

# **Gradations of Migrant Legality: The Impact of States' Legal Structures and Bureaucracies on Immigrant Legalization and Livelihoods<sup>1</sup>**

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## **ABSTRACT**

Immigrant legalization scholarship assumes that immigrants with ‘non-tenuous’ legal statuses—with ostensible pathways to citizenship—smoothly transition into enduring legality. However, under-studied features of the legal structure and bureaucracy likely disrupt their legalization. Thus, the present article introduces the concept of “gradations of migrant legality” to examine how multilayered, embedded interactions between the state’s immigration regime, the structure of legalization opportunities, and the permeability of application procedural standards impact immigrants’ legalization transitions. The study draws on in-depth interviews to compare Venezuelan migrants’ ‘non-tenuous’ legalization process in Argentina and Chile. Whereas Argentina has an inclusionary immigration regime, legalization opportunity structure, and procedural standards, Chile has an exclusionary one. Despite these contrasting trends, both countries have had some inclusionary and exclusionary executive administrative measures. Findings show smooth transitions were possible in both countries when procedural standards were predictable and state bureaucrats eased obstructive requirements. However, disruptive transitions occurred when digitalization changed procedural standards, visa categories required self-sufficiency, and administrative actions imposed cumbersome requirements. Disruptive transitions were more prevalent and harmful to immigrants in Chile because most visa categories (under the law and administrative actions) required formal employment. In contrast, disruptive transitions were less prevalent and harmful to Venezuelan migrants in Argentina because they could access the Mercosur Residency Agreement, which protected their livelihood by not requiring proof of economic solvency. Broadly, the “gradations of migrant legality” framework shows that different organizational levels interact and have compounding, unequal effects on immigrants, including those with visa categories that provide seemingly straightforward pathways to citizenship.

**Key words:** Gradations of Migrant Legality, Immigrant Legalization, Venezuelan Migration

## INTRODUCTION

Globally, more than 272 million international migrants (IOM 2020) and 80 million forcibly displaced people (UNHCR 2020) confront different legalization opportunities. Migrants who can access lawful permanent residency (LPR) and citizenship experience better socioeconomic mobility than those who cannot access these statuses (Luthra, Soehl, and Waldinger 2018; Bean, Brown, and Bachmeier 2015; Portes and Rumbaut 2001, 2014; Portes and Zhou 1993). However, the tension between immigration control and globalization has pushed governments worldwide to create liminal, precarious, and other ‘tenuous’ legal status categories—with high requirements, complex procedures, or without a pathway to citizenship—to prevent the permanent settlement of racialized and low-income immigrants (Del Real 2022; Motomura 2015, 2021; Goldring and Landolt 2021; Cook-Martin 2019; Basok and Wiesner 2018; Baban, Ilcan, and Rygiel 2017; Menjivar 2006; Calavita 2005). Alternatively, the ‘non-tenuous’ legal status categories filter for ‘desired’ immigrants and provide recipients with streamlined legalization procedures and straightforward pathways to LPR and citizenship. Broadly, immigrant legalization research assumes that if migrants can access ‘non-tenuous’ lawful residency, they will smoothly transition to enduring legal status.

However, an examination of regional treaties and executive administrative actions (currently under-theorized) likely reveals the vulnerability of ‘non-tenuous’ legal residency categories. Approximately 33 regional organizations worldwide—such as the European Union and “El Mercado Comun del Sur,” or Mercosur—have migratory treaties that seek to facilitate intra-regional migration by removing barriers to enduring legal residency (Chetail 2019; Del Real 2019; Acosta 2018; Kubal 2013). Nevertheless, the benefits of these treaties are not accessible to all immigrants (Ibid) and likely affect immigrants’ ‘advantageous’ legalization processes unexpectedly. Furthermore, state actors use executive administrative (or bureaucratic) actions to quickly change migrants’ visa categories and legalization procedures without changing immigration laws or congressional approval (Brumat and Espinoza 2023; Finn and Reguero 2020; Jaramillo, Gil-Araujo, and Rosas 2020; Acosta, Blouin, and Freier 2019; Gandini, Ascencio, and Prieto 2019; Stefoni and Silva 2018). Executive administrative actions can facilitate or obstruct immigrant legalization by changing fees, implementing new technologies, and eliminating programs, among other actions. Thus, depending on the administrative actions, immigrants with similar characteristics applying for the same seemingly ‘non-tenuous’ legal status category at different times may have diverging legalization processes and results. Therefore, the question remains: How do the varied features of the immigration legal structure and state bureaucracy affect immigrants’ ostensible legalization processes and livelihoods?

The present article addresses this question by introducing the concept of “gradations of migrant legality” (hereafter, “gradations of legality” or “gradated legality”), which is defined as a multilayered, embedded interaction between the immigration regime, legal status opportunity structure, and permeability of procedural standards that impact immigrants’ legalization transitions. Immigration regimes consist of treaties, national laws, and executive administrative actions and produce legalization structures of opportunities—or legal status categories with more to less demanding requirements. Moreover, application procedural standards—or precise sequences of steps and rules that mid- to high-rank state bureaucrats use to distribute state resources (Timmermans and Epstein 2010)—can range in permeability. Together, gradated legality refers to a process (not a legal status) that captures how different organizational levels interact and have compounding effects on immigrants’ transition through their lawful residency application process and livelihoods. The concept focuses on state policies and practices that

impact immigrant legalization and does not seek to explain other aspects of immigrant incorporation (i.e., societal reception and social ties).

The present study assesses the impact of gradations of legality by holding immigrants' demographic characteristics constant; it draws on a comparative and longitudinal analysis of 60 in-depth and 40 follow-up semi-structured interviews with Venezuelan migrants in Chile and Argentina. Data was collected between 2018 and early-2020. Interviewees have similar socioeconomic backgrounds and everyday understandings of the law—or legal consciousness orientations (see, Del Real 2022; López 2021; Abrego 2011). The research focuses on Venezuelan migrants in these destinations because they constitute the second largest, forcefully displaced population worldwide (UNHCR 2020) and the largest in Latin America in modern history (Gandini et al., 2019). Approximately 80% of the 7.7 million Venezuelan migrants are moving to other South American countries (R4V 2023), where governments passed various policies to legalize them but unevenly extend the benefits of the Mercosur Residency Agreement (MRA, 2002) (Gandini et al, 2019; Acosta et al., 2019). Mercosur<sup>ii</sup> is a regional intergovernmental organization and the MRA makes legal status close to a substantive right as it does not require proof of economic solvency and makes states responsible for legalizing immigrants (Acosta 2018).

The case studies for this research focus on Chile and Argentina because they capture the range of governmental responses towards Venezuelan immigrants within South America. Both provide Venezuelans an obtainable path to LPR and citizenship. However, the immigration regime, legalization opportunity structure, and procedural standards are largely inclusionary in Argentina but exclusionary in Chile. Of particular importance, Argentina is one of three South American states that extends the benefits of the MRA to Venezuelans while Chile is one of six states that do not and, instead, has legal residency categories that require proof of self-sufficiency (Acosta et al., 2019; Del Real 2019). Despite these contrasting trends, both countries retain some inclusionary and exclusionary administrative measures, including the digitalized procedural standards delayed application reviews (Jaramillo et al. 2020; Chile DEM 2018).

Based on these case studies, findings show that lawful residency categories that require economic solvency, cumbersome application requirements, or broadscale changes to procedural standards (e.g., digitalization) produce disruptive transitions that harm the livelihoods of immigrants even if they have seemingly 'non-tenuous' legal statuses. However, legalization disruptions were more prevalent and harmful to Venezuelan migrants' economic stability and access to institutional resources in Chile because most visa categories make legal residency contingent on migrants' formal employment. Legalization complications often brought on employment interruptions and vice versa. Legal residency categories that disentangle legal status from immigrants' economic self-reliance can alleviate the negative impact of these disruptions. Hence, disruptive transitions in Argentina were less harmful to immigrants' livelihoods because they had the MRA visa.

Moreover, findings demonstrate that smooth transitions to lawful permanent residency were possible in both countries when procedural standards were stable and executive administrative actions lessened economic solvency and other cumbersome requirements. Some of these features were present in Chile, where a few migrants had smooth transitions while all features were present in Argentina, where smooth transitions were more prevalent.

In the following sections, I situate the concept of graded legality within the literature on migrant legalization. Then, I provide a background on South American governmental responses to the Venezuelan migration and justify my case selection. Finally, I provide an overview of the

methods, present the findings, and discuss the study's implications. Broadly, gradated legality is an analytical tool to uncover hidden sources of immigrant exclusion and inclusion within the state's legal structure and bureaucracy; it contributes to scholarship in socio-legal studies, state bureaucracy, inequality, and international migration.

