of refugee and asylee exists, in practice there have been relatively few refugees and asylum seekers since the return to democracy. Information from The United Nations High Commissioner for Refugees (UNHCR) estimated refugees and asylum seekers in Chile below 2,000 at about 1,900 individuals in 2011/2010. It’s important to note that no category exists for “migrant” or “immigrant” (Estrada 1992; Mezzano, 1995; Vargas del Campo 1997).

### **New Migration Flows: The 1990s Onward**

While as yet a principal destination country for migrants, Chile has gradually become a more popular option. The most recent census, in 2002, showed the foreign-born comprising 1.22 percent of the population (about 184,400 migrants). The Departamento de Extranjería y Migración’s 2009 estimates of the foreign-born population showed migrants exceeding 2 percent of the population (about 352,300 migrants) for the first time since 1940 (see Table 1). This number is still low compared to the stock of migrants living in other countries in the region, such as the over one more than 1 million migrants from Latin America alone residing in Argentina or the 750,000 living in Venezuela of a total of 2.9 million intraregional migrants in Latin America (Martínez 2011).



Table 2

Chile (1882-2009 est): Foreign-born population according to census and DEM\* estimates and inter census growth of foreign-born population

Country of Origin	Census				DEM* estimate	Inter census growth (%)		Percent growth
	1982	1992	2002	2009		1982-1992	1992-2002	
South America								
Argentina	19,733	34,415	48,176	60,597		74.4	40.0	25.8
Peru	4,308	7,649	37,860	130,859		77.6	395.0	245.6
Bolivia	6,298	7,729	10,919	24,116		22.7	41.3	120.9
Ecuador	1,215	2,267	9,393	19,089		86.6	314.3	103.2
Brazil	2,076	4,610	6,895	9,624		122.1	49.6	39.6
Venezuela	942	2,397	4,338	N/A		154.5	81.0	N/A
Colombia	1,069	1,666	4,095	12,929		55.8	145.8	215.7
North America								
United States	4,667	6,249	7,753	9,720		33.9	24.1	25.4
Europe								
Spain	12,290	9,879	9,084	11,025		-19.6	-8.0	21.4
Germany	6,125	5,603	5,473	6,547		-8.5	-2.3	19.6
Asia								
China	669	1,170	2,401	4,589		74.9	105.2	91.1
Other Countries								
	24,413	30,897	38,077	63,249		26.6	23.2	66.1
<b>Total</b>	<b>83,805</b>	<b>114,531</b>	<b>184,464</b>	<b>352,344</b>		<b>36.7</b>	<b>61.1</b>	<b>91.0</b>

\* DEM: Departamento de Extranjería y Migración, Ministerio del Interior, Chile (Department of Immigration, Secretary of Interior, Chile)

Source: Martinez, 2003; Martinez, 2011

Three factors heralded a change in immigration flows. First, the rejection of Pinochet's rule encouraged many exiled Chileans to return. Second, the increasing economic stability of the country, in conjunction with the deteriorating economic and political situation of other nations in the region, made Chile an attractive alternative for intraregional immigrants. Third, the tightening of border controls in the United States has increased the physical risks and financial costs of migration. As a result, some migratory flows that might have otherwise been headed north or to more traditional receiving nations such as Argentina, have been redirected towards Chile.

This last point is underscored by the growth of the Latin American migrant population within the country. The numbers of Bolivians, Ecuadorans, and Colombians more than doubled during the inter-census years, with most of the growth coming from women, who now make up 54 percent, 55 percent, and 58 percent of those migrant populations, respectively (Table 2). However, the most notable trend between 2002 and 2009 was

the rapid growth of the Peruvian population. Peruvian migrants are now estimated to account for nearly 131,000 of the country’s 352,000 migrants, a 245% increase from 2002. Of those migrants, nearly 57 percent are women (Table 3).

