

Symbolic Refugee Protection: Explaining Latin America’s Liberal Refugee Laws

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Abstract

What drove an entire region in the Global South to significantly expand refugee protection in the early 21st century? In this paper, we test and build on political refugee theory via a mixed-methods approach to explain the liberalization of refugee legislation across Latin America. First, we use data from the new APLA Database, which measures legislative liberalization over a 30-year period and test both general and region-specific immigration and refugee policy determinants through a series of nested Tobit and linear spatial panel data regressions. Our models do not support some key predictors of policy liberalization identified by the literature, such as immigrant and refugee stocks, democratization, and the number of emigrants, but offer statistical evidence for the importance of leftist government ideology and regional integration. We then shed light on the causal mechanisms behind these correlations for two extreme but diverse cases: Argentina and Mexico. Based on process tracing and elite interviews, we suggest that the reason that leftist political ideology matters for policy liberalization, rather than institutional democratization and number of emigrants, is that Latin American executives embarked on symbolic human and migrant’s rights discourses which ultimately enabled legislative change.

1 Introduction

A large literature has sought to explain the determinants of refugee policies (Betts 2011; Boucher and Gest 2018; Haas and Natter 2015; Haas, Natter, and Vezzoli 2015; Jacobsen 1996; Lahav 1997; Loescher 2001; Meyers 2000; Rutinwa 2002), and the variations in the implementation of migration and refugee laws across countries (Hochman and Hercowitz- Amir 2017; Poutrus 2014; Sager and Thomann 2017; Schmalter 2018; Thielemann 2006, 2012, 2018).¹ However, although about 86 percent of the world’s refugee population currently lives in the Global South, most of these works have limited their geographic focus to countries belonging to the Organisation for

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Economic Co-operation and Development (OECD), or ‘Northern’ receiving states (Freier and Holloway 2019; Helbling and Kalkum 2018; Helbling and Leblang 2019; Mayda 2010; Ortega and Peri 2009; UNHCR 2020).²

While the ‘downward spiral’ in refugee law remains contested for the European Union (EU) (Kaunert and Leonard 2012; Thielemann and El-Enany 2009), scholars agree that, since the early 1990s, governments of ‘Northern’ receiving countries have *de facto* limited asylum seekers and refugees’ access to protection and rights (Castles, Haas, and Miller 2014; Gibney 2004; Steiner, Loescher, and Gibney 2003; Thielemann and Hobolth 2016). Even within the EU, myriad policy measures (e.g., safe third country provisions, and dispersal and voucher schemes) have been implemented to deter the arrival of asylum seekers, signaling harsh, restrictive reception contexts (Fitzgerald 2020; Thielemann 2004).

Focusing predominantly on Africa, the sparse studies on refugee policies in the southern hemisphere describe a parallel restrictive trend (Rutinwa 2002). Specifically, Betts, Loescher, and Milner (2013) conclude that countries in the Global South are also beginning to limit the quantity and quality of the refugee protection they offer.³ This generalizing assumption overlooks a distinctive development in Latin America, where legislative changes do not mirror the trend of constricting access to asylum. Rather, with the expansion of economic and social constitutional rights that followed the region’s re-democratisation processes in the 1980s (Gargarella 2013, Meili 2019, von Bogdandy and Urena 2020), there has been significant discursive policy liberalization (Acosta and Freier 2015a). These developments ultimately culminated in the passing of exceptionally expansive refugee laws in the 21st century (Freier and Gauci 2020; Hammoud-Gallego 2022).

Surprisingly, Latin America remains understudied, most likely due to the low overall number of asylum seekers and refugees up until the onset of the Venezuelan displacement crisis. Although the literature on immigration and refugee policies in Latin America has grown substantially, with an emerging focus on the reception of Venezuelan forced migrants and refugees (Acosta, Blouin, and Freier 2019; Freier and Parent 2019; Palotti et al. 2020; Selee et al. 2019), few studies have so far analysed patterns of policy adoption, and the determinants of refugee policies in Latin America.⁴

The region ought to be of special interest to scholars of refugee policies for three reasons. First, at least on a *de jure* basis, Latin America has a long tradition of spearheading global

²Bakewell (2009) points out that the South-North terminology does not fully correspond to historic and geographic realities and poses the normative risk of naturalizing a development divide between the two hemispheres. Nevertheless, it provides a heuristically useful conceptualisation.

³However, new research by Blair, Grossman, and Weinstein (2020) disputes such findings.

⁴For a recent review of the literature, see Fernandez-Rodriguez, Freier, and Hammoud-Gallego (2020)

and regional refugee protection efforts, such as the 1889 Montevideo Treaty on International Penal Law (Harley 2014), and the refugee definition of the 1984 Cartagena Declaration, which was passed in the context of the Central American refugee crisis (Arboleda 1995; De Andrade 2019; Freier and Gauci 2020; Hammoud-Gallego 2021; Reed-Hurtado 2017). Second, over the last three decades, the majority of countries in the region developed increasingly complex and ‘liberal’ refugee policies, including the incorporation of the Cartagena refugee definition into their national legislation (Freier and Gauci 2020; Hammoud-Gallego 2022). Third, the region has been marked by three contemporary displacement crises: the exodus of hundreds of thousands Central Americans due to poverty and generalised violence; the mass displacement of around eight million Colombians –both internally and towards neighbouring countries– since the late 1990s; and the recent displacement of around 6 million Venezuelans due to their country’s economic, political, and humanitarian crises (Freier et al. 2022; Selee et al. 2019; R4V 2022).

In this paper, we test and build on political refugee theory via a mixed-methods approach. Quantitatively, we first use data from the Asylum Policies in Latin America (APLA) Database, which includes 19 Latin American countries over the period 1990-2020 and shows how increased regulatory complexity reflects legislative liberalization (Hammoud-Gallego 2022). We test both general and region-specific immigration and refugee policy determinants, as cited in the literature, through a series of nested Tobit and linear spatial panel data regressions. Qualitatively, we then shed light on the causal mechanisms behind these correlations in Argentina and Mexico via process tracing (building on secondary sources, relevant media coverage of events and speeches, and elite interviews). Our case selection rests on the extreme and diverse case method. More specifically, we analyse the policy process that led to legislative reform in two very diverse countries with two of the most progressive refugee laws in the region. Our qualitative analysis allows us to reveal causal mechanisms and nuance our empirical results (Gerring 2004; Lieberman 2005; Rohlfing 2008).

The paper contributes towards expanding our understanding of the relationship between migration and refugee policies, and the determinants of refugee policies outside of Northern receiving countries, thus offering an important theoretical and geographical corrective to the political refugee literature. Our quantitative findings suggest that some of the key predictors identified by the literature –such as immigrant and refugee stocks, democratization, and the number of emigrants– are not sufficient to explain the liberalization of Latin American refugee policies. Government ideology and regional economic integration, on the other hand, are strong predictors of policy change across the region.⁵ Considering the overlapping immigration and

⁵The quality of data on migrants and refugees – especially in the Global South – is often based on general – if not politicised – estimations (UNHCR 2019a; UNICEF 2020), which negatively affects the reliability of our quantitative results.

refugee policy cycles, our qualitative analysis strongly suggests that the lack of politicization of refugees - likely as a result of low numbers and mostly regional origins - enabled the passing of refugee laws in the shadow of immigration law reforms.

We further shed light on the indirect impact of democratization and emigrant stocks, or diaspora politics. In contrast to Northern countries, where concerns over the increased political salience of refugee protection led to more selective and often securitized measures on asylum, leftist political ideology led Latin American executives to embark on symbolic human and migrant's rights discourses which resulted in policy incoherence and ultimately enabled legislative change in the areas of both immigration and refugee protection. As opposed to the EU –where delegation to regional institutions played a pivotal role in policy convergence– regional integration mattered for policy liberalization in the context of ideological convergence of governments in South America and was linked to diaspora politics in Mexico. Overall, we suggest that Latin American legislative refugee liberalization was mostly symbolic, rather than reflecting the intention of policy implementation. We further discuss the theoretical implications of these findings in the conclusion.

2 Theoretical Framework

Although the literature tends to distinguish between immigration and refugee policy determinants, both policy cycles often overlap in practice, their policy determinants are intertwined and thus should be evaluated together. In the following we discuss the determinants identified for both immigration and refugee policies in both the general and the region -specific literature.

When explaining the determinants of migration policies, scholars mostly reference either domestic or international factors (Boucher and Gest 2018; Cook-Martín and FitzGerald 2010; Hollifield 1992; Meyers 2000, 2002, 2004). Regarding the former, some of the main drivers of restrictive changes cited in the literature include increasing migrant stocks, as well as negative shifts in public opinion and security concerns (Adamson 2006; Boswell and Hough 2008; Geddes 2008; Haas et al. 2019; Haas and Natter 2015; Haas, Natter, and Vezzoli 2016; Helbling and Kalkum 2018; Huysmans 2002; Ruhs 2015, 2018; Ruhs and Martin 2008). Albeit contrasting findings, other studies have focused on the role of government ideology –specifically left-wing governments' more generous stance towards migrants and refugees (Abou-Chadi 2016; Haas and Natter 2015; Haas, Natter, and Vezzoli 2016; Lahav 1997; Natter, Czaika, and Haas 2020). Meyers (2000, 2002, 2004) offers a more holistic approach by theorising that migration policies depend on the interaction between socioeconomic factors and the type of immigration. Regarding international factors, scholarship has focused on the role of regional integration for policy change,

especially within the context of the EU (Baldwin-Edwards 1997; Boeri and Brückner 2005; Geddes and Hadj-Abdou 2018; Thielemann 2012).