## **THEORY AND BACKGROUND**

### **Immigrant Legalization Approaches**

Migration legalization studies focus on how immigrants are included or excluded from LPR and citizenship in destination countries. These studies have focused on broad legal status categories without paying as much attention to other “gradations of legality” within state legal structure and bureaucracy. Specifically, Portes, Rumbaut, and Zhou introduce the concept of “governmental context of reception” to argue that same national origin immigrants face policies that either actively encourage their legalization and socioeconomic integration, passively neither promote nor obstruct, or are hostile to these processes (Portes and Rumbaut 2001, 2014; Portes and Zhou 1993). In their studies, Portes, Rumbaut, and Zhou measure the governmental context's receptivity by comparing different national origin groups in the United States. However, using national origin as a proxy for governmental policies is problematic because immigrants from the same country have different legalization opportunities. To disentangle the governmental context of reception from the national origin, Luthra, Soehl, and Waldinger (2018) use immigration legal statuses as proxies for the context of reception. Whereas undocumented immigrants face a hostile reception, fixed-term visa holders and LPRs face a neutral one, and refugees face an actively encouraging reception (Ibid). Despite the necessary revision, this approach under-emphasizes legalization processes.

Other migration scholars examine processes and show that governments use tenuous legal statuses—with complicated procedures, high requirements, or ineligibility to naturalization—to prevent the permanent settlement of racialized and disadvantaged immigrants. Specifically, officials derail ‘undesired’ immigrants into illegality by creating high-requirement visa categories or convoluted, finite regularization programs that are not widely promoted (Del Real 2022; López 2021; Menjívar and Kanstroom 2013; Finn 2019; De Genova 2004). Further, officials in Canada, Spain, and Mexico intentionally use “precarious” legal statuses with complicated renewal procedures to obstruct recipients’ ability to maintain temporary lawful residency or access LPR and citizenship (Goldring and Landolt 2021; Basok and Wiesner 2018; Baban et al., 2017; Calavita 2005). Moreover, U.S. and Colombian executive officials use administrative actions to create “liminal” or “twilight” legal statuses without congressional approval (Del Real 2022; Motomura 2015, 2021; Menjívar, Agadjanian, and Oh 2020; Coutin et al. 2017; Martin 2005; Menjívar 2006). These liminal legal statuses do not provide recipients pathways to LPR or citizenship,<sup>iii</sup> depend on executive discretion, and require cumbersome application renewals (Del Real 2022; Menjívar et al., 2020; Chacon 2015; Menjivar 2006). Furthermore, some policymakers have used bilateral treaties and laws to leave some ethnic minorities stateless or create offshore (Lori 2019), semi- (Cohen 2009), and colonial citizenship statuses with fewer rights, benefits, and protections (Valle 2019).

Although insightful, both approaches under-emphasize the role of regional treaties and executive administrative actions (beyond those that create legal statuses) and implicitly assume that migrants who can access ‘non-tenuous’ legal status categories (with straightforward application procedures and accessible, demarcated pathways to naturalization) will smoothly transition into LPR and citizenship. Nevertheless, exclusion from regional migratory treaties and executive administrative measures can disrupt these seemingly ‘non-tenuous’ legalization

processes. Approximately 33 regional organizations use multilateral treaties to make lawful residency accessible for migrants who are citizens of affiliated states (Acosta 2018; Chetail 2019; Del Real 2019; Kubal 2013; Calavita 2005). However, governments can exclude some immigrant groups from the regional treaties' benefits (Ibid), likely negatively affecting their legalization processes. Moreover, alternating executive officials can quickly change legalization procedures via administrative actions that do not require congressional approval (Cox and Rodriguez 2020; Coutin et al., 2017; Del Real 2019). For example, executive administrative actions can defund legal aid programs, shorten legal status renewal timeframes, increase application fees (Jaramillo et al., 2020), insert consular visa requirements (Finn and Reguero 2020), or eliminate low-requirement visas (Stefoni and Silva 2018). Thus, the question remains: how do regional migratory treaties and executive administrative actions impact the legalization process of migrants with 'non-tenuous,' or ostensible, pathways to LPR and citizenship?

### **Gradations of Legalization**

This paper introduces the concept of "gradations of migrant legality" to identify how various features of the state legal structure and bureaucracy affect immigrant legalization. Gradated legality is defined as a multilayer, embedded interaction between the immigration regime, the legalization opportunity structure, and the permeability of procedural standards, which impact immigrants' legalization transitions. Gradated legality focuses on how different organizational levels (e.g., intergovernmental and state bureaucracy) interact and affect immigrant legalization. The scope of the concept focuses on legislative and non-legislative migrant legalization policies and practices and does not seek to explain distinct aspects of immigrant incorporation (i.e., nativism). Each feature of gradated legality is developed in Figure 1 below.

—Insert Figure 1—

*Immigration Regime.* The state's immigration regime is at the macro-level and consists of international and regional migratory treaties, national immigration laws, and executive administrative actions. Immigration regimes can consist of a mix of inclusionary and exclusionary elements. States' immigration regimes tend to have enduring tendencies, but new policies can transform their content (Acosta 2018; FitzGerald and Cook-Martin 2014). Executive administrative actions do not require legislative approval and can change more rapidly than migration treaties and laws.

*Legal Status Opportunity Structure.* Immigration regimes produce legalization opportunity structures, which consist of legal status categories with varying requirements and provide uneven access to LPR and citizenship. The number of accessible legal status categories with a path to citizenship can range from low to high. New treaties, laws, and executive administrative actions can add or remove legal residency categories and decrease or increase the requirements, making access to legal residency more or less feasible for immigrants.

*Permeability of Procedural Standards.* Procedural standards are at the meso-organizational level and refer to the specific steps, rules, and processes mid- to high-rank state bureaucrats delineate to uniformly complete tasks over space and time (Timmermans and Epstein 2010). Research on other issue areas shows that state bureaucrats use procedural standards to implement policies systematically and efficiently to meet caseload targets and retain public funding, even if these processes reinforce exclusion and inequality (Watson 2023; Timmermans and Epstein 2010). Shifts in procedural standards tend to initially reduce permeability because change introduces uncertainty and burdens state bureaucrats and applicants to learn the new sequence of steps and rules (Timmermans and Epstein 2010). In the case of immigrant

legalization, procedural standards likely stratify access to lawful residency, range from easy to difficult to navigate, and become less permeable if they change.

Moreover, the sending state bureaucracy shapes the permeability of procedural standards. Legal residency categories often require state-issued identification and criminal records from the sending state bureaucracy (Finn 2019). When these documents are hard to obtain, their inaccessibility obstructs immigrants' ability to navigate the legal residency application procedures of the destination country (Del Real 2019, 2022; Finn 2019).

*Migrant Legalization Transitions.* These elements of gradated legality impact immigrants' transition through the stages of lawful residency. These stages include transitions from tourist into temporary legal residency, from temporary to permanent residence, renewing the temporary or permanent residency statuses, and applying for naturalization. Immigrants have smooth transitions when they seamlessly meet the legal residency requirements and traverse all the application standardized procedures of these stages until they secure enduring lawful residency without harm to their livelihoods.

Conversely, these transitions can be disrupted by legal and bureaucratic measures, leaving migrants in liminality—a condition (not legal status) filled with uncertainty after one classified period in life ends, and the beginning of the new one is unclear (Turner 1967). The liminality of disruptive transitions can be mild to highly harmful to migrants' livelihoods. For example, when policies delay application processing, immigrants must live with expired legal residency documentation, which can negatively impact their access to institutional resources, such as healthcare.

### **Venezuelan Migrants Face Contrasting Gradations of Legality in Chile and Argentina**

This study demonstrates the analytical power of gradated legality by comparing Venezuelan migrants' legalization process within South America, where the majority migrate (R4V 2023). In 2019, the UNHCR recommended that the Cartagena Declaration (1984) that provides an extended definition of refugees should be applied to most Venezuelan asylum seekers (Blouin, Berganza and Freier 2020). However, except for Brazil, the South American governments use their immigration regimes to avoid the political and public costs of extending refuge to them (Blouin et al., 2020).

—Insert Table 1—

Generally, South American governments have sought to legalize Venezuelan migrants, but these inclusionary efforts co-exist with exclusory legal and bureaucratic measures (Gandini et al., 2019; Acosta et al., 2019). As seen in Table 1, Venezuelan migrants within South America face uneven access to the Mercosur Residency Agreement (MRA) because Venezuela has not signed the treaty (Gandini et al., 2019; Acosta et al., 2019). Only Argentina, Uruguay, and Brazil unilaterally extend Venezuelans the MRA's benefits, providing an ostensible pathway to LPR and citizenship without proof of economic solvency or formal employment (Ibid). Moreover, South American countries have presidential systems that allow officials to use executive administrative actions to quickly create ad hoc legal residency categories or other measures that insert inclusionary and exclusionary elements to immigrants' legalization processes (Del Real 2022; Domenech 2021; Gandini et al., 2019).

Broadly, this study focuses on Chile and Argentina because they represent the range of governmental responses Venezuelan migrants face within South America. Moreover, both countries are within the six leading destinations for Venezuelan migrants (R4V 2023). In August

2023, approximately half a million Venezuelan migrants resided in Chile, and 220,595 resided in Argentina—these estimates undercount undocumented migrants (R4V 2023).