Table 3  
Chile (2009 est): Foreign-born population by sex. Main receiving countries

Country	Men		Female	
	Total	%	Total	%
Peru	56,545	43.21	74,314	56.79
Argentina	30,517	50.36	30,080	49.64
Bolivia	11,122	46.12	12,994	53.88
Ecuador	8,585	44.97	10,504	55.03
Colombia	5,370	41.53	7,559	58.47
Spain	5,833	52.91	5,192	47.09
United States	5,322	54.75	4,398	45.25
Brazil	4,339	45.09	5,285	54.91
Germany	3,284	50.16	3,263	49.84
China	2,353	51.27	2,236	48.73
Other countries	32,755	51.79	30,494	48.21
Total	166,025	47.12	186,319	52.88

Source: Departamento de Extranjería y Migración, 2010

Recent studies done on migration to Chile note five significant factors: Most migration to Chile is now coming from Andean countries, rather than the Southern Cone; for the first time, Peruvians have surpassed Argentines as the dominant migrant group, migration flows to Chile are increasingly more female; migrants from Peru, Bolivia, and Ecuador have more years of schooling, on average, than Chileans; and Peruvian migration flows, already growing at a steady rate, are likely to continue well into the foreseeable future (Cano Christiny 2009).

These recent flows have changed the landscape of migration in Chile. Peruvians are now the largest migrant group and continue to grow at a steady rate. This is reinforced by the continued growth of a tight-knit Peruvian community—considered to be the only true immigrant enclave in the country—in the nation’s capital, Santiago. Most female Peruvian migrants are employed as domestic workers in middle-class Chilean homes. Concentrated as they are geographically in certain sectors of Santiago, these immigrants have a higher visibility than other migrant populations, and as such, are the

focus of most of the negative media attention about immigration to Chile – specifically, a perception that many of these immigrants are in the country illegally (Mora 2008; Stefoni 2003).

Though no records on illegal entries are made available to the public, Chilean police officials noted in a 2005 newspaper report that between 2000 and 2005, more than 2,000 immigrants were caught (El Mercurio 2005). The majority of unauthorized migrants are likely to be visa overstayers or those who have been fired or whose work contract has expired. Since a work visa is connected to a work contract, there is little room to change jobs without violating visa status (Mora 2008; Cano Christiny et al 2009; Martínez 2008; 2011).

### **Chile: A Country of Refuge?**

Although Chile was a founding member of the Intergovernmental Committee for European Migration and received a small number of Polish refugees after World War II, the country has never been considered an important resettlement destination. As previously mentioned, during the military dictatorship the country was a significant sender of refugees (UNHCR 1996).

The end of the dictatorship in 1990 signaled the beginning of a new relationship between Chile and the international refugee organizations (UNHCR, the International Organization for Migration, International Catholic Migration Commission, etc.). While the first years of the decade were devoted to the return of Chilean exiles, in 1999 the government developed a resettlement agreement with UNHCR to receive refugees, part of a growing set of efforts to fulfill international agreements. In reality, the numbers of refugees resettled has been quite small. In 1998, Chile attempted to resettle 28 Serb-Bosnian refugees from the former Yugoslavia. By 2002, however, most of these refugees had either gone back to their country of origin or resettled in Australia. Lack of opportunities and support, as well as cultural differences, were cited by the refugees as the reason for leaving Chile (ACNUR 2005). Based on this experience, the Chilean government decided to resettle refugees from similar backgrounds or only resettle those where there were existing communities in the country that could provide them with support (See Table 4).

In 2008, the government of Michelle Bachelet argued for the need to develop laws and policies specific to refugees and, although related, separate from a migration policy. The moral argument behind the need for refugee policy was the belief that Chile needed to

repay a debt of solidarity with the rest of the world for having received the estimated half a million exiles of Pinochet’s dictatorship. Since most migrants are from bordering nations, more recent migration policy discussions have been entrapped by outdated considerations on labor market impact and national defense issues. The political calculus by government officials is that refugees are a more sympathetic group, and refugee reforms easier to pass than a complete overhauling to migration policies. In 2009 the government sent a bill to Congress that consolidated all the international treaties and agreements with international organizations signed by the Chilean state in relation to refugees. This “Law of the Refugee” (Ley 20.430), as it is known, was quickly approved by Congress and went into effect in April 2010. Currently, up to 95 percent of asylum seekers and refugees are from Colombia, but in the last decade Chile has received refugees in smaller numbers from countries such as Cuba, Haiti, Somalia, Rwanda, Afghanistan, and Iraq.