When explaining refugee policies, the domestic factors identified as determinants for policy change include democratization, economic liberalization, bureaucratic politics, shifts in public opinion, national security considerations, refugee origins and numbers, and the absorption capacity of local communities (Cornelius et al. 2004; Jacobsen 1996; Meyers 2004; Milner 2009; Preston 1992). In terms of international factors, the literature has focused on foreign policy considerations (Basok 1990; Betts 2011; Loescher 2001; Rosenblum and Salehyan 2004; Salehyan and Rosenblum 2008), and on the role of supranational institutions like the EU and the United Nations High Commissioner for Refugees (UNHCR) (Lavenex 2016; Thielemann 2004; Thielemann and El-Enany 2009; Thielemann and Hobolth 2016). Overall, scholars have sought to explain restrictive shifts in refugee law and policy of Northern countries with security and socio-economic concerns and discourses, fuelling the rise of right-wing populist parties (Boswell 2007; Haas, Natter, and Vezzoli 2016; Helbling and Kalkum 2018).

Studies on immigration law and policy liberalization in Latin America also discriminate between domestic and international factors (Acosta and Freier 2015b; Acosta and Geddes 2014; Caicedo 2019; Cantor and Mora 2015; Ceriani Cernadas 2004, 2011; Gauci, Giuffrè, and Tsourdi 2015; Martínez and Stang 2006). Domestically, scholars have considered low immigration numbers and their predominantly regional origin, high emigration, and populist politics of the so-called Pink Tide – a period in which left-leaning governments won presidential elections across the region (Acosta and Freier 2015a; Freier 2020; Ludlam and Lievesley 2009; Panizza and Miorelli 2009; Philip and Francisco 2010)– as the main drivers of immigration policy change and liberalization (Acosta 2018; Acosta and Freier 2015b; Brumat and Torres 2015; Cantor, Freier, and Gauci 2015; Ceriani Cernadas and Morales 2011; Fernández-Rodríguez, Freier, and Hammoud-Gallego 2020; González-Murphy and Koslowski 2011; Nicolao 2010).

Internationally, authors have pointed to the importance of regional integration for the liberalization of migration policies across the region. Two mechanisms and stances are worth mentioning: 1) the approval of the Southern Common Market (MERCOSUR) Residence Agreement of 2002, which allowed most South American citizens to easily move to work and study (Acosta 2018; Braz 2018; Ceriani Cernadas and Freier 2015; Ceriani Cernadas and Morales 2011; Fernández-Rodríguez, Freier, and Hammoud-Gallego 2020; Gardini 2010, 2012; Gardini and Labert 2011; Novick 2008, 2013); and 2) the normative counter-positioning against the immigration policies of Northern receiving countries (Acosta and Freier 2015b; Brumat and Freier 2021).

A novel theoretical aspect, bridging the divide between domestic and international factors, is the role of emigrants' diasporic engagement in domestic political debates, specifically regarding the need for better protection of migrants' rights. In this vein, academic argumentation has been two-fold. First, in the context of large-scale emigration, South American executives began questioning the restrictive immigration policies of European and North American countries in the early 2000s, particularly the EU's 2008 Returns Directive and the increasing criminalisation of immigration in the US (Brumat and Freier 2021). Scholars tend to explain such opposition by considering the large number of emigrants residing in 'Northern' countries. Local voters also expressed an outspoken concern for migrants' rights as they either had migratory experiences themselves or knew individuals who had migrated (Acosta and Freier 2015a; Brumat and Freier 2022; Ceriani Cernadas and Freier 2015; Ceriani Cernadas and Morales 2011; Melde and Freier 2022). Second, scholars have also identified a relevant factor to explain policy liberalization through the increasing socio-economic and political involvement of Latin American diasporas –for and foremost through the extension of external voting rights (Margheritis 2010, 2011, 2012; Paarlberg 2017).

Studies on the domestic determinants of refugee policy changes in Latin America have stressed low refugee numbers and re-democratization processes, whereby many countries sought to distance themselves from their authoritarian pasts by pursuing human rights-based policies (Acosta and Freier 2015b; Braz 2018; Cantor, Freier, and Gauci 2015; Freier and Holloway 2019; Melde and Freier 2022; Reed-Hurtado 2017; UNHCR 2020). Concerning the international determinants of such policy changes, given the absence of a regional supra-national institution capable of imposing refugee policies across countries, the pro-active role of the UNHCR has been identified as essential in setting regional standards to which most of the countries sought to adhere (Lavenex 2016; Loescher 2001; Turk, Edwards, and Wouters 2017). Table 1 summarises the determinants of migration and asylum policies identified both in the general and region-specific literature.

Additionally, we assume that the literature on 'status seeking' by emerging economies might as well apply to the context of refugee policy. This literature assumes that the wealthier countries become, the more resources they can afford to invest in 'status signaling' policies that range from the adoption of nuclear energy to the passing of laws for the protection of refugees, thus increasing the international reputation of the country concerned (Carvalho and Neumann 2014; Pu 2017; Renshon 2017; Wolf 2011).

Given the insights provided by the literature, we formulate six hypotheses to explain the phenomena of increased regulatory complexity and consequent liberalization in Latin American refugee policies. First, migration and refugee laws do not develop independently, but are of-

Table 1: Determinants of Asylum and Migration Policies as identified by the literature

	General Literature	Latin America Specific
<i>Determinants of Migration Policies</i>		
Economic Liberalisation	x	x
Emigration Numbers		x
Government Ideology	x	x
Immigrant Numbers	x	x
National Security Concerns	x	
Public Opinion	x	
Regional Integration	x	x
<i>Determinants of Asylum Policies</i>		
Democratisation	x	x
Economic Growth	x	
Engagement of UNHCR and other Institutions	x	x
Foreign Policy Concerns	x	x
National Security Concerns	x	
Public Opinion	x	
Refugee Numbers	x	x

ten intertwined and develop in parallel. Second, increasingly more democratic and/or left-wing governments are more likely to pass liberal refugee policies. Third, economic liberalization and increased regional integration allow governments to expand refugees' rights. Fourth, countries with low immigrant and refugee numbers can more easily pass liberal refugee policies. Fifth, regional origins of refugee populations soften the politicization and securitization of refugee policies and enable policy liberalization. Sixth, refugee law liberalization serves Latin American governments as human rights signaling and is thus largely symbolic. The determinants of hypotheses two to four are included in our formal models, whereas hypothesis one, five and six are addressed in the qualitative analysis.

3 Quantitative Analysis

3.1 Methods

To explain the increase in refugee policy liberalization in Latin America over the last three decades, we first estimate a series of Tobit regressions, and then complement our analysis via a linear spatial panel data model that considers the interdependence in policy change among the various countries in the region. More specifically, we adopt Hammoud-Gallego's (2022) regulatory complexity as a dependent variable, which aggregates the policy indicators included in the legislation of each country-year out of 57 indicators related to national legislation included in the APLA Database. For the period analysed (1990-2018), regulatory complexity and liberalization overlap.

In both of our empirical models, we study the influence of political factors, such as democra-

tization and government ideology, as well as economic indicators, such as trade as a percentage of GDP and changes in GDP per capita. In the case of Latin America, we maintain that trade is a good indicator of both regional integration and economic liberalization for two reasons. First, within the period under consideration, several initiatives were undertaken to further economic development and foster intraregional trade, such as the creation of MERCOSUR in 1991 and of the Andean Community in 1996. Paired with deepening intraregional trade, the region also increasingly participated in the global economy, via the adoption of a more neoliberal economic model (e.g. the Washington Consensus) (ECLAC 2020, 77; Panizza 2009). Second, actual change in trade reflects a *de facto* model of economic liberalization, in comparison to a *de jure* form.

Additionally, we also study the effect of immigrant and refugee stocks on changes in refugee policies. If our theoretical expectations are correct, we should find a negative or non-significant correlation between the number of migrants and refugees and the process of policy liberalization. This outcome would likely suggest that the process of increased regulatory complexity entails a symbolic adoption of liberal policies with little intentions of using such legislation in practice, as suggested by the literature on status signaling.

Lastly, we include diaspora size, based on the number of Latin American nationals (disaggregated per country) living in the United States and Spain (combined) as a percentage of the total population of the country of origin for each of the years considered in the models.⁶ Given the lack of an *ad-hoc* indicator, we chose these two countries, as they have historically been the most important destination countries for Latin American migrants (Hierro 2016; Margheritis 2016; Weeks 2010). We do not study the effect of public opinion on migrants, as no data is available for all the country-years under consideration. We also exclude national security concerns over migration from our models, as no clear factor exists to operationalise this variable.

