

## Policy Briefing: Migration Trends and Public Policies in Chile

### Reseña de políticas: tendencias migratorias y políticas públicas en Chile

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#### MIGRATION FLOWS AND THEORETICAL APPROACH<sup>3</sup>

The International Organization for Migration (IOM, 2021) estimates that as of 2020, the number of international migrants has grown to 281 million, representing 3.6% of the total global population, with the primary countries of origin being Venezuela, Colombia, and Brazil. Narrowing the focus, these countries' prominence in terms of migration has been noticed within Latin America over the last two to three decades. In this region, the pattern of migration flows has changed substantially. Whereas historically, migrants mainly came from Europe (Solimano, 2024), in recent decades, the trend has shifted towards migration within the region (South/South migration) (Salamanca, 2022).

The level of human security experienced by migrants in Latin America is far from sufficient. This insecurity stems from two fundamental causes: the first is related to the complex socioeconomic and emotional situation experienced by migrants due to danger and uncertainty during their transit and arrival. The second is the often-detrimental conditions migrants face in the receiving countries. These relate to government shortcomings when implementing migration policies that could improve their social welfare.

In this critical note, differences between two Chilean public policies and relevant migration measures implemented in Chile will be discussed briefly, emphasizing a critical appraisal of the most recent one. This analysis is based upon some key premises in the theoretical model developed by Kattel and Mazzucatto (2018) adapted to the international migration context. It analyses the role of the state's mission-oriented policies which are formulated to solve concrete problems through social interventions directed to specific objectives, especially within uncertain social contexts.

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The drivers of changes are not solely aspects related to politics and the economy but also include social welfare factors. They require building new institutional structures and increased awareness among administrative bureaucracies regarding the conditions of migration and the capacities to address them. The concept of “discursive regularities” of Mulkay (1993) is defined as constructed on the basis of pre-existing sociocultural beliefs that reveal the “interrelated set of background assumptions” (1993, p. 723). This idea is useful for analyzing not only the convergent and divergent policy views but minor variations in the interventions described in official documents and the narratives of the social agents interviewed during ongoing research as well.

### *Historical Trajectory*

Historically, there are two central points in relation to the application of migration policy in Chile, which took place in 1975 and 2021. Decree Law no. 1094 was designed during General Pinochet’s military dictatorship (between 1973 and 1989) and implemented in 1975. This law focused on domestic security and migrant expulsion, so it did not recognize the right to healthcare—to which there is no reference—nor did it mention other human rights such as education, housing, and access to justice (Decree Law no. 1094, 1975; Vial, 2015).

During the long democratization process that followed, action was taken to partially amend the law in effect at the time (Decree Law no. 1094). The first stage involved the modernization of public services. Then, in the second stage, sectoral public policies would be implemented to give migrants further access to healthcare and schooling, protect them against human trafficking, and allow the issue of work permits during the documentation process.

In the third stage, 15 themes were presented based on the reinforcement of migrants’ human rights on several levels, such as access to free prenatal and natal care, wider protection for children and adults, and granting visas for migrants as soon as they obtained work contracts. This initiative adopted a human rights-based, intercultural, and non-discriminatory approach. However, in 2017, the Chilean Congress refused to pass the law that codified the presidential instructions into a new national system for managing migration (Polloni, 2024).

There were also several policy setbacks during the democratic period. Starting during the COVID-19 pandemic, several “sensationalist” moments of migrant deportation took place. For instance, migrants were treated as criminals, shown by the media handcuffed and wearing white jail uniforms. Additionally, a targeted plan for Haitian migrants to return to their homelands was implemented. As for documentation, the process to apply for an entry visa had to be made through the consulates of their countries of origin. In addition, Chile’s borders were closed, leading to a massive increase in the number of migrants entering the country through unauthorized routes, a trend that continues to this day. Successive modifications to the original law (Decree Law no. 1094 of 1975) were fragmented, reflecting advances, setbacks, and contradictions (Donoso Toledo, 2022).

Finally, in 2021, Chilean Immigration Law 21.325 (Ley de Migración y Extranjería, 2021) was enacted and implemented the following year alongside its concomitant national migration policy which covers 10 different themes. Nonetheless, this existing law was deemed as highly

contradictory, as it promotes migrants' rights while retaining many elements of the national security approach embedded in the 1975 law (Roessler et al., 2022).

### *At Present*

Regarding border management, several variations diverge from the previous law yet increase control over the borders. The budget percentages allotted to security measures (e.g., personnel, training, and equipment) are substantially greater than those approved for interventions of a humanitarian character. In addition, almost a third of the law projects within Chilean Immigration Law 21.325 expand the grounds for expulsion, the prohibition of entry, and even the revocation of temporary visas. This includes pending court cases preventing appeals from being filed with the Supreme Court.