Table 4  
Chile (2005-2010): Refugees and Asylum seekers by year

	2005	2006	2007	2008	2009	2010
Asylum seekers	107	338	518	890	498	274
Refugees	806	1,134	1,376	1,613	1,539	1,621
Total population of concern	913	1,473	1,894	2,503	2,037	1,895

Source: UNHCR Statistical Online Population Database, United Nations High Commissioner for Refugees (UNHCR), Data extracted: 09/06/2011

## A Country of Emigrants

Despite its more recent draw for immigrants, Chile continues to have a historically negative net migration. Current governmental estimates show that for every one immigrant residing in the country, three Chileans are living abroad (INE-DICOEX 2005). The main receiving country has been historically Argentina (Martínez 2003). These emigration flows are nothing new in the history of Chile, and began shortly after the country’s independence from Spain with circular migration patterns to neighboring countries. By the 1840s, and partly due to the relevance of Chile as the main exporter of wheat in the Pacific and the importance of its ports, its emigration flows expanded to Australia and California. According to the United States census of 1850 there were 610 Chileans in this country, all of them in the State of California attracted by the gold rush. Although small in numbers, during those years, this population was a third of the total

number of South Americans in the United States and the second largest group of Latin American in the same state (Doña-Reveco 2011).

Chilean emigration to its bordering countries, especially Argentina, is a defining characteristic of emigration during the 19<sup>th</sup> and most of the 20<sup>th</sup> century. This emigration pattern is strongly connected to periods of a strong demand for labor and offers of highly industrialized urban centers. Argentina now has more than 429,000 first- and second-generation Chileans, the largest Chilean community abroad (Jensen and Perret 2011). Since the return to democracy in 1990 Chile has also seen growth in emigration to the United States and Europe, in particular Spain, being a large draw for Chileans seeking postgraduate studies.

Producing the largest population movement in the history of the country, the military coup of 1973 nearly doubled the Chilean population abroad with half a million new emigrants. These emigrants include exiles without legal right to return, political prisoners who were deported, and other economic migrants and their families forced to flee the economic policies enacted by the military regime. International organizations and Chilean academics estimate that the number of exiles during this period ranged from 200,000 (UNHCR) to up to 600,000, or between 2% percent and 6% percent of the Chilean population. In at the case of the United States, former refugees have stated in interviews that the United States received about 600 families as refugees. In some cases, families were sponsored by Jewish organizations and Christian churches. In other cases, refugees were assisted by Amnesty International and the American Friends Service Committee. These exiles received no U.S. federal or state government assistance, only the aid provided by the associations who brought them to the United States (Rebolledo 2006; Muñoz 2008; Norambuena Carrasco 2000).

Table 5  
Chile: Ten main countries of emigration,  
first and second generation

Countries	Number of Chileans
Total	857,781
Argentina	429,708
USA	113,394
Sweden	42,396
Canada	37,577
Australia	33,626
Brazil	28,371
Venezuela	27,106
Spain	23,911
France	15,782
Germany	10,280
Other countries	95,630

Source: INE-DICOEX 2003-2004.

The most current estimates are that about 50 percent of those exiled returned between the policy of selective return initiated by the dictatorship in 1983 and the 1990s. Between 1990 and 1993, the democratic government created a return program that attempted to attract former exiles and help with their reintegration. Although this program was only used by about 56,000 people, it did establish contact with more than 100,000 Chileans living abroad (INE-DICOEX 2005).