We therefore estimate the following two general model series to research the determinants of increased regulatory complexity: (1) a Tobit regression with standard errors clustered at the country level; and (2) a spatial panel data model, both with country and years fixed effects:

1: Tobit General Regression Model

$$Y_{i,t} = x_{i,t}\beta + \alpha_i + \xi_t + \sigma v_{i,t}$$

Where $Y_{i,t}$ is the latent outcome variable Regulatory Complexity, $x_{i,t}\beta$ is a vector of explanatory variables, α_i and ξ_t respectively the country and year fixed effects, and $v_{i,t}$ is a random,

⁶The formula to produce a measure of emigration is $MigSpainUS_{i,t} = (Pop_{i,t}US + Pop_{i,t}Spain/PopOrigin_{i,t})X100$. Where $Pop_{i,t}US$ is the population of country i at time t in the United States, and $Pop_{i,t}Spain$ is the population of country i at time t in Spain, and $PopOrigin_{i,t}$ is the total population of country i at time t in the country of origin. The result multiplied by 100 gives a credible estimate of emigrants as a share of the total population of the country of origin.

standard normal disturbance term while σ is the standard deviation of the disturbance term, with subscripts $i = 1, \dots, 19$; $t = 1990, \dots, 2018$.

Our lineal autoregressive model (SAR) is similarly specified as follows:

2: Linear Spatial Panel Data Model

$$Y_{i,t} = \rho WY_{i,t} + x_{i,t}\beta + \alpha_i + \xi_t + v_{i,t}$$

Where the $nx1$ column vector of the dependent variable is $Y_{i,t}$ and the nxk matrix of the regressors are $x_{i,t}$. In our spatial model, ρ is the spatial dependence coefficient associated with the spatial lag of regulatory complexity, W refers to the ixi matrix which defines the spatial arrangements of country-units i , known as spatial weights (with $w_{ii} = 0$), calculated using their Euclidean distance according to the geographical coordinates of each country's capital, and $v_{i,t}$ is the error term (Belotti, Hughes, and Mortari 2017).

Before discussing our results, we justify our choice of empirical models. First, we apply panel data models to account for the non-independence between our observations within a country over time. As our dependent variable is naturally left censored at zero, given that the dataset includes years in which no legislation on refugee protection was present, we use a series of Tobit models. We confirm the results of our findings by fitting Poisson, Quasipoisson, and OLS regressions (see Appendix), as well as a linear spatial panel data model to account for the non-independence between our observed units (countries) given their geographical proximity (Ward and Gleditsch 2008).

3.2 Data

In both models, our dependent variable of regulatory complexity comes from the APLA Database. Akin to Hammoud-Gallego (2022), we understand increased regulatory complexity as the process by which countries adopt denser and more detailed, sophisticated policies over time. We do not use the author's liberalization variable as it uses an arbitrary threshold that would bias the results. Rather, we conceptualise the term as the increase of right-enhancing policy measures that favour refugees. These two processes do often –though not always– overlap. However, they do overlap for the period under study (Hammoud-Gallego 2022; Zaun 2016, 2017). In Latin America, increased regulatory complexity, in most cases, reflects the creation of new legal frameworks for the protection of refugees not previously in place (Cantor, Freier, and Gauci 2015; Ceriani Cernadas and Freier 2015; Fernandez-Rodriguez, Freier, and Hammoud-Gallego 2020; Freier and Gauci 2020; Hammoud-Gallego 2022; Selee et al. 2019).

We control for the level of democracy using the polyarchy value found in the Varieties in Democracy (V-Dem) Database (Coppedge et al. 2011, 2019). The advantage of using this indicator, over other measures of democracy, is its use of a continuous variable to measure democracy, thus allowing us to distinguish between different levels in the quality of a country’s democratic institutions. It also provides a more sophisticated measure of democracy, than the more commonly used Polity IV Database (Lindberg Staffan et al. 2014; Treier and Jackman 2008). In order to control for party ideology of the executive, we use the Database of Political Institutions (Cruz, Keefer, and Scartascini 2018), which is also used by de Haas and Natter (2015) to test the influence of party ideology on migration policy using their Determinants of International Migration (DEMIG) Database. We code as 1 for left-wing government ideology and 0 for otherwise (centre or right).

To construct our dependent variable on emigration rates, we use data from United Nations Department of Economic and Social Affairs (UN DESA).⁷ World Bank data is used for the international migration stock, GDP per capita, and trade as a percentage of GDP.⁸ Lastly, we use UNHCR data for refugee numbers.⁹ The analysis of the structure of the data is available in the appendix.

3.3 Results

Depicting the results of our Tobit models, Tables 2 and 3, demonstrate the different specifications of our models to study the possible correlation between different categories of explanatory factors and our dependent variable. In model 1, we consider the possible effect of political factors only; in model 2, economic ones; while in models 3 and 4, we study the effect of migrant and refugee numbers on regulatory complexity. We run these last two models separately to avoid possible collinearity. Finally, in model 5, we include all our controls plus emigration. The Tobit models are left-censored at zero, to account for the lack of legislation in many countries until the early 2000s, with standard errors clustered at the country level. Model 5 shows that left-wing governments correlate with a 16.70 percentage point increase in regulatory complexity, holding all other variables constant. Similarly, a one percentage point increase in trade as a percentage of GDP correlates with a 0.31 percentage point increase in regulatory complexity holding all else constant. Results from Table 3, where we lag our dependent variable by one and three years,

⁷Data from the UN DESA is available at: <https://www.un.org/en/development/desa/population/migration/data/index.asp> (Accessed March 20th, 2022).

⁸Data from the World Bank on the International Migration Stock across various countries is available at: <https://data.worldbank.org/indicator/SM.POP.TOTL.ZS> (Accessed on March 20th, 2022). They reported data every five years. We repeated the number for a specific year for the following four so as not to eliminate observations from the models.

⁹Data from the UNHCR data on recognised refugees and people in refugee-like situation is available at: <http://popstats.unhcr.org/en/overview>. (Accessed March 20th, 2022).

further confirm the direction and statistical significance of our coefficients. As reported in the Appendix, results from Poisson, Quasipoisson, and OLS regressions show similar results, using the same specifications.

Against most of our theoretical expectations, we do not find statistical evidence across any of our models on the importance of immigrant and refugee stocks, democratization, or the number of emigrants. However, as mentioned above, the lack of a relationship between refugee stocks and liberalization suggests that these policy adoptions were most likely symbolic, as they were adopted in a context where there was little need to develop such policies.

Table 2: Tobit Model on Regulatory Complexity

	<i>Dependent variable:</i>				
	Regulatory Complexity				
	(1)	(2)	(3)	(4)	(5)
VDEM Polyarchy	-7.36 (7.25)				-3.43 (7.41)
Left-Wing Gov	18.33*** (2.13)				16.70*** (2.13)
Change in GDP per capita		-0.14 (0.26)			-0.08 (0.22)
Trade as perc. of GDP		0.38*** (0.05)			0.31*** (0.05)
International Migration Stock			-0.97 (0.76)		-0.77 (0.90)
Refugees as perc. of pop.				0.89 (0.92)	1.79 (1.15)
Emigrants in US and Spain					-0.59 (0.52)
Country FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Year FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Country-Level Clustered SE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Observations	551	551	551	551	551
Log Likelihood	-2,215.21	-2,240.62	-2,258.01	-2,258.33	-2,202.34

Note:

*p<0.1; **p<0.05; ***p<0.01
These models use left-censoring at zero

3.4 Spatial Panel Regression

We complement the analysis of the models above by implementing a series of spatial panel data regressions, as reported in Table 4. These models are useful to estimate how closely clustered

Table 3: Tobit Model on Regulatory Complexity

	<i>Dependent variable:</i>			
	One Year Lag Reg. Compl.		Three Years Lag Reg. Compl.	
	(1)	(2)	(3)	(4)
VDEM Polyarchy	-8.57 (7.68)	-2.92 (8.39)	-12.66 (8.59)	-13.63 (9.22)
Left-Wing Gov	15.82*** (2.10)	15.86*** (2.10)	14.37*** (2.15)	14.48*** (2.15)
Change in GDP per capita		-0.05 (0.22)		0.32 (0.26)
Trade as perc. of GDP	0.27*** (0.05)	0.29*** (0.05)	0.16*** (0.06)	0.15** (0.06)
International Migration Stock		-0.70 (1.02)		0.18 (1.15)
Refugees as perc. of pop.		4.69* (2.43)		-2.48 (5.13)
Emigrants in US and Spain		-0.67 (0.55)		-0.30 (0.59)
Country FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Year FE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Country-Level Clustered SE	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
Observations	532	532	494	494
Log Likelihood	-2,152.27	-2,150.32	-2,009.30	-2,008.04

Note:

*p<0.1; **p<0.05; ***p<0.01
These models use left-censoring at zero

units interact with each other (Elhorst 2010; Ward and Gleditsch 2008). We estimate two series of Spatial Autoregressive Models (SAR), as well as Spatial Error Models (SEM), both with fixed and random effects. The former refers to the spatial extension of a linear regression model, whereas the latter analyses the spatial dependence on the disturbance process. In the SAR model, ρ is the coefficient for the endogenous variable $WY_{i,t}$, which represents a function of the neighbouring values of Regulatory Complexity. With $\rho \neq 0$, the off-diagonal elements of the matrix imply the existence of spatial spill overs. On the other hand, in the SEM model, λ is the coefficient expressing the value of the correlation among the errors (conditional on W), and W is the weight matrix built using the coordinates of the country-units, which represents the structure of neighbourhood influence among the residuals.