Regularizing documentation would facilitate migrants' socioeconomic integration in terms of healthcare, education, housing, employment, etc. A policymaker interviewed stated that "regularized migrants have opened up new market niches, many based on their cultural practices, especially in the sectors of food preparation and catering, as hotel staff and blue-collar labor in specialized industries" (I1 personal communication, March 11, 2024).<sup>4</sup> These benefits tend to be invisible or minimized under the new policy regime.

Another interviewee added about the transnational contribution of women through money remittances to families and friends: "In other words, it is not only to this country that women contribute but also to their countries of origin, how they 'move' the economy in their own countries, unfortunately, at the cost of their bodies" (I2, personal communication, March 15, 2024). This interview also reflected on the demographic contribution migrants can and do make, given the aging of the population in Chile. Estimates of the number of irregular migrants in Chile are not generally trustworthy. According to a report by the Servicio Nacional de Migraciones and Instituto Nacional de Estadísticas (SERMIG & INE, 2023), as of December 2022, there were 107 223 such migrants (6.6% of the total migrant population), the majority of whom were Venezuelans (65.9%). However, interviewees stated that this number had doubled or tripled since then.

They also noted that reliable data on irregular migrants in Chile are inexistent and estimated that "there are approximately between 350 000 and 200 000 irregular migrants, 85% of them are Venezuelans who have entered through unauthorized corridors" (I3, personal communication, May 24, 2024). Only an executive summary of the migration policy has been released to the broader public, while some organizations working in the field, such as Servicio Jesuita a Migrantes (SJM, 2024), have been given access to a detailed report on implementation. Even so, some of the Law 21.325's clauses allow for access to schooling and health services that are independent of migrants' status, which represents an advance. If a lack of resources is demonstrated, the health services are free. Nevertheless, implementing these policy initiatives has encountered numerous obstacles that stem from the service bureaucracies' negative imaginaries.

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<sup>4</sup> Due to confidentiality, the names of the policymakers interviewed are not mentioned.

In said recent policy, the main controversial issue concerns the biometric registration program and how it is being conducted on undocumented migrants. The process has been designed as mandatory for social integration, especially for entry into the formal labor market and access to humanitarian visas. The result has been an increase in the already high levels of informal employment, precarious living conditions, overcrowding, and forms of victimization (e.g., violence, trafficking, and prostitution) among this population. Different social sectors have strongly criticized this program (Oyarzún Serrano et al., 2021; Concha Villanueva, 2018). On the other hand, the biometric registration program is not complemented by the design of a clear route toward a permanent regularization process for migrants, so it is unknown how this process will end. It lacks goals related to mission-oriented policies. An interviewee from the IOM stated in more detail:

The contribution of migrants to the gross domestic product (GDP) can be significant if internal barriers to their regularization become flexible and facilitate their socioeconomic insertion. Also, in this way, they can contribute to national taxation and have access to relevant benefits in health, education, and other public services (I1, personal communication, March 11, 2024).

In a period when the feminization of migration has grown substantially, the female occupation rate was 61% in 2022, compared to 84% for men (SERMIG, 2023). Yet, few gender-focused policy initiatives have been undertaken, such as child-care provisions for babies and small children for working women. That said, two gender-aware measures implemented recently are highly favorable. Firstly, we have the new Chilean Migration law (Law 21.325) which approves regularization by grace and is applied to family reunions and to women who are involved in caregiving. Secondly, gender violence survivors and trafficking victims are authorized for registration in the category of “humanitarian visas” without the need for court intervention. It is important to mention that to access them, migrants must go through the biometric registration program discussed previously.

Another problematic feature of implementing this new policy is the access to legal documents. Currently, in Chile, migrants need at least four identity cards to access different public services, and each must be obtained from the specific entity involved. In other words, registration cards are not centralized as a unique device or number. Gathering required documentation is cumbersome and problematic, preventing migrants from quickly accessing services. The goal of granting “complementary protection” to “foreigners seeking refuge who have not been considered as eligible” (I4, personal communication, April 13, 2024) is enshrined in the new policy. However, the way it is being applied significantly reduces the possibility of approval: irregular foreigners must present themselves voluntarily to the police but need to show the required documentation within no more than 10 days after their entry. An interviewee from the United Nations Agency for Refugees (UNHCR) explained that:

compared to other Latin American countries, the acceptance of the refugee status is minimal in Chile. For example, until September 2023, there had been 8 333 refugee requests from Venezuelans, but only 33 had been granted. Moreover, those not approved are to register following the conditions of the new Migration Law but can also be expelled if their entrance is illegal (I4, personal communication, April 13, 2024).