*Cases' Immigration Regimes.* Argentina and Chile provide Venezuelan immigrants an ostensible path to LPR after one to two years of lawful residency but have contrasting immigration regimes. Whereas Argentina extends the benefits of the MRA to Venezuelans and has inclusionary immigration law and executive administrative actions, Chile excludes Venezuelans from the MRA and has exclusionary immigration law and executive administrative actions. Despite contrasting trends, Argentine and Chilean bureaucrats used administrative actions to insert exclusionary and inclusionary elements into the legalization opportunity structure and procedural standards.

*Cases' Legalization Opportunity Structures.* The contrasting immigration regimes make the legalization opportunities more abundant in Argentina than in Chile. Argentina ratified the MRA in 2004 (law N. 25.903), and the immigration law (Article 23 of N° 25871, 2003, regulated by Decree N. 616 of 2010) extends the MRA to citizens of all Mercosur states. Article 20 of the immigration law N° 25871 automatically grants all legal residency applicants a precarious legal status for 180 days that can be renewed monthly until applications are approved. MRA recipients receive a two-year temporary residency and qualify for lawful permanent residency (LPR) after two years of continuous residency. To qualify for the MRA, Venezuelan migrants need to have a clean criminal record in the last five years, proof of legal entry, and proof of identity with a Venezuelan identification card or passport. Proof of legal entry is feasible because Venezuelans receive a tourist visa upon arrival in Argentina.

Conversely, Chile's immigration regime limits Venezuelans' legalization opportunity structure. Chile has not ratified the MRA and uses the administrative action *Oficio Circular N° 26.465 (2009)* to implement the treaty, which excludes Venezuelans because the government had not signed the agreement. Under the Chilean immigration law-decree (Articles 21-29 of N° 1094, 1975)<sup>iv</sup>, state bureaucrats were allowed to create temporary legal status categories. Between 2014 and 2020, 79% of the 24 visa categories filtered immigrants directly by socioeconomic status (SES)—by requiring university degrees, high skills, or significant investments—or indirectly via economic solvency requirements (see Appendix A). Moreover, among these legal residency categories, 100% required clean criminal records, 88% required proof of legal entry to Chile, and 92% required two years of lawful residency to qualify for LPR (Ibid). The legal entry requirement was not a problem before June 2019 because Venezuelans received a tourist visa upon arriving in Chile (Ibid).

Some Chilean officials have sought to increase legalization opportunities. For example, authorities of the Chilean National Migration Department (DEM), appointed by left-wing President Michelle Bachelet (2014–2018), created the “Visa for Work Motives” in 2015. This visa allowed immigrants lawful residency while they searched for employment regardless of skill level and did not tie them to a single employer (as the Formal employment visa did; see Appendix A). After one year, recipients who worked continuously qualified for LPR or could renew their temporary legal status.

However, the conservative administration of Chilean President Sebastián Piñera (2018–2022) used executive administrative actions to restrict immigrants' access to legal residency. In 2018, his administration eliminated the “Visa for Work Motives” (Finn and Reguero 2020). This measure was a significant setback for Venezuelan immigrants because 95% had applied for this visa (Finn and Reguero 2020). Then, officials created a hard-to-access “Democracy Visa for Venezuelans” (2018) that forces Venezuelans to apply at a Chilean consulate with a passport

issued on or after 2013, though most are unable to pay passport fees, living expenses while waiting for the visa, or travel costs to Chilean consulates (Del Real 2022; Finn and Reguero 2020; Gandini et al., 2019). The Democracy Visa has a low approval rate; by the end of 2018, only 20% of 94,000 applicants were approved (Finn and Reguero 2020).

*Cases' Permeability of Procedural Standards.* Application procedural standards are more permeable in Argentina than in Chile. In Argentina's immigration law (2003), Articles 9 (c), 17, and 61 require state officials to help immigrants secure lawful residency by providing free legal guidance and information. Hence, from 2004 to 2015, the administrations of left-wing Presidents Néstor Kirchner and Cristina Fernández de Kirchner used executive measures to facilitate immigrant legalization (Jaramillo et al. 2020). As part of their pro-Mercosur stance, they created the Patria Grande Decree (N° 1169, 2004) and Territorial Outreach programs to expedite the legalization of intra-regional immigrants (Jaramillo et al., 2020).

Additionally, the conservative Argentine President Mauricio Macri (2015-2019) and his administration promoted Venezuelan migrants' legalization via administrative measures—despite criminalizing other immigrants<sup>v</sup>—as part of his opposition to Venezuelan President Maduro and socialism (Jaramillo et al., 2020; Gandini et al., 2019; Acosta et al., 2019). In 2018, the Argentine National Migration Direction's (NMD) bureaucrats decided to accept Venezuelan migrants' legal residency applications with missing documents and give them a renewable precarious legal status while they waited for criminal records with Apostille stamps (via NMD Disposition 594). This measure helped legalize immigrants because the Venezuelan state bureaucracy's processing of documents is slow due to corruption and limited supplies (Anonymous Reviewer 2; Gandini et al., 2019). Then, in January 2019, the NMD stopped requiring the Apostille stamps and started allowing Venezuelan immigrants to apply for legal residency with expired passports, expired Venezuelan identification cards, and the birth certificates of children under age nine (Articles 1, 4, and 5 in NDM Disposition 520). These measures helped Venezuelan migrants who did not have the resources to acquire state-issued documents before migrating. In sum, Argentina's executive administrative actions increasingly expanded Venezuelan migrants' ability to permeate the lawful residency procedural standards.

Conversely, Chilean officials have been making application procedural standards increasingly challenging to navigate, with some exceptions. Unlike Argentina, Chile requires Venezuelans entry with harder-to-access passports (even if expired) rather than national identification cards (Gandini et al., 2019). Further, most Chilean legal residency categories require proof of continuous formal employment or economic solvency to maintain lawful residence and access LPR (Stefoni and Silva 2018; See Appendix A). If migrants change employers or lose their jobs, they will struggle to renew their temporary legal status or transition to a more enduring one. In June 2019, the Chilean Ministry of Foreign Affairs imposed a consular visa on Venezuelans (CVE 1,611,284), obstructing legalization as most legal status categories required legal entry (see Appendix A). However, to Chile's favor, officials accepted criminal records without Apostille stamps, which were easier for applicants to obtain.

Despite diverging tendencies, the digitalization of procedural standards reduced permeability in both countries. In 2018, state bureaucrats began digitalizing lawful residency procedural standards—via RADEX in Argentina and SIMPLE in Chile—to expedite application reviews; instead, they slowed processing times (Jaramillo et al. 2020; Chile DEM 2018). Before RADEX in Argentina, immigrants submitted their applications in migration offices and left their appointments with precarious legal status (Jaramillo et al. 2020). However, after RADEX, immigrants had to wait months for officials to conduct a biometric review before they received



precarious legal status. Moreover, between November 2018 and April 2019, only 17% of the 63,500 RADEX applications had been successfully processed (Jaramillo et al. 2020). Similarly, the Chilean Office of the Comptroller General’s investigation of the SIMPLE system found that between 2019 and 2022, most residency application review processes were delayed from 180 to 990 days (Audit Report No. 718/2022). Despite broad contrasting tendencies, the gradations of legality in each country retain some exclusionary and inclusionary elements.

—Insert Figure 2—

*Cases’ Legalization Transitions.* As seen in Figure 2, the lawful residency categories have similar requirements and stages in Argentina and Chile; both require legal entry, identification documents, and clean criminal records; also, recipients can transition from temporary legal residence to LPR within two years. However, the bolding in Chile illustrates four cumbersome requirements that can obstruct legalization processes. Broadly, Venezuelan migrants will likely struggle to transition through these stages in Chile’s restrictive immigration regime, limited legalization opportunity structure, and difficult procedural standard.

### **DATA AND METHODS**

The study examined Venezuelan immigrants’ ‘non-tenuous’ legalization process in Chile’s and Argentina’s contrasting gradations of legality via semi-structured, in-depth interviews with 60 adult Venezuelans and follow-up interviews with 40 interviewees. Two research associates helped conduct 29 in-depth and 19 follow-up interviews in the Metropolitan Region, Chile, and 31 in-depth and 21 follow-up interviews in Buenos Aires, Argentina. We collected data between 2018 and 2020 in urban centers where most Venezuelan migrants reside (Gandini et al., 2019).

We used a snowball sampling technique; respondents referred us to family and friends. Further, key respondents from two non-governmental organizations and two Venezuelan associations helped verify our findings and identify hard-to-reach migrants. Before the COVID-19 pandemic, we conducted interviews at locations where interviewees felt comfortable (e.g., cafes, their homes). During the pandemic, we recruited and conducted interviews via phone, WhatsApp, and Zoom.