The coefficients from the SEM models can be interpreted as standard OLS models, whereas SAR models are more complicated to interpret as the spatial spill overs in the model must also be included in the interpretation (Golgher and Voss 2016). Still, in both cases, Models 1-4 confirm our findings from the Tobit models, with government ideology and trade being positively correlated with our dependent variable, and remaining statistically significant, regardless of the model or the type of effects used. Moreover, the spatial autocorrelation coefficients ρ and λ are statistically significant in all our models. Additional discussions on our spatial models and different specifications of the models, including disaggregating effects into direct and indirect, can be found in the appendix.

To summarise, our models offer evidence for the relevance of government ideology and regional integration in the process of adoption –and reform– of new refugee policies in Latin America.¹⁰ Lastly, using the V-DEM polyarchy score as a measure of democratization, we find no clear-cut relationship between democratization and regulatory complexity. The same applies to economic growth, as well as stocks of international migrants, refugees, and emigrants.

4 Qualitative Discussion

4.1 Methods and Case Selection

To explain and nuance the mechanisms behind the correlations found through the quantitative analysis, including for those factors for which we did not find statistically significant evidence, we employ a process tracing methodology. Given that this paper aims to understand legislative liberalization, we focus on two of the most progressive frameworks in South and Central America –that of Argentina (2006) and Mexico (2011) (Freier and Gauci 2020).

¹⁰The findings on the relevance of left-wing governments in the adoption of liberal refugee policies contradict those from de Haas and Natter (2015) using the DEMIG dataset.

Table 4: Regulatory Complexity Spatial Panel Data Models with Country-Year Fixed Effects.
Source: APLA Database, V-Dem Database, Political Institutions Database, UN DESA, World Bank.

	SAR RE	SAR FE	SEM RE	SEM FE
Main				
V-DEM Polyarchy	-1.27 (7.42)	-2.43 (7.58)	-1.39 (7.10)	-2.18 (7.86)
Left-Wing Gov	18.3*** (1.87)	15.5*** (1.86)	17.3*** (1.90)	15.6*** (1.88)
Change in GDP per Capita	-0.14 (0.19)	-0.100 (0.20)	-0.052 (0.21)	-0.11 (0.20)
Trade as % of GDP	0.26*** (0.054)	0.29*** (0.059)	0.27*** (0.054)	0.30*** (0.060)
International Migration Stock	0.055 (0.87)	-0.71 (1.03)	0.040 (0.88)	-0.70 (1.05)
Refugees as % of Population	0.29 (1.54)	1.33 (1.56)	1.94 (1.61)	1.16 (1.57)
Emigrants in US and Spain	0.44 (0.47)	-0.69 (0.57)	-0.31 (0.48)	-0.70 (0.58)
Spatial				
ρ	0.67*** (0.034)	-0.38** (0.14)		
λ			0.77*** (0.030)	-0.33* (0.14)
Variance				
lgt θ	-1.37*** (0.22)			
σ_e^2	239.7*** (14.9)	201.0*** (12.2)	241.6*** (15.1)	202.2*** (12.3)
$\ln\phi$			-0.24 (0.36)	
Observations	551	551	551	551
R^2	0.347	0.088	0.150	0.123

Standard errors in parentheses

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Our purposeful case selection rests on the extreme and diverse case method. Extreme cases are selected because of their severe or unusual value on the independent (X) or dependent (Y) variable of interest. Although, at first glance, this method seems to violate the principle of not selecting the dependent variable (Brady and Collier 2010; King et al. 1994), the extreme case is adequate when it serves exploratory purposes (Seawright and Gerring 2008, 302). The diverse case method requires the selection of cases that are intended to represent the full range of values characterizing X or Y, or some particular X/Y relationship (Seawright and Gerring 2008). As extreme cases, Argentina and Mexico represent two of the most liberal refugee frameworks in South America and North/Central America respectively. They also reflect different migratory and political contexts, regarding immigration, refugee flows, political ideology, diaspora politics, and regional integration. Importantly, Mexico did not form part of the region's Pink Tide, and instead elected two conservative governments in 2000 and 2006. The juxtaposition of the two cases allows us to identify possible variations in policy determination processes, potentially representing different sub-regional geopolitical contexts.

Passed on 8 November 2006, Argentina's General Law on the Recognition and Protection of Refugees (*Ley General de Reconocimiento y Proteccion al Refugiado, N^o 26.165*) reflects the principles of the 1951 Refugee Convention and the 1984 Cartagena Declaration. The current legislation replaced the Executive's Decree 464/85 of 1985, which had lacked provisions for safeguarding the fundamental rights of asylum seekers (Ceriani Cernadas and Morales 2011). According to the UNHCR (2006b), the law provides a solid framework for the full exercise of refugees' rights. The law lives up to international standards, such as the principle of non-refoulement, non-discrimination, no penalty for irregular entry, the family unity principle, the best interests of the child, and confidentiality (Ceriani Cernadas and Morales 2011). Importantly, it also stipulates: a) that asylum-seekers are protected by the principle of non-refoulement from the moment they are subject to the country's authority, even outside its territory; b) group determination of refugee status in case of a mass influx of asylum-seekers; and c) that authorities will take into account the needs and the cultural values of the applicant when considering requests for family reunification. According to Freier and Gauci's (2020) coded comparison of legislative good practices in the region, Argentina presents the most progressive law in the region.

Passed on 27 January 2011, Mexico's Law on Refugees and Complementary Protection (*Ley sobre Refugiados y Protecci'on Complementaria*) also complies with international commitments enshrined in the 1951 Refugee Convention and the 1984 Cartagena Declaration, and enjoys the full endorsement of the UNHCR. Echoing its Argentine counterpart, Mexico's law incorporates good practices, such as: refugees and asylum seekers' authorisation to work; access to health

services, including health insurance; access to education; and revalidation of studies. It further includes gender as grounds for persecution. Freier and Gauci (2020) identify Mexico as the Latin American country with the third most progressive refugee law in the region, after Argentina and Brazil.

The process tracing we employ is based on a secondary literature, media coverage of relevant events and speeches, as well as original in-depth interviews conducted with 125 politicians and representatives of NGOs and international organisations in Argentina and Mexico between 2012 and 2019. Through process tracing, the researcher can establish the “causal chain and causal mechanisms” between independent variable[s] and the dependent variable (George and Bennett 2005, 6). Ideally, a range of qualitative sources (e.g. secondary academic material, official documents, interviews) is used to formulate and test hypotheses (George and Bennett 2005; Gerring 2004). This method can potentially address problems of endogeneity and confounding variables when outcomes of interest share dynamic –as opposed to static– relationships (Hollifield and Wong 2013).

In the selection of elite interviewees, we did not aim for a representative sample of all actors involved in the policy liberalization process, but rather tried to select those who had been most relevant in the policy-making process without necessarily displaying a dominant public profile (Tansey 2007). Key informants helped identify the first interviewees, who then made recommendations for additional candidates once the fieldwork began, thus resulting in snowball sampling. Regarding interview questions, these were initially crafted through significant preliminary research, and followed a semi-structured protocol. All interviewees signed a written consent form and were aware that the information collected would be used for research and publication purposes. With the permission of interviewees, we recorded all interviews and took detailed notes. The average duration of an interview was 60 minutes. All interviews were transcribed to ensure that the full interview content was captured accurately and to improve the analysis’ reliability. The following discussion includes our own translation of interview excerpts.

4.2 Discussion

4.2.1 Overlapping Policy Cycles

Argentina and Mexico confirm our theoretical hypothesis that migration and refugee laws do not develop independently, but present intertwined policy processes. In both cases, political and public debates first occurred over the need to reform countries’ immigration laws, in the context of broader human rights movements. These legislative changes took place in Argentina in 2004, and in Mexico in 2011.

Shielded from the public spotlight of public, refugee laws reforms emerged in the shadow of new migration laws. As an Argentine representative of an NGO working for migrants' rights explained:

With the refugee law there was no public debate... The refugee law was never a public issue, it was not an item on the agenda. My impression is that it was always a much more technical issue, and it is an issue that in Argentina has never been very well understood... The refugee law was like a minor concern for very few people, very few people were aware that Argentina had refugees, it was always a picturesque thing, the migrant always appeared as something much more visible or more conflictive.

Similarly, a civil society representative in Mexico found:

For Mexico, the law [that matters] is the immigration law. Asylum [refugee protection] in this country is not a matter of regulations; it is not a relevant issue. If you listen, see the news... the issue of refugee protection is not an issue in the public agenda.

The above-mentioned quotes suggest that the lack of politicization and awareness about refugees in public opinion, probably as a result of low refugee stocks, enabled the passing of both refugee laws in the shadow of immigration law reforms. Thus, the factors that enabled the passing of the new, progressive immigration laws had a spill-over effect on the passing of the countries' refugee laws. As we will discuss below, our case studies suggest that some of the refugee policy determinants identified by the literature that we found not to be statistically significant, such as refugee stocks, democratization, and the number of emigrants, influenced immigration law reforms, and thus had a direct impact on refugee laws.