Table 6

United States (1850-2009): Population born in Chile and proportion of Chileans among foreign born and total population

Census Year	Chile		South America		Latin America		Foreign Born		United States Population	
	Total	Proportion over 100	Total	Proportion over 1,000	Total	Proportion over 10,000	Total	Proportion over 100,000		
1850	601	34.15	19,512	30.80	2,253,380	2.67	17,731,808	3.39		
1860	1,153	59.46	33,133	34.80	4,166,198	2.77	23,176,996	4.97		
1870	1,085	38.99	48,138	22.54	5,554,330	1.95	32,853,797	3.30		
1880	1,541	35.07	79,522	19.38	6,696,987	2.30	43,488,310	3.54		
1900	1,150	20.75	121,869	9.44	10,534,193	1.09	65,786,760	1.75		
1910	612	10.33	254,740	2.40	13,692,331	0.45	78,557,648	0.78		
1920	1,403	7.06	539,406	2.60	14,196,547	0.99	91,823,784	1.53		
1930	1,724	5.60	694,860	2.48	14,357,054	1.20	108,445,216	1.59		
1940	1,900	5.13	459,550	4.13	12,510,890	1.52	117,832,948	1.61		
1950	2,987	6.17	587,195	5.09	11,594,104	2.58	140,611,865	2.12		
1960	6,266	7.05	819,286	7.65	10,127,690	6.19	169,165,042	3.70		
1970	13,800	4.99	1,780,700	7.75	10,935,800	12.62	192,027,500	7.19		
1980	38,640	6.47	4,000,340	9.66	15,142,700	25.52	211,719,700	18.25		
1990	62,092	5.63	7,779,005	7.98	21,538,296	28.83	226,569,332	27.41		
2000	84,242	4.24	14,943,348	5.64	33,045,175	25.49	248,366,444	33.92		
ACS 2010	96,444	3.51	19,910,307	4.84	42,428,246	22.73	309,349,689	31.18		

Source: Ruggles et al. 2010

The 1990s heralded a change in migration flows, with emigration directed toward the United States and Europe, primarily as a result of the new economic development policies enacted in the country after neoliberal policies in the early to mid 1980s, as newly rich and well-educated Chileans left in increasing numbers to do business abroad, and as struggling Chileans were forced to seek economic opportunities elsewhere. According to a 2005 governmental study on the Chileans abroad, of those 15 years, 12.1% percent had left Chile for political reasons, 40.1% had left for economic reasons, and 30.8%31 percent emigrated for family reasons such as being children of emigrants or by marriage (INE-DICOEX 2005). The United States is the second largest receiving country, and although the number of Chileans in the U.S. is small compared to stocks of other migrants (a little over 23 Chileans for every 10,000 foreign-born); migration flows have increased tenfold since 1850 (Table 6 and Doña-Reveco 2011).

### **Step By Step: Chile's Current Migration Approach<sup>9</sup>**

The increase in immigrant arrivals has tested Chile's ability to modernize its immigration laws, however the official government policy toward migration (embodied in the 1970s legal framework) has remained effectively unchanged. In 1998, the government of Eduardo Frei Ruiz-Tagle developed a legalization program to permit immigrants to obtain a yearlong temporary visa. This process gave 16,764 Peruvians and 2,116 Bolivians temporary legal residency, but without any path toward permanent residency, most immigrants fell out of legal status at the end of this period.

The government of Ricardo Lagos (2000-06) made a more concerted effort to adopt an integrated approach to migration, focusing resources on modernizing border security, while adopting a more open stance toward migrants. This led to the development of bilateral meetings with Argentina, Bolivia, and Peru with the intention of creating integrated border facilities where all countries would share the infrastructure and ease the transfer of people and goods across political borders. Although these policies were not directly connected with any formal migration policy, this process led to the creation of a "Borderlands Card," which allows people in border communities to easily travel to cities in the neighboring country for business, doctor visits, and tourism.