The Law 21.325 (Ley de Migración y Extranjería, 2021) places excessive emphasis on the requirement for capacity-building among local public agents, which is aimed at fostering positive attitudes toward migrants. Although this is needed, it does not solve the conflicts arising from the gaps between the protocols formulated to attend to migrants' demands versus the practices on the ground, which are often based on misinformation, discriminatory attitudes, and xenophobia. Such behavior fosters forms of exclusion and violence within public services, with some practices bordering on illegality.

One interviewee stated that it is required "to generate more institutional strength on the subject; capacity has to do with institutional fortitude, I refer to the internal structure [within the ministries themselves]" (I5, personal communication, June 12, 2024). This interviewee also noted as an example the absence of specialized offices staffed by women addressing abuse and emphasized the importance of working within the territory: close to the borders, at the 44 existing shelters.

For the period 2017-2015, Chile's Ministry of Health intended to develop a national health plan, "but the draft lacks specificity regarding migrants and does not mention, for instance, the need for psychotherapy treatment" (I6, personal communication, April 6, 2024). This shortcoming reflects the dispute among government sectors concerning whether migrants should receive separate forms of mental health and other types) of assistance and care—due to the particularities of their daily plight, trauma, and cultural views regarding mental health—or whether there should be a general standard treatment for the population as a whole (i.e., both Chileans and foreigners). For example, one camp contends that migrant-focused treatment establishes privileges and tends to generate divisions between local and foreign populations, while another camp dismisses these concerns.

Although the design of the new policy contemplated migrants' collective engagement, this participation has not necessarily turned into an ongoing and continuous process. It also seldom explores the civic epistemologies or tacit situated knowledge inherent within different migrants' subcultures related to birthing, mental health, disease, and child-rearing, which exhibit intersectional variations (Jasanoff, 2006).

The mechanisms for vertical cooperation between regional, provincial, and municipal governments are not explicit within the new migration policy (Aninat & Sierra, 2019). Regulatory actions and cash transfers between these levels of public administration should be effectively coordinated with the main territories where migrants live and information should be regularly disclosed to the general public. These are basic measures for fruitful state policy implementation.

Data for drawing a scenario of migration trends in Chile is fragmented, incomplete, and/or scarce, with most ministries still collecting information. Furthermore, the available data are not usually disaggregated by migrants' nationality, gender, race, and/or class. As one interviewee puts it, "I hope that by the end of this government there will be an accurate and detailed picture of Chilean migration trends" (I8, personal communication, July 15, 2024).

There is a polarity in the local population between social visions based upon discrimination toward or acceptance of migrants. The first tendency has the upper hand and is perniciously disseminated by formal media. In a recent survey, almost three-quarters of the population

viewed migrants who had arrived during the wave of the past five years negatively (Izquierdo, 2024). However, 65% of the interviewees in this sample recognized the contribution of migrants to the local economy. Comparatively, poverty is much higher among migrants than locals (Ministerio de Desarrollo Social y Familia, 2023). Moreover, many migrants' university degrees from foreign institutions have not yet been validated, implying that 62% of these professionals are employed in low- or mid-level qualification jobs (SJM, 2024).

### POLICY RECOMMENDATIONS

From the brief analysis undertaken, a few policy recommendations can be made. The regulation of migration involves a sustained effort of restructuring, re-evaluating, and updating, as well as adapting to unforeseen changes. Institutional weaknesses and discriminatory behavior on the part of the responsible agencies relating to the human rights of migrants must be identified and addressed. Explicit directives should be incorporated into the new policy as essential requirements for the dynamic development of state capacities, long-term planning, and flexible responses to new migratory needs. No mission-oriented policies have been formulated in any of the laws, leading to a pattern of uncoordinated interventions between public agencies.

As explained above, the main urgent need is to apply sounder and expeditious regulation instruments for undocumented migrants to facilitate their path toward permanent residency, access to the formal labor market, and social benefits as taxpayers. This will be a crucial step toward the full exercise of migrants' fundamental human rights. The basic-level public survival strategies employed during the latest massive wave of migration are inadequate. There is an ethical and political need to align the new policy more consistently with international binding agreements and standards, whether Chile has ratified or not. For example, refugee policies show inconsistencies between local norms and the global regulatory system.

Migrants' civic epistemologies, with an emphasis on reshaping unequal gender relations given the ongoing feminization of migration, are embraced by state agencies. These perspectives should be implemented as forms of collective citizen control, ensuring human security, and resistance to arbitrariness. If they are not substantively incorporated within legal instruments, they will become invisible, resulting in increased precariousness in migration and a rise in social conflict.

Measures that incentivize face-to-face interaction with migrant populations—and not exclusively training programs—should be implemented. These measures tend to promote sensitivity and respect among public agents in their interactions with migrant persons while counteracting the pernicious effects of maltreatment, xenophobia, and racist behavior. Experience shows that positive attitudes among administrative officials can also facilitate the exercise of migrants' rights, even when these might not be explicit within institutional normativity.