4.2.2 Political Ideology, Human Rights and signaling

Existing literature posits that re-democratization led to a new focus on human rights, which in turn helped the agenda-setting of immigration and refugee policy liberalization in Latin America (Acosta and Freier 2015b; Ceriani Cernadas 2004, 2011; Melde and Freier 2022). However, rather than institutional democratization per se, our models found that leftist political ideology matters for refugee policy liberalization. Here, it is key to take a closer look at three interrelated region-specific factors: re-democratization processes; the rise of the so-called Pink Tide of the 2000s; and the increasing importance of human rights discourses.

Across Latin America, re-democratization took place since the mid-1980s. However, formal democratization processes do not necessarily go hand-in-hand with human rights reforms, in-

cluding progressive refugee protection. Indeed, re-democratization across the region remained superficial. As Long (2018) points out, very often, commitments to liberal democracy were broad but not deep: they included ambitious plans for sub-regional and hemispheric trade, the region's expansion in UN Peacekeeping, global environmental governance, and global trade regimes. *De jure* democracy was supported, but regional democratic norms were applied unevenly, and weak state capacity undermined the gains from democratic governance. Soon, discontent with neo-liberalism set the stage for the Pink Tide executives, who actively promoted human rights discourses (Grugel and Fontana 2019). Given that our data measured institutionalised democratization, in comparison to human rights discourses, could explain why we did not find any significant correlation between democracy levels and legislative liberalisations.

In Argentina, electoral democracy was restored in 1983. Six years later, the country experienced the first peaceful transfer of power from one political party to another since 1916. In 1994, a constitutional reform with a strong human rights focus was passed. However, the “hyper-presidentialism” of both Raul Alfonsín (1983-89) and Carlos Menem (1989-1999) hindered true democratization (Bonner 2005). After winning the 2003 presidential election, Peronist Nestor Kirchner shaped a more liberal discourse on immigration. Having himself been persecuted by the last dictatorship, Kirchner showed himself generally preoccupied with human rights (Maurino 2009), specifically those of immigrants and refugees, or political asylees (Garcia 2010; Nicolao 2010). Reflecting his leftist ideology and populist tendency, Kirchner further openly criticised the immigration policies of the United States (U.S.) and Europe and asked for political solidarity and reciprocity in international migration management (Acosta and Freier 2015b; Melde and Freier 2022).

It is important to keep in mind that human rights movements in Argentina have historically been strong. Since 1983, human rights organisations and the State have led a relatively equal dialogue about which rights are integral to democracy (Bonner 2005). Migrants' rights have been a topic of concern for the Argentinian civil society since the 1990s, and NGOs played a major role in pressuring the state to tackle its immigration and refugee reforms and advance technically sound laws (Ceriani Cernadas and Morales 2011; Melde and Freier 2022). Thus, it was neither democratization nor political ideology per se, but the human rights-focused presidential strategy of Kirchner that opened a window of opportunity for civil society organisations to press for migrants' rights based on political coherence. As an Argentine representative of an NGO working for migrants' rights explained:

Because what happened is that Kirchner came to power with a very low share of the vote, with very little legitimacy, with 23% of votes. One of Kirchner's strategies to

solidify his power was to approach the historical human rights organisations. . . [it was] the human rights issue, not a migration issue, *the human rights issue*. In the context of this relationship between Kirchner and the human rights organisations, a more receptive dialogue between organisations that worked for the new migration law and the executive was also made possible. . . So we took advantage of this rapprochement to tell them: look, the [new] migration law is a *human rights* law. . . . And then, the executive told its own deputies to support this project [in congress]!

While democratization efforts in Mexico began in the late 1970s, they took more than twenty years to solidify (Camp and Mattiace 2019; Hamilton 2010; Magaloni 2001). The Institutional Revolutionary Party (PRI) remained in power due to elite unity, the authoritarian nature of electoral institutions, and massive –though bought– electoral support (Mun˜oz 2009). Electoral democracy was fully restored in 1997. Three years later, the country experienced the democratic transfer of power from the revolutionary PRI that had been in power since 1929, to the conservative National Action Party (PAN) under Vicente Fox (2000-2006).

The struggle for democracy in Mexico was mainly about free and fair elections. Human rights –other than those directly related to electoral competition– were not at the core of the opposition movements’ agenda. The Mexican government’s approach to human rights only changed significantly under the Fox administration, who “developed a new approach, which involved Mexico’s opening to international monitoring and assistance, the ratification of important international instruments, the promotion of constitutional and legal reforms, changes in government institutions, and the elaboration of a National Human Rights Program” (Munoz 2009). The subsequent PAN government, under Felipe Calderón (2006-2012), followed Fox’s footsteps. In May 2011, it passed a constitutional reform on human rights that gave constitutional status to all human rights that were guaranteed in international treaties to which Mexico was party. In an interview, the head of the National Migration Institute (INM), Salvador Beltran del Rio, expressed that he saw the constitutional human rights reform as the basis of both the new immigration and refugee laws:

Since 1917, we already had individual guarantees, but now we have human rights. This nominal change is a *great change of ideas*. . . All authorities are now obliged to revise their actions, laws and agreements to see whether these conform with human rights. It is based on the constitutional reform, that we have a new migration law based on this idea [of human rights], a new refugee law based on this idea [of human rights], a new law to combat human trafficking based on this idea [of human rights]. These are different laws to the same effect.

At the same time, Mexico's eagerness to present itself as an international guarantor of human rights was key. Comparing the developments in Argentina and Mexico, Pablo Ceriani Cernadas, former Vice President of the United Nations Committee on the Protection of the Rights of Migrant Workers and their Families, gave a nuanced account of how the human rights discourses in the context of re-democratization, and the inconsistencies between constitutional and international commitments to human rights ideals, played out differently in the two countries:

[The development] is parallel in the sense of the role civil society played, but it is different regarding some factors that served as arguments. In Argentina, [civil society] used the historical vision of Argentina as a country open to migration, as reflected in an open constitution and a law that contradicted the constitution. So, one had that argument: that you have an open constitution and until 2003 you had a migration law that was clearly repressive and contrary to the constitution. In Mexico the argument that was used, in my opinion, was the country's schizophrenia itself. Why? Because especially from the mid 90's onwards there was a change in Mexican foreign policy where Mexico became one of the standard bearers in the defence of the human rights of migrants in the international arena, in the bilateral arena in relation to the United States and in the universal arena in the role that Mexico plays in the United Nations, for example with the approval in 1990 of the convention on the rights of migrant workers, so that the countries begin to ratify it. Mexico was one of the first countries to ratify it. So, Mexico from the 90's onwards became a key country in the international arena for the defence of migrants' rights. But at the same time, inwardly it had the general population law which was the exact opposite of what Mexico has been asking the United States for decades - a law that until 2008 imposed up to 10 years of imprisonment for infractions to the rules of entry.

Ceriani Cernadas explains how constitutional and international human rights standards adopted in both countries' re-democratization processes served as leverage for civil society actors to put pressure on both governments to reform their laws for the sake of policy coherence. He also alludes to the importance of Mexico's diaspora politics, which will be discussed in the following section.

In the context of international human rights signaling, the critical juncture that led to the reform of Mexico's immigration and refugee laws was the 2010 Tamaulipas massacre. On 22 August 2010, the Los Zetas drug cartel kidnapped and murdered 72 undocumented migrants, mainly from Central America, in the municipality of San Fernando, Tamaulipas. The migrants were abducted from a bus and brought to a ranch, and when they refused to join the cartel, they

were blindfolded and shot in the back one by one. The massacre caused international outcry from human rights groups and political condemnation from governments across the Americas.

At the same time, senators across all banks expressed the need for a new law in the aftermath of the Tamaulipas massacre. Mexico's political parties, including the PRI, the Revolutionary Democratic Party (PRD), and the PAN, all voiced support for improving the treatment of migrants. Interviews with the technical secretary of the Population Commission of the Mexican Senate and Senator Ruben Velazquez (PRD) amongst others, confirmed that the domestic and international pressure triggered by the Tamaulipas massacre significantly favoured the passing of both laws. As Ernesto Rodriguez, head of the research unit of the INM stated in an interview:

The fact that the laws were passed so speedily is the result of a specific conjuncture. This specific conjuncture was the massacre of 72 migrants in Tamaulipas in 2010, which put the topics of migrants' rights, the insecurity of migrants, and migrants' abductions on the political forefront. This was the context in which the laws were published and, I think, put on a fast track. The [migration] law was presented [in the Senate] in November of 2010 and in May 2011 it was published. This is something unheard of in the Mexican legislation.

Reflecting what Acosta and Freier (2015) have discussed in the area of progressive immigration laws, the Argentine and Mexican cases suggest –albeit at different degrees– that countries might have sought to signal their belonging to the international democratic, refugee regime by adopting highly symbolic policies that, at the time of adoption, most of them thought they would rarely, if ever, implement. As a former Director of International Migration of the Argentine Foreign Ministry explained:

During the last decades there was a great emphasis on the issue of human rights that became universalised. Here, the international impact was obviously important, but there is also a convergence of what came from the outside, let's say, the new international mandate, with internal developments... But I was saying the other day, not all that is signed is implemented. And this applies both to changes in international law and domestic reforms.