—Insert Table 2—

As seen in Table 2, interviewees in both countries had similar characteristics, which allowed us to measure the impact of varying gradations of legality. On average, Venezuelans in Chile were 40 years old (age ranged from 23 to 65) and 34 years old in Argentina (age ranged from 22 to 51). We interviewed similar proportions of men and women in Argentina and more men in Chile because the migration flow there tended to be disproportionately male (Chaves-González and Echeverría-Estrada 2020; Gandini et al., 2019). Only one respondent identified as non-binary in Argentina and none in Chile. Further, most interviewees viewed the law as a game of skill they could master and maneuver. Like other populations, their “with the law” legal consciousness motivated them to seek information and resources to create strategies to ensure the success of their legal status applications (e.g., López 2021; Abrego 2011).

Broadly, interviewees had similar socioeconomic backgrounds. Most interviewees had a bachelor’s degree or higher and came from middle-range socioeconomic backgrounds in Venezuela. More Venezuelan interviewees in Chile lived in households where the monthly earnings were below the poverty line. The cost of living in Chile’s Metropolitan Region is higher than in Buenos Aires, Argentina. Thus, the average monthly household income is higher in Chile than Argentina. This sample is comparable to larger trends of Venezuelan migrants who arrived before 2020; they came from higher socioeconomic statuses because they had sufficient

resources to travel approximately 4,506 miles from Venezuela to Chile or Argentina (Chaves-González and Echeverría-Estrada 2020; Gandini 2020).

The study considered the time of residence in Chile or Argentina. Venezuelan migration to Chile has been more recent than to Argentina (Chaves-González and Echeverría-Estrada 2020, 5). Interviewees resided in Argentina for an average of 2.9 years (ranging from 6 to 9 years) and experienced Argentina's receptive immigration regime, which began in 2006. In comparison, respondents resided in Chile for an average of 1.6 years (ranging from 0.5 to 3 years) and experienced Chile's more restrictive immigration regime. The different average time of residence did not undermine the cross-country comparison. Migrants within each country were exposed to the same immigration policies, and the longitudinal interviews captured their multiyear legalization process. In sum, interviewees' similar demographic characteristics allowed us to identify how the diverging immigration regimes impact their legalization processes.

The in-depth, semi-structured interview protocol was developed and modified throughout the interview process as new themes emerged. We asked interviewees about their lives in Venezuela, to describe their entire legalization process, and how applying for lawful residency impacted their livelihoods (e.g., employment and access to resources).

Following an inductive process, I analyzed interviews using HyperResearch software. After giving interviewees pseudonyms, I coded their immigration status—undocumented, temporary legal resident, LPR, or citizen. Then, I coded their legalization transitions. “Smooth transitions” referred to hurdle-free, timely, and harmless progressions through the stages of migrants' legal status applications. Conversely, “disruptive transitions” occurred when migrants' progressions through the stages of their applications were obstructed and delayed, forcing them to withstand the hardships of liminality. The harm of the transitions on migrants' livelihoods ranged from “none” to “moderate” to “high.” Possible combinations included harmless smooth transitions, moderately harmful, and highly harmful disrupted transitions.

## RESULTS

—Insert Table 3—

—Insert Table 4—

Tables 3 and 4 show that Chile's and Argentina's contrasting immigration regimes, legal status opportunity structures, and permeability of procedural standards produced different legalization transitions and unevenly impacted Venezuelan migrants' livelihoods. Despite having a restrictive immigration law and excluding Venezuelans from the MRA, smooth transitions were possible in Chile before 2018 because migrants did not need a visa to enter Chile legally, the Work Motives Visa did not require immediate proof of employment, and migrants had reliable information about procedural standards. However, approximately three-fourths of interviewees experienced disruptive transitions after the 2018 administrative actions replaced the Work Motives visa with high-requirement ones, imposed the consular visa (2019), and digitalized procedural standards. Disruptive transitions were highly harmful in Chile because most visa categories (under the restrictive immigration law and administrative actions) make legal status contingent on migrants' ability to maintain formal employment and economic solvency. Therefore, migrants often lose access to economic and institutional opportunities when legal residency renewals or changes from one status to another are disrupted.

In contrast, approximately half of the interviewees had smooth transitions in Argentina due to the inclusionary immigration regime, legalization opportunity structure (via the MRA), and procedural standards. Eleven Venezuelan migrants had secured LPR, and one became an Argentine citizen. In Chile, only three interviewees had LPR, and none had citizenship.

Nonetheless, as seen in Table 4, Argentina's requirement of criminal records with Apostille stamps and RADEX digitalization of legal residency applications reduced the permeability of application procedural standards, producing several disruptive transitions. However, disruptive transitions were less damaging to migrants' livelihoods in Argentina than Chile because the MRA visa does not tie legal status to formal employment. Thus, when migrants had a problem with their legal status application, these difficulties did not result in job loss. Also, economic hardships did not disqualify them from legal residency. In this manner, the MRA protects migrants from the liminality of disrupted transitions. The following sections delve deeper into the patterns that emerged in each country.

### **Scarcity of Smooth Transitions in Chile**

In Chile's restrictive gradations of legality, six of the 29 interviewees had smooth transitions throughout their legalization processes. They smoothly transitioned through the stages of their applications because they did not need a consular visa, were able to secure formal employment or applied for the Work Motives visa while searching for a job, and prepared their lawful residency applications with reliable information about the procedural standards. They all had obtained LPR before the conservative President started using administrative actions in 2018 to restrict and digitalize legalization procedural standards.

Such was the case for Jesus Perez, who migrated to Chile in 2016 and secured lawful permanent residency before the 2018 administrative changes. He had a middle-high socioeconomic status in Venezuela and migrated because the hyperinflation diminished the purchasing power of his salary. Before emigrating, Jesus researched Chile's immigration laws and legalization procedures, secured Apostille stamps for his university degrees, and obtained his passport. In 2016, he entered Chile as a tourist and quickly found a social worker job that sponsored his Professional visa. Other immigrants shared reliable information about application procedures, which helped him smoothly transition to LPR in 2018. Jesus stated that "the immigration application process was like a bank transaction. ... Just another errand, nothing special." Jesus, like five other interviewees, experienced his smooth transition into temporary and permanent resident status as a stress-free, mundane transaction.

### **An Abundance of Highly Harmful Disruptive Transitions in Chile**

Chile's post-2018 restrictive administrative policies and digitalization of application procedures disrupted the lawful residency transitions of most Venezuelan migrants. These disruptive transitions greatly harmed migrants' livelihoods because most had lawful residency categories that were contingent on formal employment. During these liminal periods, interviewees could not acquire or renew expired Chilean identification cards (known as the RUT). Institutional actors treated these technically legal residents as undocumented and excluded them from job opportunities, health insurance benefits, government assistance, and financial services.

Such was the situation for Roxana Rodrigues, a medical doctor from an upper-middle socioeconomic background in Venezuela who migrated to Chile seeking safety after being assaulted several times near her house. In Chile, she secured an informal job at a café while validating her medical credentials and applying for the Work Motives visa, which allowed immigrants to have legal status while looking for jobs. Roxana's brother migrated before her, had secured legal permanent residency, and helped her complete her application. During our interview, Roxana explained that her transition from tourist to temporary legal resident was disruptive because she submitted her application in the middle of the 2018 digitalization of procedural standards:

My legalization process was very long, confusing, and contradictory because it was when they began modifying immigrant admissions [in 2018]. ... Everything became complex; I would look online and could not find the right information. ... At the Migration Department, the officers made me cry. ... The migration officer said that they could not see me. I needed an online appointment. Once again, they had changed procedures overnight. ... I told the officer, "Sir, please, I just asked for a day off from work without pay, my boss [at the café] is annoyed." He looked at me and said, "That is not my problem. What do you mean by work? Aren't you here to apply [for legal residency]?" I started crying. ... I felt so fragile and vulnerable ... so violated.

The digitalization of procedures slowed the processing of applications, leaving migrants like Roxana in liminality for months. Though Roxana sought to resolve the application problems, her knowledge of the standardized legalization procedures quickly became outdated. Further, street-level immigration officials provided limited or erroneous guidance. They were also scrambling to learn the new measures.

Technically, Roxana abided by Chile's immigration law-decree during this liminal time, but the lack of application resolution negatively impacted her life. For example, she received her work authorization while waiting for temporary legal residency approval, but the permit did not allow her to acquire the RUT. Without the RUT, Roxana could not apply for health insurance or open a bank account.

Two years later, Roxana's transition from temporary to legal permanent residency was also disruptive. She had validated her medical credentials in Chile, and employers started recruiting her to work as a physician. However, Roxana's RUT card expired while waiting for the LPR application results. Unable to prove her legal status, Roxana was turned down by employers who had initially recruited her. The second disrupted transition resulted in Roxana losing several professional job opportunities, access to healthcare, and the economic stability she had built.

Guillermo Luna had a similar experience. He had a middle-socioeconomic background in Venezuela, where he owned a used auto part business. Guillermo immigrated to Chile in 2017 to be closer to his daughters, who had migrated earlier. In Chile, he quickly obtained a Formal Employment visa as a sales representative for a multinational corporation. However, Guillermo's renewal of his temporary legal status was disrupted by the 2018 digitalization of procedural standards and other administrative changes, placing him in liminality that derailed his economic stability in Chile. Guillermo explained:

After I submitted my application, ... the total disaster started. Everything was in a standstill for months. ... None of the immigration officials could tell me if they had received my application; they were all busy with the changes. ... I was in limbo—legal and not legal—for seven months. ... My job was going well until ... my supervisor told me, "Show me your papers or get out of here." I responded, "I am legal. I just don't have my papers." They fired me.