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<sup>9</sup> This section is based mostly on Martínez 2002, 2008 and 2011; Cano Christiny et al 2009; Ministerio de Relaciones Exteriores 2011; Rojas 2011; Red Chilena de Migración e Interculturalidad 2011; and Agar 2010.



During the Lagos presidency, the country ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* and developed policies to assist in the integration of migrants. Among those enacted was the right for immigrant children to attend school and be treated equally to native students regardless of their migratory status. A second policy provided health access in public hospitals to immigrant children and pregnant women allowing. According to the Chilean constitution, the children of foreigners residing in the country who are not working for the government (i.e. diplomats) or are transient (visiting) foreigners are by right Chileans (*ius soli*); therefore children of women in irregular migratory conditions have access to nationality. Despite these advances, however, Lagos' tenure ended with little success in modernizing the fundamentals of Chile's migration

President Bachelet, determined to go further in positioning Chile as an open and receiving country, enacted some changes to Chile's bureaucratic approaches to migration but the long awaited major overhaul to migration policies did not take place. She attempted to improve the link with Chilean nationals in other countries and facilitated immigrant integration in Chilean society. Most significantly, Bachelet implemented a program that legalized 50,705 migrants between October 2007 and February 2008 (among these, 32,406 Peruvian, 5,657 Bolivian, and 1,782 Ecuadorean). As in the previous legalization program, it provided temporary visas for a year, with the possibility of an additional year extension if the immigrant was able to find work (Jensen 2008).

In October 2008, Bachelet developed the *Instructivo Presidencial No. 9* (Presidential Instructive No. 9), a nonbinding document that attempted to position Chile as a country that is open to immigration, seeks to manage its migration flows, and does not discriminate against migrants. This document also promotes the active participation of Chile in multilateral migration discussions; and reinforces the country's right to manage and regulate migration flows. At the everyday life level this instructive attempted to put into effect the agreements that arise from the country's participation on the Migrants' Convention. Nonetheless, as in previous administrations, the policies adopted during Bachelet's presidency fell short of transforming the current lack of a comprehensive migration policy these policies were hailed as an important step, these policies were also criticized as reactionary and piecemeal.

The directives set forth under Bachelet's government, however, have not been adopted in a coherent manner. A recent report by a coalition of NGOs in Chile found that not all public schools allow unauthorized immigrant children to study, nor they are reporting their grades. The right to a temporary visa for pregnant

women applies only to women and does not apply to their spouses or partners, leaving the latter unprotected and subject to expulsion. Finally, the authorities have begun to interpret the right to nationality for children of undocumented or unauthorized women. As the Chilean Constitution denies the right of nationality to transient foreigners, some officials consider unauthorized migrants as transients and thus children are denied nationality.

The topic of developing a comprehensive migration policy was almost completely absent during the presidential campaign of 2009, and not much progress has been made since the newest President, Sebastian Piñera, was elected in 2010. In October of 2010, however, an editorial in *El Mercurio*, the leading conservative newspaper, stated that the government was preparing a comprehensive migration policy, and mentioned that “A good legislation (on migration) and a thorough understanding (on behalf of the country) of the benefit of immigration” could help avoid the problems that migration has brought to developed countries (El Mercurio 2010). In the last year, however, the current government of Sebastián Piñera has been working on a new migration law without the participation of the civil society (El Mercurio 2012a; 2012b). The government was going to send this new migration law in August of 2012 but it has not yet entered parliamentary discussion. This law obviously incorporates the government’s political and ideological intentions with regards to migration departing somewhat from the progress achieved in the last 10 years (El Mercurio 2012b; Bellolio et al 2012).

From the perspective of Chilean emigration, the state has attempted to create broad linkages with its communities abroad through the development of cultural and economic ties. This process is relatively new and began in the mid 1990s with the establishment of the Direction of Chilean Abroad (DICOEX – Dirección para las Comunidades Chilenas en el Exterior), which has attempted to maintain a direct relationship with its citizens abroad. In particular, this organization works to establish bilateral agreements related to social security and health, access to social and economic benefits for victims of human rights abuses during the last dictatorship. In October 2010 the country’s newly elected president, Sebastian Piñera, announced that his government was preparing a comprehensive migration policy, though not much progress has been made since. The past 20 years have seen governmental attempts to reconnect with the communities abroad. One of the main requests of these communities, the right to vote in Chilean elections, is being debated by the parliament. The current government is proposing electoral participation if and when migrants can prove permanent connections with Chile.