Figure 1 and 2 show the correlation between the signing of international human rights treaties and regulatory complexity in both countries and suggests their larger influence in the case of Mexico.

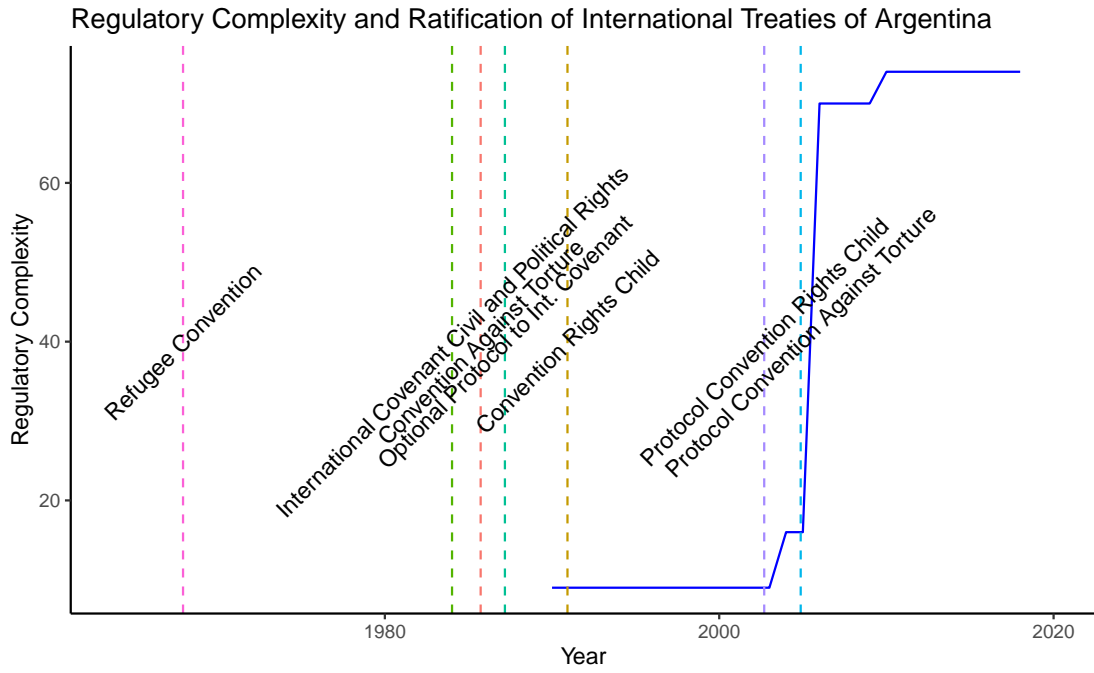


Figure 1: Human Rights Treaties and Asylum legislation in Argentina. Source: APLA Dataset

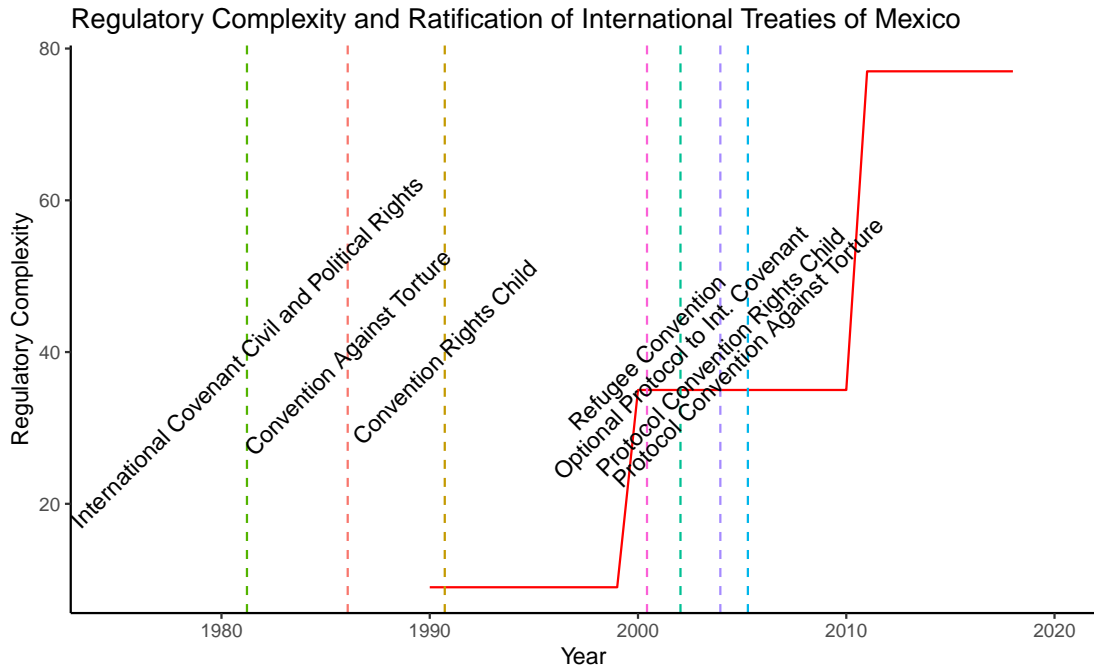


Figure 2: Human Rights Treaties and Asylum legislation in Mexico. Source: APLA Dataset

4.2.3 Diaspora Politics and Regional Integration

Our models also suggest a correlation between regional economic liberalisation and integration and regulatory complexity. Here it is crucial to acknowledge that, in practice, there was a clear relation between democratisation and regional integration: democratic elections spread, economic barriers fell, and regional commitments to democracy were made and strengthened (Long 2018).

For South America, Margheritis (2012) has pointed out that Pink Tide executives, who were eager to introduce social items to the MERCOSUR agenda, significantly advanced regional integration, which had grown stagnant in its original purely economic aim of boosting trade and establishing internal markets. Brazil had proposed an exceptional migratory amnesty for MERCOSUR nationals on 30 August 2002 that would have been accessible for six months for all undocumented regional migrants in four member states (Argentina, Brazil, Paraguay, and Uruguay). In response, Argentina proposed a permanent –rather than a temporary– mechanism so that MERCOSUR nationals would always have access to regular status (Alfonso 2012, 48). Importantly, Argentina and Brazil had been competing for ideological ‘post-neoliberal regional leadership’ (Margheritis 2012). Migration and refugee policy liberalization were thus linked to regional integration under South America’s left-wing executives, and the rejection of ‘imperial’ ‘Northern’ policies (Freier and Holloway 2019). As a high-ranking official of the Argentine Foreign Ministry explained:

The regional integration process really had a substantive weight in this. Because suddenly it was a fact that it was not possible to integrate the economy, it was not possible to integrate companies without integrating the labour markets. Now, we have to take note that this also had ups and downs because already in the early 1990s the technical subgroups [of MERCOSUR] aimed at resolving the issues of labour integration, social security and employment, the free movement of labour appeared as an immediate objective. . . [But] towards the middle of the 90’s, economic changes took place in Argentina, which led to a very marked neoliberal policy, very, very crude. And then the integration process was also redefined and that objective, shall we say, disappeared. The social issue. Everything social disappeared. . . So there was also a very strong setback in the 90s. . . Then, towards the end of 2002, with the [Argentine] elections already held, the residence agreement for nationals of the southern framework and associates was signed. And that is the big step, notice that this was even before our law.

In the case of Mexico, post-colonial scholars have criticised regional integration since the im-

plementation of the North American Free Trade Agreement (NAFTA) in 1994. The enforcement of neoliberal policies, which promoted privatisation, deregulation, and economic liberalization, ultimately had a negative impact on the working class, and led Mexico to impose a securitized approach to migration governance at its southern border (Delgado Wise and Covarrubias 2006). The U.S.'s influence on Mexican migration governance is unquestionable. As Murillo, the head of the legal department of the UNHCR Office in the Americas, established in an interview:

Of course, there is an ever closer connection because the border does not run between Mexico and the United States anymore. The border runs between Panama and the north. There is a very strong emphasis on the issue of security and migration control, which explains a heightened interest in administrative detentions of migrants, including refugees and asylum applicants, and their interception at airports and offshore.

Our interview results suggest that the impact of regional integration also fostered the need for human and migrants' rights signaling in the context of Mexico's diaspora politics. Reforms to the country's immigration and refugee laws can only be understood in the context of the structural emigration of Mexican citizens to the U.S., and the fact that 12 million Mexican emigrants, or 10 percent of the Mexican population, lived in the U.S. as of 2011. Regarding the theoretical arguments discussed above, Mexico has consistently applied external voting to its diaspora in federal presidential elections since 2006 (Paarlberg 2017).

Although the Mexican-born population in the U.S. started to decline in 2010 (Passel, Cohn, and Gonzalez-Barrera 2012), the Fox and Calderón administrations' efforts to improve the situation of (irregular) Mexican citizens in the U.S. put domestic and external pressure on the Mexican government to reform its restrictive immigration law for the sake of political coherence by civil society organisations, policy analysts, and U.S. officials (González-Murphy 2009; González-Murphy and Koslowski 2011).