Though his lawful residency renewal was approved eventually, Guillermo had already lost the job that sponsored his initial legal residency. Without proof of continuous employment, he did not qualify for legal permanent residency. The disruptive transition severely harmed his livelihood. During our 2020 follow-up interview, Guillermo had not found a new legal residency path, did not have stable employment, and sold homemade jams to survive.

Sandra Perez had a similar experience. From a low SES household in Venezuela where she was a police officer, Sandra migrated to Chile in 2017 in search of better economic opportunities. She was awarded a tourist visa upon entry and applied for the Work Motives visa.

Within four months of living in Chile, Sandra received her work permit; the government approved her temporary residency application within six months. During this time, she acquired a formal job contract as a janitor. However, when Sandra applied for legal permanent residency in May 2019, her application was rejected because a document was lost. Though Sandra tried to resolve this issue by resubmitting her application with the missing document, her transition became disruptive, and she had to endure more than a year of liminality. Sandra described her experience:

I am in limbo. ... I lost my RUT card a month before it expired. ... I went to the civil registry to replace it, but they told me that they could not replace it because it expired within a month. ... I'm practically undocumented. ... Migratory procedures take way too long. ... They did not give me proof that I resubmitted the application and paid the fee, nothing. ... I don't have an ID card ... and I'm rejected anywhere. [For example,] I have type C FONASA [public health insurance] and needed to change it to type A. But I cannot do anything without the RUT. ... My Banco Estado debit card was damaged, and I have not been able to replace it because I do not have a valid ID.

The post-2018 administrative changes, particularly the digitalization of procedural standards, slowed the Migration Department's processing of applications and generated errors that leave immigrants, like Sandra, in a state of liminality. Unable to get a new RUT identification card, she experienced ongoing exclusion during everyday life transactions, including access to healthcare and bank services. Further, if her employer learned about her disruptive transition, Sandra could lose her job.

### **Smooth Transitions more Prevalent in Argentina**

In Argentina's receptive graded legality, nearly half of the Venezuelan interviewees smoothly transitioned through the stages of the legal status applications. The prevalence of smooth transitions in Argentina was mainly due to Venezuelan migrants' access to the MRA, the welcoming immigration law N° 25871 (2003), and administrative actions that make lawful residency highly accessible and application procedural standards easier to permeate.

For example, Martina Alvarez had upper-middle socioeconomic status in Venezuela as a psychologist. She immigrated to Argentina in 2014 in search of better economic opportunities. By 2019, she had smoothly transitioned to citizenship. During our interview, Martina described her legal residency acquisition:

I didn't experience any problems or concerns. ... The Mercosur Residency Agreement is fantastic! Getting my papers was just another transaction. ... The immigration law is very receptive. ... Before emigrating, I researched ... took out all the required documents. ... I intended to stay with legal residency. ... In Chile, they ask you for a work contract. How are you going to get a job if you are not legal? It's too complicated.

Martina smoothly transitioned through her legal residency application stages and into enduring legal residency with the MRA because she brought the required documents (e.g., her criminal record with Apostille stamp and passport) and applied before the digitalization of applications. Her pre-migration acquisition of documents from Venezuelan bureaucracies prevented disruptive transitions.

For similar reasons, Marta Rodriguez also experienced smooth transitions throughout her legalization process. Marta came from a middle SES background in Venezuela and immigrated to Argentina in 2012 for a master's degree in psychology. It took her a year to prepare all her legal documents and apply for the graduate program before migrating. In Argentina, Marta smoothly transitioned into temporary and permanent residency through the MRA and became a

naturalized citizen in 2020. Given her positive experience, she said, “I really like the Mercosur Residency Agreement ... It is very easy to enter and settle in Argentina.” Martina had smooth legalization transitions because she could access the MRA, brought her criminal record with an Apostille stamp, and application procedural standards were highly permeable before digitalization.

### **Moderately Harmful Disruptive Transitions in Argentina**

Some administrative measures in Argentina produced disruptive transitions among 42% of the Venezuelan migrants interviewed. These measures included the pre-2019 criminal record with Apostille stamp requirement and the 2018 RADEX digitalization of applications. However, disrupted transitions were less damaging to immigrants’ livelihoods in Argentina than Chile because the MRA visa category does not bind legal status to employment and the Argentine immigration law (Articles 9c, 17, and 61) makes authorities responsible for facilitating immigrant legalization. It was common for migrants to receive emails from the director of the National Migration Department with guidance about their specific cases.

Before 2019, Venezuelan immigrants who did not bring their criminal records with Apostille stamps tended to experience disrupted transitions because the Venezuelan bureaucracy took several months to issue them. However, administrative action NMD Disposition 594 (2018) allowed Venezuelan immigrants to submit applications with missing documents and receive a three-month precarious legal residency status, after which they can renew it monthly until they receive their records. The precarious residency authorizes immigrants to work but does not allow them to get a National Identification Card (DNI). Immigrants get a DNI after their temporary legal residency applications are approved. In practice, precarious residency is not always accepted without the DNI, which creates some disruptions to immigrants’ lives, but it does not cause other incidents that derail their economic attainment and institutional incorporation.

For example, Antonio Suarez was a teacher in Venezuela. There, he had a middle socioeconomic lifestyle and a college education. His family sold a property in Venezuela to help him immigrate to Argentina. Antonio’s legalization process in Argentina was disruptive because he needed his criminal record with Apostille stamp; he renewed his precarious residency ten times the year it took him to obtain the record from Venezuelan bureaucracy. During his “legal limbo,” Antonio could interact with immigration officials until he resolved the problem. He explained:

Thanks to Mercosur, we have fewer requirements for legal residency. ... I never felt mistreated by the immigration officials. ... But, I went to renew my precarious card every month and gave them a letter explaining my situation, scared that they would not approve it. ... Not having the DNI created complications with jobs. ... I would get selected ... and then they would ask for my DNI and reject me.

For Antonio, and several other interviewees, regularly renewing his precarious residency disrupted his life. He was rejected from a few acting gigs when recruiters discovered that Antonio did not have a DNI to accompany his precarious legal status. Nonetheless, immigration authorities tried to help him finalize the process. Antonio was scared that immigration officials would stop accommodating him, but the liminal state did not paralyze him. Before migrating, Antonio studied Argentina’s immigration laws, which helped him feel comfortable interacting with immigration authorities to resolve the problem.

The Argentine and Venezuelan governments have tried to end these disruptive transitions. On January 31, 2019, the Argentine National Migration Department (NMD) began accepting criminal record certificates without the Apostille stamp (Disposition 520, Article 5). Soon after,

the Venezuelan government started allowing immigrants in Argentina to get their criminal records at their consulate offices (Venezuela Cancillería 2020).

Further, Argentine migration officials have attempted to expedite legalization procedures through the RADEX online application system. However, this digitalization generates disruptive transitions because it makes procedures rigid. Venezuelan immigrants who apply for temporary legal residency for the first time through RADEX must wait up to 90 days after submitting their applications to get the precarious legal residency permit and their immigration interview appointment. Before, they received the precarious legal status when they submitted their applications in person. The new waiting period leaves many without any proof of legal residency. Most importantly, the digital application process has removed the in-person interaction with migration officials who helped many, like Antonio, resolve issues with their applications. The elimination of this interpersonal discretion has left some in a state of liminality.

For example, Mariana Beltran came from a middle socioeconomic background with a college education and stable, high-paying employment as a graphic designer in Venezuela. She studied Argentina's immigration law and spent a year in Venezuela acquiring the necessary state-issued and educational documents before migrating. She chose Argentina because she wanted a quick path to legal permanent residency and believed the MRA visa would provide that outcome. Mariana had a smooth, quick transition from tourist to temporary legal residency in 2017. However, when applying for LPR, she entered a liminal state because:

With REDEX, you cannot get an appointment until two months before your DNI expires. However, immigration asks for 90 days to evaluate your application. ... This can create 30 days of limbo. ... At work, they pressured me, "Your DNI is about to expire." I told them I had submitted my application ... I emailed them [migration authorities] to ask about my application. They responded immediately, saying they had 90 days to evaluate my case. ... I thought that when my DNI expired, I would lose my job or have my bank account frozen. But that has not happened.

Mariana searched for solutions to resolve her disrupted transition and end the liminality. When immigration officials told her to wait, Mariana explained her situation to her employer to protect her job. Soon after, the legal limbo was resolved, and Mariana did not lose her job or experience significant harm to her livelihood.

In sum, in Argentina's inclusionary gradated legality, smooth transitions were common, and when cumbersome requirements and digitalization produced disruptions, the MRA protected Venezuelan migrants' livelihoods.