## REFERENCES

- Aninat, I., & Sierra, L. (2019). Regulación inmigratoria: Propuesta para una mejor reforma. In I. Aninat, & R. Vergara (Eds.), *Inmigración en Chile. Una mirada multidimensional* (pp. 31-69). Fondo de Cultura Económica; Centro de Estudios Públicos.
- Concha Villanueva, S. (2018). Propuesta para regular las migraciones en Chile y la obstinación del securitismo. *URVIO Revista Latinoamericana de Estudios de Seguridad*, (23), 110-126. <https://www.redalyc.org/journal/5526/552657509007/html/>
- Decree Law no. 1094 [Ministerio del Interior]. Establece normas sobre extranjeros en Chile. July 19, 1975.
- Donoso Toledo, P. (2022). El enfoque de la securitización y su preponderancia en el desarrollo del nuevo marco normativo para la migración en Chile [Master's thesis, Universidad de Chile]. <https://repositorio.uchile.cl/handle/2250/193792>
- International Organization for Migration (IOM). (2021). *World migration report 2022*. <https://publications.iom.int/books/world-migration-report-2022>
- Izquierdo R., S. (2024, April 29). La migración en Chile: entre la percepción y la economía. *Centro de Estudios Públicos*. <https://www.cepchile.cl/la-migracion-en-chile-entre-la-percepcion-y-la-economia/>
- Jasanoff, S. (2006). *Designs on nature. Science and democracy in Europe and the United States*. Princeton University Press.
- Kattel, R., & Mazzucato, M. (2018). Mission-oriented innovation policy and dynamic capabilities in the public sector. *Industrial and Corporate Change*, 27(5), 787-801.
- Ley de Migración y Extranjería [Law 21.325], reformed, *Diario Oficial*, April 11, 2021 (Chile).
- Ministerio de Desarrollo Social y Familia. (2023). Encuesta de Caracterización Socioeconómica Nacional (Encuesta Casen) [Database]. Observatorio Social.
- Mulkay, M. (1993). Rhetorics of hope and fear in the great embryo debate. *Social Studies of Science*, 23(4), 721-742.
- Oyarzún Serrano, L., Aranda Bustamante, G., & Gissi, N. (2021). Migración internacional y política migratoria en Chile: tensiones entre la soberanía estatal y las ciudadanía emergentes. *Colombia Internacional*, (106), 89-114. <http://www.scielo.org.co/pdf/rci/n106/0121-5612-rci-106-89.pdf>
- Polloni, L. (2024, March 20). *Crisis humanitaria regional y migraciones* [Conference]. I Seminario Online Proyecto Phoenix "Movilidad humana, cambio global y resiliencia en una era de estrés social." Santiago, Chile. <https://cuerpoyenergia.cl/investigacion/>
- Roessler Vergara, P., Camila Lobos, C., Rojas Pedemonte, N., & Rivera Rojas, F. (2022). Inclusión relacional de personas migrantes en Chile: hacia un modelo de medición estadístico. *Migraciones Internacionales*, 13. <https://doi.org/10.33679/rmi.v1i1.2465>
- Salamanca, E. (2022). Entrepreneurial migration processes from and to Latin America: Opportunities and obstacles. In *The emerald handbook of entrepreneurship in Latin America* (pp. 429-447). Emerald Publishing Limited.



Servicio Jesuita a Migrantes (SJM). (2024, January). *Monitoreo del estado de la movilidad humana y la protección internacional en Chile*. SJM; UNHCR.

Servicio Nacional de Migraciones (SERMIG). (2023, July 31). *Estadísticas migratorias con enfoque de género. Análisis de brechas de género en los permisos de residencia. Primer informe semestral 2023 (enero-junio)*. <https://serviciomigraciones.cl/sermig-publica-estudio-de-estadisticas-migratorias-y-brechas-de-genero/>

Servicio Nacional de Migraciones (SERMIG), & Instituto Nacional de Estadísticas (INE). (2023, December 29). *Estimación de personas extranjeras residentes en Chile 2022 (Minuta)*. Ministerio del Interior y Seguridad Pública. <https://sjmchile.org/wp-content/uploads/2024/01/2023.12.29-Minuta-Estimacion-poblacion-migrante-2022-1.pdf>

Solimano, A. (2024). *Globalization, history and international migration: A view from Latin America* (Working Paper no. 37). International Labour Office-Policy Integration Department. <https://researchrepository.ilo.org/esploro/outputs/995328543902676>

Vial, T. (Ed.). (2015). *Informe anual sobre derechos humanos en Chile 2015*. Universidad Diego Portales-Centro de Derechos Humanos. <https://derechoshumanos.udp.cl/cms/wp-content/uploads/2020/12/INFORME-COMPLETO-2015.pdf>