## Whither Comprehensive Migration Policy?

Chile is clearly a country whose migration flows are on the rise. The last twenty years, however, have shown limited government efforts to develop a comprehensive migration policy. This could be due to the government's perception that because the number of international migrants and refugees is limited, and there is no need for a change in policy, and particularly when there seem to be more problems that directly affect the entire population such as education, health or, and the environment. Advocates say the lack of an updated policy precludes the government from being proactive toward migration and societal integration. Any successful migration policy would need to facilitate the process of obtaining visas as well as widen the educational opportunities of the children of immigrants, and create a program that secures immigrants the right to political participation, social security, and health benefits. Such measures will provide critical momentum for overcoming the greatest challenge: meaningfully integrating immigrants into the culturally conservative and closed Chilean society.

Although the official discourse is one of openness, this attitude is not necessarily supported by its citizens. The *Latinobarómetro* study in 2007 ranked Chile 15 out of 18 Latin American countries on openness to migration, with only about one-third of those surveyed (35 percent) agreed that foreigners should have the same rights as natives. When asked about "race" or ethnic group and class, the percentages were even lower: only 13% percent of Chileans agreed with bringing foreigners with a similar race or ethnic group to that of the majority of the country. The same study states that only 10% of Chilean agreed with bringing a lot of people from poorer countries. The study concluded there was not a particular type of immigrant than the Chilean population did not welcome but in general any immigrant, regardless of their characteristics. This negative perception plays out in daily experiences of immigrants. It is harder for non-European to rent or have access to education, banking services, and health programs. There is also concern among Chileans that immigrants will displace them from the job market, although there is no empirical information to support this claim.

Although Chile ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1971 and has actively participated in conventions on non-discrimination, there are no immigrant integration policy initiatives at the government level. Since most open discrimination cases do not make it to police records, a false sense exists that there is no need for direct governmental involvement on integration policies.

While it is important to have a new migration policy, the actions of the Piñera's government so far seem to indicate a different ideological moment. The comments of the Undersecretary of Interior and other actions regarding foreigners (El Mercurio 2012a ; 2012b;) seem to indicate a Janus-faced project of migration law. On the one hand the notions there seem to be a language of 'national security', 'very similar to the laws of 1975 and to the 1953 migration policy, which do not correspond to a country respectful of differences and open to the world as Chile has been presented internationally. This project also seems to condition immigration with economic development. The problem is that the Chilean government has not yet proposed a national development policy in any areas. The idea itself of contribution to development is focus on what high income or highly educated migrants might provide. It does not consider the role of low income migrant workers which are bulk of the current migration flow to the country. On the other hand, it seems that the project will continue with the enactment of the UN Convention on the rights of migrant workers and their families, facilitating migration reunification—with conditions—and providing access in the same conditions as Chileans to health care and education to migrants regardless of their migratory status. These two ideas contradict each other in ideological perspective and will contradict on the application of the law.

In conclusion, most of the problems Chile does see arise from the lack of a proper legal framework to govern migration flows. Outdated laws do not comply with recommendations of human rights organizations, nor are they in accordance to the new realities of a democratic country deeply immersed in a globalized world. While the development of a holistic migration policy would benefit both migrants and nationals alike, this process must take place in a context that considers the needs of both and educates Chileans on the benefits of moving toward a more inclusive and culturally rich society. Finally, in order to succeed any migration policy needs to incorporate on its development the participation not only of the state, but also of migrants, relevant NGOs, Academics, and civil society in general. So far this has not been the case of this project. Let's hope that this will happen in the parliamentary discussion.

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