## **DISCUSSION AND CONCLUSION**

State immigration policies are moving towards greater gradation to impede the permanent settlement of 'undesired' immigrants (Del Real 2022; López 2021; Goldring and Landolt 2021; Menjivar et al., 2020; Lori 2019; Basok and Wiesner 2018; Baban et al., 2017; Menjivar and Kanstroom 2013; Calavita 2005; De Genova 2004). Using the "gradations of migrant legality" framework, I identified features of the legal immigration structure and state bureaucracy that disrupt the legalization of immigrants on seemingly ostensible paths to LPR and citizenship. The study demonstrates that legal statuses that require economic solvency, cumbersome requirements, and broadscale changes to procedural standards (e.g., digitalization) produce disruptive transitions, which harm immigrants' livelihoods.

Disruptive transitions are not equally damaging because other elements of the immigration regime and procedures can alleviate the harm. In Argentina, where Venezuelan migrants can access the MRA, disruptive transitions were moderately harmful and did not derail their

economic stability and access to institutions. Since the MRA does not make legal residency contingent on immigrants' formal employment or economic solvency, migrants who lost their jobs did not lose their legal residency and vice-versa. Conversely, disruptive transitions in Chile were more frequent and greatly harmed Venezuelan immigrants' employment stability and access to institutional resources because they cannot access the MRA, and the available legal statuses make lawful residency contingent on their economic solvency or formal employment.

This study advances existing scholarship on migrant legalization in several ways. The “governmental context of reception” and the liminal or precarious legal status approaches assume that immigrants with access to seemingly ‘non-tenuous’ legal status categories—with a delineated, straightforward pathway to citizenship—will smoothly transition into enduring lawful residency (Del Real 2022; Goldring and Landolt 2021; Menjívar et al., 2020; Motomura 2015, 2021; Cook-Martin 2019; Lori 2019; Basok and Wiesner 2018; Luthra et al., 2018; Bean et al., 2015; Calavita 2005; Celbuko 2014; Portes and Rumbaut 2001, 2014; Menjívar 2006; Portes and Zhou 1993). According to these approaches, Venezuelan migrants in Chile and Argentina should have smoothly transitioned into LPR and citizenship because they could access legal status categories with clearly demarcated and feasible pathways to LPR and citizenship. However, the graduated legality approach captures a different story. It shows how different policies and bureaucratic practices disrupt the legalization process of migrants with ‘non-tenuous’ legal statuses in varying governmental contexts.

Findings do not simply show that the governmental reception of Venezuelan migrants is more favorable in Argentina than Chile. Instead, they illustrate that non-legislative policies and practices add unexpected exclusionary and inclusionary elements to immigrants' legalization processes. In Chile's restrictive immigration regime, smooth transitions were common before the 2018 executive administrative changes and digitalization of applications because immigrants could enter legally without a consular visa, access the Work Motives visa that did not require immediate proof of employment, and obtain reliable information about procedural standards to prepare their applications. In Argentina's receptive graduated legality, cumbersome requirements (i.e., criminal records with Apostille stamps) and the digitalization of procedural standards produced disruptive transitions.

Moreover, these findings advance research on the intersection of law and society, state bureaucracies, and immigration. Previous research shows that state bureaucrats in different ranks draw on their prejudices and moral schemas of deservingness to determine whether to discontinue deportations (Asad 2019; Motomura 2011) and advocate for legal residency applicants (López 2021; Menjívar 2023). This study contributes to this literature by examining the role of executive administrative actions and procedural standards on immigrant legalization. First, the study demonstrates that mid- to high-rank state bureaucrats can use executive administrative actions to quickly change the meaning of the legal framework and immigrants' legalization process.

Second, the study contributes to procedural standards research (Watson 2023; Timmermans and Epstein 2010). As expected, (see Timmermans and Epstein 2010), the digitalization of procedures delayed application processing, producing disruptive transitions. The study expands this theoretical work by providing empirical evidence for the premise that the sending states' bureaucracies impact immigrant legal integration (Finn 2019). When immigrants struggle to obtain documents from the sending state's bureaucracy, their legalization process is obstructed. Moreover, the study adds that broadscale shifts change interactions between immigrants and authorities. In Chile, street-level officials became irascible with applications and



could not provide immigrants with up-to-date guidance and information during the digitalization shift. In Argentina, digitalization removed preferential treatment as street-level migration officials ceased interacting with applicants and stopped providing the same level of individualized assistance. Though this study does not have data on these lower-ranking officials, future research can examine whether their discriminatory behavior results from prejudice or the strain of new procedures.

Finally, procedural standard changes constrain immigrants' agency. Akin to other immigrants (Del Real 2022; Goldring and Landolt 2021; López 2021), Venezuelan interviewees sought information and resources to ensure their applications' success. However, when executive administrative measures and digitalization transform application standardized procedures, immigrants' information and strategies become obsolete; the most informed, eligible migrants face unexpected difficulties.

Broadly, gradated legality is an analytical tool that opens possibilities for future research. Scholars are encouraged to examine how other combinations of treaties, laws, and administrative actions affect immigrants' legalization transitions and livelihoods across nation-states and timeframes. Moreover, this study examined international and national-level policies and focused on interviewees with similar characteristics; future research can examine how gradated legality interacts with subnational variation (e.g., Fox and Bloemraad 2015), the judicial system, and racism, colorism, sexism, nativism, and other systems of oppression.

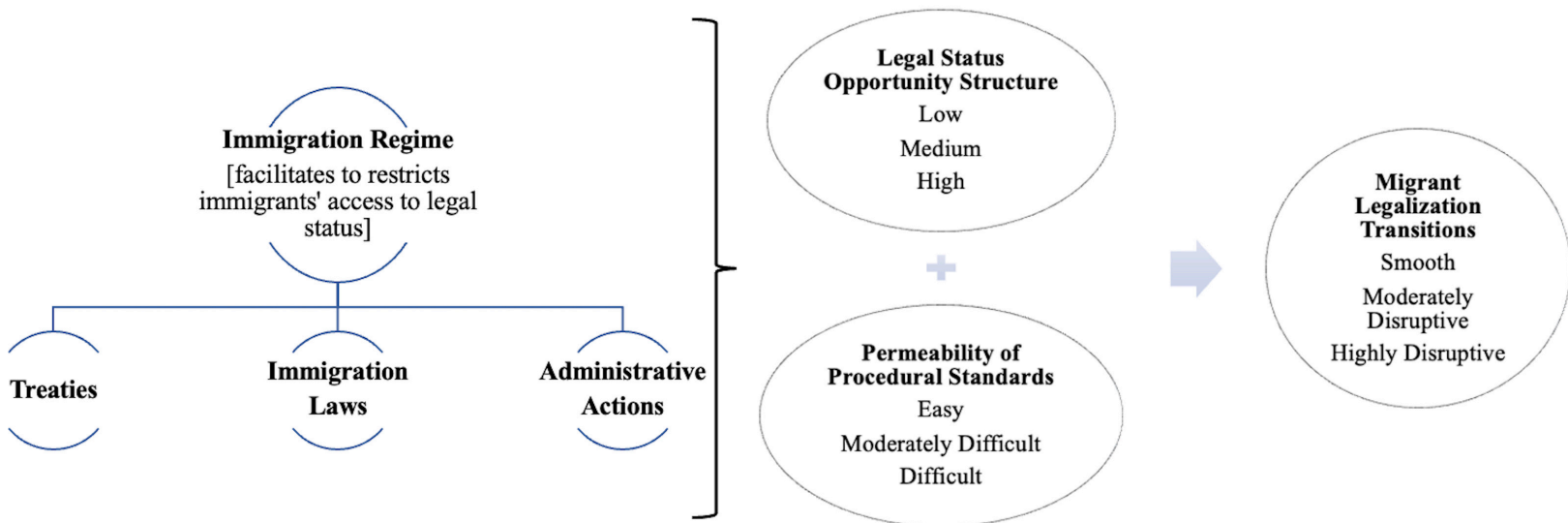
Overall, the gradations of migrant legality framework can be applied to various contexts and social groups (not just immigrants) to examine how different layers of state organizations interact and unequally impact individuals' access to rights and justice. Policymakers and advocates can draw on this study to promote regional treaties that facilitate immigrants' access to durable lawful residency and counter multilevel immigration policies that make lawful residency contingent on migrants' economic solvency.