President Fox, who made a migration accord with the U.S. a pillar of his foreign policy, argued for freer migration and more open borders, as a logical extension of NAFTA. A fundamental philosophical shift, away from the "policy of no policy," took place in the Secretariat of Foreign Relations (SRE). Mexican authorities went from turning a blind eye to unauthorised migratory flows across its northern border, to taking a more active stance regarding migration management (FitzGerald 2009). As soon as Fox took office, he called for bi-national negotiations with the U.S. to address immigration reform. Although Fox could not achieve a migration reform, and Calderón downplayed his predecessor's vocal expectations of a bilateral migration accord, he was clearly interested in the same goal of legalised flows (ibid.). With the end of the "policy of no

policy”, there was a need for political coherence. First, the Mexican government began calling attention to the protection of the human rights of Mexicans in the U.S. Second, as alluded to in the previous section, the country was confronted with being accused of failing to grant foreigners in Mexico the same civil rights and workplace protections it demanded for Mexican nationals abroad. As Ernesto Rodríguez, head of the INM’s research unit, mentioned in an interview:

Mexico had to be coherent. If you ask for x right for Mexicans, the right has to be given to foreigners [in Mexico]. If we ask for certain things in terms of normativity, you have to apply them here. . . . It is a principle, not a technicality. It is like a baseline, that is to say to be coherent, you can’t get angry because the other does what you do her - or the other way around. What you ask for, is what you have to implement here.

Similarly, Gonzalez-Murphy (2013, 102) explains that during bilateral meetings in the mid 2000s, U.S. policymakers called attention to the inconsistencies of their Mexican counterparts’ demands, suggesting that the U.S. copy Mexico’s immigration law, which criminalised irregular entry. This “slap in the face with a white glove,” motivated Mexican Congressmen to fight for legislative reform in Mexico (Quoted in Gonzalez-Murphy, 2013). Thus, the need for political coherence in the context of regional integration, emigration, and its diaspora politics motivated Mexican lawmakers to work towards new immigration and refugee laws that could then be swiftly passed as the window of opportunity of the Tamaulipas massacre opened.

Lastly, it should be noted that, in the background, the UNHCR also played an important facilitating role in regional refugee norm emulation, through its support of the development of a regional system of asylum. Initially comprised by the 1984 Cartagena Declaration, this system was expanded by the 1994 San Jose Declaration on Refugees and Displaced Persons, the 2004 Mexico Plan of Action, and the 2010 Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas. The UNHCR not only eased regional meetings, but familiarised the countries in the region with the newly emerging norms, and assisted domestic legislative reforms (Cantor and Mora 2015; De Andrade 2014; Harley 2014; Loescher 2001; Maldonado Castillo 2015; Menezes 2016; Reed-Hurtado 2017).

4.2.4 ‘Low Cost’ Refugee Protection?

As discussed above, our models did not find a significant correlation between low refugee numbers and regulatory complexity. This might be due to broader data quality issues. Nonetheless, our qualitative results suggest that low refugee numbers did matter in Argentina and Mexico. According to interviewees, the low refugee numbers in both countries, since the early 1990s,

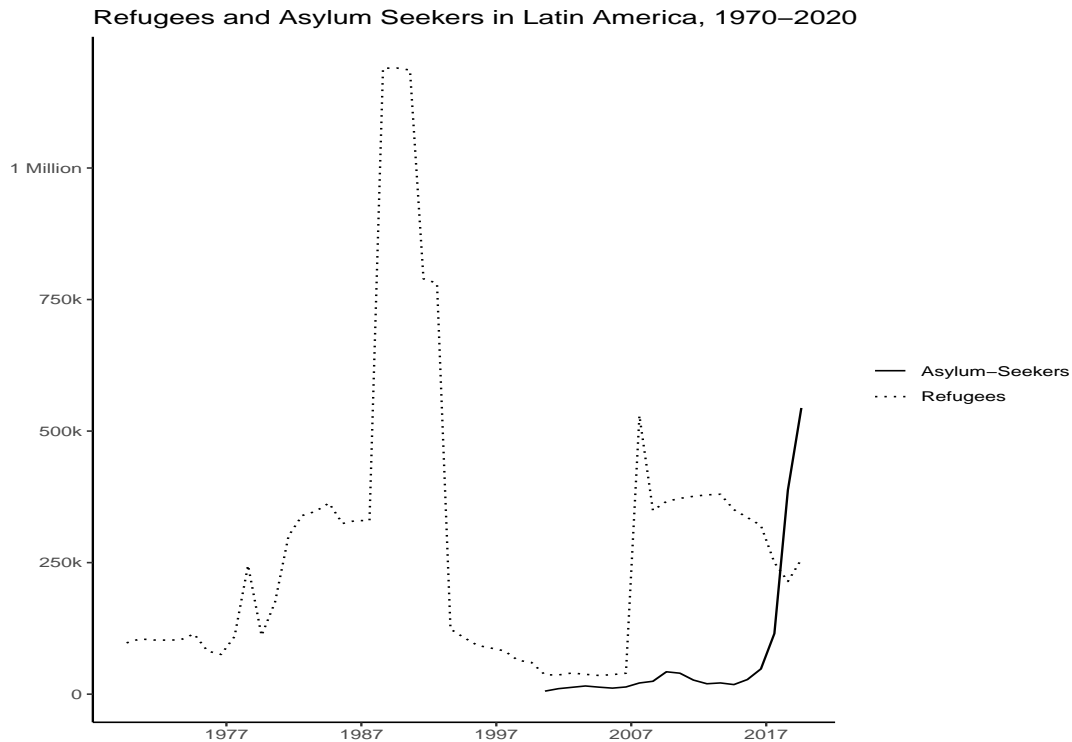


Figure 3: Refugees and Asylum Seekers in Latin America (1970-2014). Source: UNHCR Population Database

explain why the development of refugee laws remained a technical process. Figure 3 shows low numbers of asylum claims in most Latin American countries from the early 1990s. Historic exceptions have taken place in the 1960s and 70s, when the military dictatorships in the Southern Cone led to tens of thousands of refugees in the region and other parts of the world, and in the 80s, when internal conflict and human rights violations led to the mass displacement of Central Americans (Terminiello 2014).

The gradual democratization of the region in the 80s, the closure of refugee camps in Mexico and Central America in the mid-90s, as well as the voluntary repatriation movements to Guatemala, El Salvador, and Nicaragua, reduced the number of asylum-seekers and refugees (UNHCR 2006a). By the end of the 90s, internal and external forced displacement in and from Colombia increased, and hundreds of thousands of Colombians looked for protection, especially in Ecuador, Panama, and Venezuela (Gottwald 2004, 2016; SJR 2016; UNHCR 2008). In 2000, Latin America only hosted 38,000 refugees (or 0.1 percent of the world’s refugee population), and less than 5,000 asylum seekers.¹¹ Also, it is important to point out that the overwhelming majority of refugees came - and still come - from within the region (Acosta and Freier 2015).

¹¹Due to the Colombian refugee crisis, by 2013, these figures significantly increased to about 380,000 refugees (3 percent of the world’s refugee population) and 23,000 asylum seekers, but these were concentrated mainly in Ecuador and Venezuela. Since 2015, the mass displacement of Venezuelan citizens, who – scholars and the UNHCR agree – should be recognised as refugees under the Cartagena refugee definition, has led to an new increase of asylum applications in the region, with close to 800,000 asylum seekers and around 150,000 refugees by early 2021 (Berganza, Blouin, and Freier 2020; HDE 2020; Selee and Bolter 2020; UNHCR 2019b).

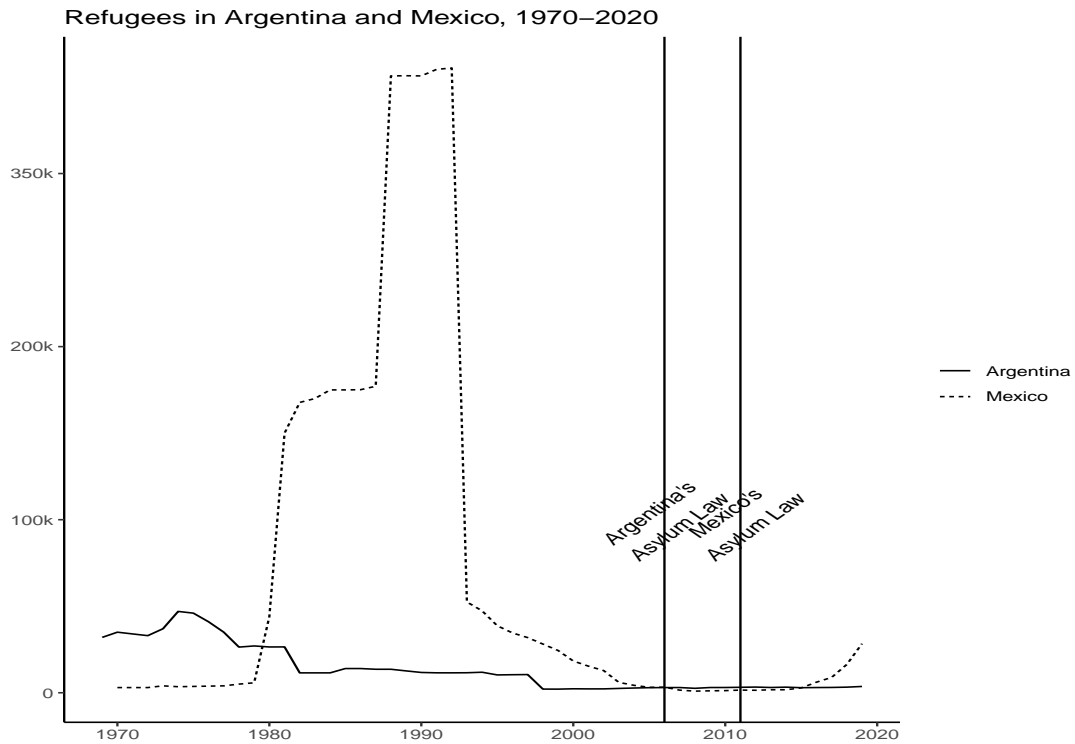


Figure 4: Refugees and people in refugee-like situations. Source: UNHCR Population Database