## REFERENCES

- Abrego, L.J. 2011. "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First-and 1.5-Generation Immigrants." *Law & Society Review* 45(2):337–370.
- Acosta, D. 2018. *The National Versus the Foreigner in South America: 200 Years of Migration and Citizenship Law*. Cambridge, UK: Cambridge University Press.
- \_\_\_\_\_, C. Blouin, and L.F. Freier. 2019. "La Emigración venezolana: Respuestas Latinoamericanas." *Fundación Carolina* 3:1-30.
- Acosta, S. 2021. "A New Migration Law in Chile Threatens Venezuelans Seeking Protection." *Center for Migration Studies*, August 3, 2021. <https://cmsny.org/venezuelans-chile-new-migration-law-acosta-080321/>
- Asad, A. 2019. "Deportation Decisions: Judicial Decision-Making in an American Immigration Court." *American Behavioral Scientist* 63(9):1221–49.
- Baban, F., S. Ilcan, and K. Rygiel. 2017. "Syrian refugees in Turkey: Pathways to Precarity, Differential Inclusion, and Negotiated Citizenship Rights." *Journal of Ethnic and Migration Studies* 43(1):41-57.
- Basok, T. and M.L.R. Wiesner. 2018. "Precarious legality: Regularizing Central American Migrants in Mexico." *Ethnic and Racial Studies* 41(7):1274-1293.
- Bean, Frank D., Susan K. Brown, and James D. Bachmeier. 2015. *Parents without Papers: The Progress and Pitfalls of Mexican American Integration*. New York: Russell Sage Foundation.
- Blouin, C., I. Berganza, and L.F. Freier. 2020. "The spirit of Cartagena? Applying the Extended Refugee Definition to Venezuelans in Latin America." *Forced Migration Review* 63:64-66.
- Brumat, L., and M.V. Espinoza. 2023. "Actors, Ideas, and International Influence: Understanding Migration Policy Change in South America." *International Migration Review Online* [doi.org/10.1177/01979183221142776](https://doi.org/10.1177/01979183221142776)
- Calavita, K. 2005. *Immigrants at the Margins: Law, Race, and Exclusion in Southern Europe*. Cambridge, UK: Cambridge University Press.
- Chacon, J.M. 2015. "Producing Liminal Legality." *Denver University Law Review* 92(4):709-768.
- Chetail, V. 2019. *International Migration Law*. Oxford, UK: Oxford University Press.
- Chaves-González, D., and C. Echeverría-Estrada. 2020. "Venezuelan Migrants and Refugees in Latin America and the Caribbean a Regional Profile." [https://www.migrationpolicy.org/sites/default/files/publications/mpi-iom\\_venezuelan-profile\\_english-final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/mpi-iom_venezuelan-profile_english-final.pdf)
- Chile DEM. 2018. "Extranjería anuncia Estampado Electrónico desde el 23 de septiembre." <http://www.gobnacioncautin.gov.cl/extranjeria/estampado-electronico/>
- Cohen, E.F. 2009. *Semi-Citizenship in Democratic Politics*. New York: Cambridge University Press.
- Cook-Martin, D. 2019. "Temp Nations? A Research Agenda on Migration, Temporariness, and Membership." *American Behavioral Scientist* 63(9):1389-1403.
- Coutin, S.B., S.M. Ashar, J.M. Chacón, and S. Lee. 2017. "Deferred Action and the Discretionary State: Migration, Precarity, and Resistance." *Citizenship Studies* 21(8):951-968.
- Cox, A.B., and C.M. Rodríguez. 2020. *The President and Immigration Law*. Oxford, UK:

- Oxford University Press.
- De Genova, N. 2004. "The Legal Production of Mexican/Migrant "Illegality." *Latino Studies* 2:160-185.
- Del Real, D. 2019. "Documenting the Undocumented: the Construction of Legal Residency as a Substantive Right under the Mercosur Residency Agreements." PhD diss, University of California-Los Angeles.
- Del Real, D. 2022. "Seemingly Inclusive Liminal Legality: The Fragility and Illegality Production of Colombia's Legalization Programs for Venezuelan Migrants." *Journal of Ethnic and Migration Studies* 48 (15): 3580–601.
- Domenech, E. 2021. 'The "politics of hostility" in Argentina: detention, expulsion and border rejection.' *Estudios Fronteris* 21.
- Finn, V. 2019. "The Individual versus the State: Pre- and Post-Migration Bureaucracy." *Revista Interdisciplinaria da Mobilidade Humana* 27(56):159-178.
- Finn, V., and S.U. Reguero. 2020. "Inclusive Language for Exclusive Policies: Restrictive Migration Governance in Chile, 2018." *Latin American Policy* 11(1):42–61.
- FitzGerald, D.S., and D. Cook-Martin. 2014. *Culling the masses: the Democratic Origins of Racist Immigration Policy in the Americas*. Cambridge: Harvard University Press.
- Fox, C., and I. Bloemraad. 2015. 'Beyond "White by Law": Explaining the Gulf in Citizenship Acquisition between Mexican and European Immigrants, 1930.' *Social Forces* 94(1):181-207.
- Gandini, L., F.L. Ascencio, and V. Prieto. 2019. *Crisis y Migración de Población venezolana. Entre la Desprotección y la Seguridad Jurídica en Latinoamérica*. Ciudad de Mexico, Mexico: Universidad Nacional Autónoma de México.
- Goldring, L., and P. Landolt 2021. "From Illegalised Migrant Toward Permanent Resident: Assembling Precarious Legal Status Trajectories and Differential Inclusion in Canada." *Journal of Ethnic and Migration Studies* 48(1):33-52.
- Instituto Nacional de Estadística y Censos (INDEC). 2019. "Valorización mensual de la canasta básica alimentaria y de la canasta básica total. Gran Buenos Aires." [https://www.indec.gob.ar/uploads/informesdeprensa/canasta\\_06\\_1951EAB16222.pdf](https://www.indec.gob.ar/uploads/informesdeprensa/canasta_06_1951EAB16222.pdf)
- International Organization for Migration (IOM). 2020. "World Migration Report." [https://www.un.org/sites/un2.un.org/files/wmr\\_2020.pdf](https://www.un.org/sites/un2.un.org/files/wmr_2020.pdf)
- Jaramillo, V., S. Gil-Araujo, and C. Rosas. 2020. "Control Migratorio y Producción de Irregularidad. Normas, Prácticas y Discursos sobre la Migración en Argentina (2016-2019)." *Forum* 18:64-90.
- Kubal, A. 2013. "Conceptualizing Semi-Legality in Migration Research." *Law & Society Review* 47(3):555-587.
- López, J.L. 2021. *Unauthorized Love: Mixed-Citizenship Couples Negotiating Intimacy, Immigration, and the State*. Stanford: Stanford University Press.
- Lori, N. 2019. *Offshore Citizens: Permanent Temporary Status in the Gulf*. Cambridge, UK: Cambridge University Press.
- Luthra, R., T. Soehl, and R. Waldinger. 2018. "Reconceptualizing Context: A Multilevel Model of the Context of Reception and Second-Generation Educational Attainment." *International Migration Review* 52(3):898-928.
- Martin, D.A. 2005. "Twilight Statuses: A Closer Examination of the Unauthorized Population." <https://www.migrationpolicy.org/research/twilight-statuses-closer-examination-unauthorized-population>

- Menjívar, C. 2006. "Liminal Legality: Salvadoran and Guatemalan immigrants' Lives in the United States," *AJS* 111(4):999–1037.
- Menjívar, C., and D. Kanstroom. 2013. *Constructing Immigrant "Illegality."* Cambridge, UK: Cambridge University Press.
- Menjívar, C., V. Agadjanian, and B. Oh. 2020. "The Contradictions of Liminal Legality: Economic Attainment and Civic Engagement of Central American Immigrants on Temporary Protected Status." *Social Problems* 69(3):678-698.
- Menjívar, C. 2023. "State Categories, Bureaucracies of Displacement, and Possibilities from the Margins." *American Sociological Review* 88(1).
- Morales, D., Verónica J., R.O. Cetra, and M, Trovato. 2017. "Migrantes: de la Protección a la Criminalización." <https://www.cels.org.ar/web/capitulos/migrantes-de-la-proteccion-a-la-criminalizacion/>
- Motomura, Hiroshi. 2011. "The Discretion That Matters: Federal Immigration Enforcement, State and Local Arrests, and the Civil-Criminal Line." *UCLA Law Review* 58:1819-58.
- \_\_\_\_\_. 2015. *Immigration Outside the Law.* Oxford, UK: Oxford University Press.
- \_\_\_\_\_. 2021. 'The Many Meanings of "In-Between."' 'L'Expérience de la mobilité de l'antiquité à nos jours – II: Situations de l'entre-deux, *Ausonius Éditions.*
- Portes, A., and M. Zhou. 1993. "The New Second Generation: Segmented Assimilation and its Variants." *The Annals of the American Academy of Political and Social Science* 530:74-96.
- Portes, A., and R.G. Rumbaut. 2001. *Legacies: The Story of the Immigrant Second Generation.* Berkeley: University of California Press.
- \_\_\_\_\_. 2014. *Immigrant America: A Portrait.* 4<sup>th</sup> ed. Berkeley: University of California Press.
- R4V. 2023. "Response for Venezuelans." <https://www.r4v.info/es/refugiadosymigrantes>
- Stefoni, C., and C. Silva. 2018. "Migración venezolana hacia Chile: ¿Se Restringe o se Facilita la Migración de venezolanos hacia Chile?" In *El Éxodo Venezolano: Entre el Axilo y la Emigración*, edited by J. Koechlin and J. Eguren, 167-188. Madrid, Spain: Colección OBIMID Volume 4.
- Strajilevich, M.K. 2020. 'Cuarentena con 100 "Lucas" y la Dignidad de los Hogares Chilenos.' <https://www.ciperchile.cl/2020/05/12/cuarentena-con-100-lucas-y-la-dignidad-de-los-hogares-chilenos/>
- Timmermans, S., and S. Epstein. 2010. "A World of Standards but not a Standard World: Towards a Sociology of Standards and Standardization." *American Review of Sociology* 36:69–89.
- Turner, V. 1967. *The Forest of Symbols: Aspects of Ndembu Ritual.* Ithaca: Cornell University Press.
- United Nations Human Rights Office of the High Commissioner (UNHCR). 2020. "Mid-Year Trends." [unhcr.org/statistics/unhcrstats/5fc504d44/mid-year-trends-2020.html](https://www.unhcr.org/statistics/unhcrstats/5fc504d44/mid-year-trends-2020.html)
- Watson, J. 2023. "Standardizing Refuge: Pipelines and Pathways in the U.S. Refugee Resettlement Program." *American Sociological Review* 88(4) 681–708.
- Valle, A. 2019. "Race and the Empire-state: Puerto Ricans' Unequal U.S. Citizenship." *Sociology of Race and Ethnicity* 5(1):26-40.
- Venezuela Cancillería. 2019. "Nuevo Sistema de Legalización y Apostilla Electrónica evita Corrupción e Irregularidades en los Trámites." <https://mppre.gob.ve/2019/06/14/apostilla-electronica-corrupcion/>



Source: Author's elaboration.

**Table 1. South American Governmental Response to Venezuelan Migrants, 2016-2019**

Country of Destination	MRA extended to Venezuelans	Ad Hoc Legalization Programs
Colombia		X
Peru		X
Chile		X
Ecuador		X
Brazil	X	
Argentina	X	
Uruguay	X	
Bolivia		X
Paraguay		X

Source: Author's elaboration based on Acosta et al., (2019) and Gandini et al., (2019).



**Table 2. Demographic Characteristics of Interviewees in Chile and Argentina**

Demographic Characteristics	Country of Destination	
	Chile	Argentina
Total interviews	29	31
Average Age and Range	40 (23 to 65)	34 (22-51)
Women	10	15
Men	19	15
Non-binary	0	1
Educational attainment		
High school or less	3	3
Some college or technical college degree	5	12
Bachelor's degree or higher	21	16
Socioeconomic background in Venezuela*		
Middle-high to high	3	5
Middle	18	23
Low	8	3
Average monthly household income in destination country	US\$1,223	US\$724
Range of monthly household incomes in destination country	US\$318 to US\$4,258	US\$3 to US\$1,951
Monthly poverty line for a household of four*	US\$572	US\$295
Number of interviewees living in households below the monthly poverty line**	8	4
Average Time of Residence at Destination and Range	1.7 years (6 months to 3 years)	2.9 years (6 months to 9 years)

Source: Author's elaboration.

\*For more on how we coded SES background in Venezuela see Del Real (2022: 10).

\*\*These poverty line estimates are for a household of four in Chile (CLP 450,165 in 2020) and Buenos Aires, Argentina (AR\$12,087 in 2019) (INDEC 2019; Strajilevich 2020).



**Table 3. Venezuelan Immigrants Transitions through the Legal Status Application Stages in Chile and Argentina (%)**

Transition (Legal Status)	Country of Destination	
	Chile (N=29)	Argentina (N=31)
Disruptive Transition (documented)	72%	42%
Smooth Transition (documented)	21%	45%
Undocumented	7%	13%
Total	100%	100%

Source: Author's elaboration.

**Table 4. Impact of Contrasting Gradations of Legality on Venezuelan Immigrants' Legalization Transitions and Livelihoods**

<b>Gradations of Legality</b>	<b>Chile</b>	<b>Argentina</b>
<b>Immigration Regime</b>	<u>Restrictive</u> MRA – no Immigration law – exclusionary Administrative actions - mostly exclusionary	<u>Open and Receptive</u> MRA – yes Immigration law – inclusionary Administrative actions - mostly inclusionary
<b>Legalization Opportunity Structure</b>	MRA - no Visa categories filter for high SES, require proof of economic solvency  Most require legal entry, a clean criminal record, and identification documents Can transition to LPR in one to two years	MRA - yes Employment or economic solvency is not required  Requirements: legal entry, clean criminal record, and identification documents Can transition to LPR in two years
<b>Permeability of Legal Residency Standard Procedures</b>	Increasingly more difficult <ul style="list-style-type: none"> <li>• Legal entry with passport</li> <li>• Post-2019 consular visa</li> <li>• Authorities not required to help legalize immigrants</li> <li>• Need proof of continuous employment or economic solvency to maintain lawful residency</li> <li>• 2018 digitalization created processing delays</li> </ul> <i>Exceptions:</i> Apostille stamps are not required, and the Work Motives visa (2015-2018) eased employment requirement	Increasingly easier <ul style="list-style-type: none"> <li>• Legal entry with Venezuelan ID or passport</li> <li>• No consular visa</li> <li>• Authorities required to help legalize immigrants</li> <li>• No need to prove continuous employment or economic solvency to maintain lawful residency</li> </ul> <i>Exceptions:</i> pre-2019 criminal record with Apostille requirement and 2018 digitalization created processing delays
<b>Transitions</b>	Smooth transitions Low prevalence  Disruptive transitions High prevalence Very harmful	Smooth transitions High prevalence  Disruptive transitions Medium prevalence Moderate harm
<b>Impact on Immigrants' Livelihoods</b>	Disruptive transitions derail immigrants' economic stability and access to institutions	MRA protects immigrants' economic stability and access to institutions during disruptive transitions

Source: Author's elaboration.

**Appendix A. Chilean Legal Residency Categories' Socioeconomic Status (SES) Filters, Requirements, and Stages to Lawful Permanent Residency (LPR), 2014 and 2020**

Visa Filters by SES?	Legal Residency Category	Legal Entry Required*	Clean Criminal Record Required	Must apply from abroad	One year to qualify for LPR	Two years to qualify for LPR
Yes, directly	Formal employment	Yes	Yes	No	No	Yes**
	Student	Yes	Yes	No	No	Yes
	Professionals and technicians of superior level	Yes	Yes	No	No	Yes***
	Workers with two or more contracts	Yes	Yes	No	No	Yes
	Workers with a contract to provide services for a fee	Yes	Yes	No	No	Yes
	Paid workers abroad	Yes	Yes	No	No	Yes
	Journalists or media professionals	Yes	Yes	No	No	Yes
	Investors or traders	Yes	Yes	No	No	Yes
	Retirees and rentiers	Yes	Yes	No	No	Yes
	Opportunities (available from Aug 2018 to Nov 2018)	Yes	Yes	Yes	No	Yes
	International orientation (available from Aug 2018 to Jul 2019)	Yes	Yes	Yes	No	Yes
National orientation (available from Aug 2018 to Jul 2019)	Yes	Yes	No	No	Yes	
Yes, indirectly via proof of economic solvency requirement	Work motives (available from Feb 2015 to Apr 2018)	Yes	Yes	No	Yes****	No
	Democratic responsibility (2018)	Yes	Yes	Yes	No	Yes
	Religious clergy	Yes	Yes	No	No	Yes
	Family reunification	Yes	Yes	No	No	Yes
	Civil union	Yes	Yes	No	No	Yes
	Children of transient foreigners	NA	Yes	No	No	Yes
	Medical treatment	Yes	Yes	Yes	No	Yes
No	Visa Mercosur - Argentina, Uruguay, Brazil, Paraguay, and Bolivia	Yes	Yes	No	No	Yes
	2018 Regularization Visa (7.23.28 to 7.22.2019, if arrive to Chile before 4.9.2018)	No	Yes	No	Yes	No
	Pregnant women	Yes	Yes	No	No	Yes
	Boys, girls, and adolescents	No	Yes	No	No	Yes

Sources: author's elaboration and DEM (2021).

\* Venezuelans had visa-free entry to Chile until 2019 when the government started requiring one.

\*\*Must provide proof of two years of continuous employment.

\*\*Must finish studies first.

\*\*\*Must provide proof of one year of continuous employment.

## ENDNOTES

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**Data availability statement.** The data underlying this article is part of an ongoing project and cannot be shared publicly because it would violate the conditions of the study's IRB approval. Restricted access to anonymized transcripts will be available once data collection and analysis are completed.

<sup>ii</sup> Member states: Argentina, Brazil, Paraguay, and Uruguay

Associated states: Chile, Bolivia, Colombia, Ecuador, Paraguay, Peru, Guyana, and Surinam.

<sup>iii</sup> Unless they can access family-reunification (López 2021), or laws change (Motomura 2021).

<sup>iv</sup> Law N° 21,325 (2021) also inhibits immigrant legalization opportunities (Acosta 2021) but is outside the scope of this study because it went into effect in February 2022, after data collected was completed.

<sup>v</sup> The Necessity and Urgency Decree N. 70 increased deportations of Paraguayan, Bolivian, and Peruvian immigrant men (Morales et al., 2017; Jaramillo et al. 2020).