With a view to our case studies, the numbers of refugees in Argentina and Mexico were very low when the new refugee laws were passed in 2004 and 2011 respectively. In the early 70s, Argentina hosted over 45,000 recognised refugees, and Mexico over 350,000 up until the early 90s. Yet, when looking at the years before the expansive refugee laws were passed, Argentina only hosted 3,051 refugees in 2005 (0.08 percent of the total population), and Mexico 1,364 in 2010 (0.01 percent of the total population) (see Figure 4) (HDE 2020).

In sum, our qualitative findings confirm our theoretical hypothesis that the artificial separation between immigration and refugee policies does not reflect overlapping and intertwined immigration and refugee policy-making processes in practice. Our findings further nuance our quantitative results. Regarding our first hypothesis (increasingly more democratic and left-wing governments are more likely to pass liberal refugee policies), we found that democracy measures are not statistically significant. Drawing on our qualitative data, this might be because, rather than institutionalized democratization, what mattered most was the increasing importance of human rights discourses. More specifically, countries like Argentina and Mexico adopted constitutional and international human rights standards in their respective re-democratization processes, which were either used as political leverage by domestic civil society actors, or led governments to reform their refugee laws as normative human rights signaling in the international arena. Additionally, it is likely that we found leftist political ideology to be statistically signif-

icant because left-wing governments in Latin America have been especially prone to adopting such human rights discourses.

Regarding our second hypothesis (economic liberalization and increased regional integration allow governments to expand refugees' rights), we found that regional integration mattered for policy liberalization in the context of leftist ideological leadership in South America, and was linked to diaspora politics under right-wing executives in the case of Mexico. Regarding our third hypothesis (countries with low immigrant and refugee numbers can more easily pass generous liberal refugee policies), it is likely that we did not find these to be statistically significant due to poor data quality.

Our case analysis suggests that refugee law liberalization as human rights signaling, until recently, had a low political cost both in terms of the salience of migration and asylum in the public debate, as well as in terms of fiscal costs related to hosting refugee populations. This is indeed not the case anymore, as Venezuelan displacement has put migration at the top of many South American governments' agenda. (Selee et al. 2019; Selee and Bolter 2020).

5 Conclusion

In this paper, we have sought to explain the adoption of more liberal refugee laws in Latin America over the past three decades. First, we discussed and juxtaposed the determinants of both immigration and refugee policies present in the general and region-specific literatures. We then developed six hypotheses relating to overlapping immigration and refugee policy cycles, levels of democracy, political ideology of the executive, economic liberalization, increased regional integration, low numbers of immigrants and low numbers and regional origins of refugees, and policy liberalization as symbolic human rights signaling. We tested levels of democracy, political ideology, economic liberalization, increased regional integration, low numbers of immigrants and refugees through a series of models and explored the causal mechanisms behind them, as well as overlapping policy cycles, regional origins of refugees and liberalization as signaling through qualitative discussion of the cases of Argentina and Mexico.

We find statistical support for the impact of leftist government ideology and economic liberalization, or regional integration, on refugee law liberalization. Our qualitative discussion nevertheless shows that there can be important exceptions to the correlation between leftist ideology and legislative liberalization, such as Mexico. We do not find any statistical evidence for democratization, or immigrant, refugee, and emigrant numbers. Although statistically not significant, we show that most countries in the region adopted such high standards of refugee

protection while hosting close to no refugees. Through the discussion of our case studies, we show that low numbers and regional origins of refugees indeed mattered in rendering legislative refugee reforms politically non-salient. Additionally, both diaspora politics and democratization processes had an indirect impact on refugee law liberalization, by providing the context in which migrants' rights discourses flourished and the immigration laws of both countries were reformed in moral counter position to Northern receiving countries. We thus show that more than institutionally consolidated democratization, what mattered was the anew discursive focus on human rights that was linked to the re-democratization process and likely correlated to leftist ideology of executives.

Our work contributes to the existing literature on the determinants of refugee laws and policies in at least four ways. Empirically, we leveraged a unique dataset and qualitative evidence on Latin American refugee legislation through a mixed methodological approach, which allowed us to produce robust empirical findings and nuance the causal mechanisms underlying them. Theoretically, we make three contributions that contrast with the 'Northern' centric literature. First, in contrast to concerns over the increased political salience of refugee protection that are seen as having led to more selective and often securitized measures on asylum in the North, Latin American executives embarked on symbolic human and migrant's rights discourses in the context of growing diasporas and in counter-position to the policies of Northern receiving countries. Given outdated and securitized immigration and refugee laws this discursive shift resulted in policy incoherence and ultimately enabled legislative change in the areas of immigration and refugee protection. The determinants of refugee law reforms in Latin America – though clearly influenced by the idiosyncratic events that took place in the region – might shed some light on policy making on immigration and refugee policies in other regions of the globe, especially in other developing, migrant sending and refugee hosting countries. Future studies should thus test whether similar mechanisms have led to legislative liberalization in other emigrant sending regions.

Second, as opposed to the EU –where delegation to regional institutions played a pivotal role in policy convergence– convergence took place outside of formal institutions. Here, regional integration mattered for policy liberalization in the context of ideological convergence of governments in South America and was linked to diaspora politics in Mexico.

Finally, our qualitative case comparison questions the artificial separation between the determinants of immigration and refugee policies found in the literature and rather suggests significant overlap between the immigration and refugee policy making processes, which likely apply more broadly, both in Latin America and beyond. If immigration and refugee reforms develop in tan-

dem, immigration and refugee policy determinants should not be artificially separated. Future studies should further explore when immigration and refugee policies and laws develop independently, when they emerge in parallel, and in how far the policy-making process is overlapping and indeed intertwined.

With a view to further research regarding the determinants of immigration and refugee laws and policies in Latin America, additional factors such as public opinion, or xenophobia, and national security concerns, that have already been identified as having influenced policy reactions to Venezuelan displacement, should be further explored in qualitative studies and instrumentalized for quantitative, comparative analysis. To achieve this, better public opinion data on immigration and refugee flows and policies will be crucial. Scholars should also focus on the conditions under which governments implement these laws and how, providing a more comprehensive understanding of refugee status determination procedures. Indeed, emerging studies on the reception of Venezuelan forcibly displaced migrants and refugees suggest that – with very few exceptions – governments in the region are not applying their refugee laws, and, most importantly, the ‘Cartagena’ refugee definition, but rather, develop alternative, and increasingly restrictive, ad hoc policy responses.¹²

Further research should also test our findings, such as the importance of leftist ideology, regional integration, human rights discourses, and signaling, in policy areas and regions beyond Latin America. signaling as a rationale for policy reform is not limited to migration issues. Our findings likely do not *only* apply to the policy making processes concerning refugee protection but should be tested in other areas in which Latin America has taken a “progressive” stance, for example regarding environmental policies or those championing LGBTQ+ rights.

6 On Human Subjects

The authors declare the human subjects research in this article was reviewed and approved by the Department of Government at The London School of Economics and Political Science and deemed exempt from a formal review process. The authors affirms that this article adheres to the APSA’s Principles and Guidance on Human Subject Research.

¹²As an example, despite wide agreement on their eligibility for refugee status (Freier et al. 2020, Blouin et al. 2020, UNHCR 2019), out of 1.8 million Venezuelans in Colombia, 1.3 million in Peru, and 448,000 in Chile and 482,000 in Ecuador, only 778, 3,200, 18, and 3,200 Venezuelans respectively have been recognized as refugees in these countries (R4v.info 2022). Only in the cases of Brazil and Mexico, which host a smaller Venezuelan population in considerably more populous countries – 261,000 and 83,000 Venezuelans respectively, has their asylum legislation been applied (R4v.info 2022).

7 On Ethics & Conflicts of Interest

The authors declares no ethical issues or conflicts of interest in this research. This research was funded by the Economic and Social Research Council (grant ID: 1927184).

8 On Data Transparency

Replication code and data that support the findings of this study are openly available in the APSR Dataverse at <https://doi.org/10.7910/DVN/UUDOS0>.

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