Unpacking the Unintended Consequences of European Migration Governance: The Case of South American Migration Policy Liberalisation

Abstract:

Research on the external dimension of EU migration governance has focused on the EU's interests, preferences, and policy efficiency and coherence. Little attention has been paid to the myriad ways both partner and third countries react to the union's external action. We explore the European influence on immigration and refugee policy liberalisation in South America, a region not directly targeted by extra-regional migration governance. Based on the analysis of 130 original interviews with government officials and NGO and IO representatives in eight South American countries we show that - although South American policymakers generally regard the EU as a model of 'efficiency', in terms of the EU's intra-regional mobility regime - the remarkable legislative liberalisation in the region took place in the context of both political and moral opposition to restrictive shifts in EU extra-regional migration governance. The paper contributes to the literature on the EU external migration governance, policy diffusion, and Latin American migration policies by uncovering some of the unintended consequences of European migration governance in South America.

Keywords:

EU external action; Policy diffusion; Migration Governance**;** EU; South America.

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I. Introduction

In 2015, amidst worldwide outrage over the death of Aylan Kurdi, a three-year-old Syrian boy, former President of Argentina Cristina Fernández de Kirchner delivered an impassioned speech during an electoral rally in Buenos Aires:

> "Please, do not let anyone tell you to follow the example of some of those countries up north. Please. I do not want us to be like those countries that expel immigrants and let children die on their beaches. [...] [Northern countries] are tossing immigrants around as if they were packages. Argentina, a country of immigrants that welcomed all our grandparents, is a better example [of how to act]" (Bono 2015).

Directly referencing the highly mediatised diffusion of Aylan's photograph, showing him lying face-down in soaked blue shorts and a red shirt on a beach in Turkey (Dearden 2015), Fernández de Kirchner followed-up by saying that not letting refugees and migrants enter a country was "not Christian" and symbolised northern countries' "cultural decadence", thus emphasising her own political and moral distancing from the extra-regional migration governance of countries in Europe, and the Global North more generally.

Much of the literature on diffusion processes and external action has focused on the European Union (EU) as a norm exporter, whether through mechanisms of emulation or coercion (De Lombaerde and Schulz 2009; Grugel 2007; Lenz 2012; Manners 2002; Sanahuja 2013). At the same time, there is an emerging strand of literature on the 'unintended' or 'unanticipated' consequences of EU migration governance. These studies analyse the unforeseen consequences of EU's external action on 'targeted' third countries, mainly in the EU neighbourhood: Africa, Ukraine and Turkey (Reslow 2019; Burlyuk 2017; Bøås 2021). Relatedly, the literature also acknowledges that political units can engage in 'negative' lesson drawing, which means that they deliberately decide *not* to adopt certain policies or programs because they are regarded as unsuccessful (Dolowitz and Marsh 1994, Obinger et at 2013).

In the field of migration governance, specifically, scholars have studied the extension of EU immigration policies to so-called third countries, which experience significant transmigration, via bilateral and regional economic and visa agreements, aimed at curbing immigration flows to the EU (Carrera 2018; García Andrade et al. 2015; Trauner and Kruse 2008). The above-mentioned quote by Cristina Kirchner, however, speaks to what has been a markedly different trend in South America, a region that has not been typically 'targeted' by EU's extra- regional migration policies. Indeed, in South America liberal immigration and refugee policies developed in counter-position to – and, as we will argue, as an unintended consequence of - the migration

governance of European and other migrant receiving countries in the so-called 'Global North'. This process is linked to regional political opposition to the political influence of the North and a consequent search for autonomy in policy-making more broadly (Ceriani Cernadas and Morales 2011; Ramírez et al. 2019).

In the early 2000s, South American countries started questioning the restrictive immigration policies of migrant receiving countries in Europe and North America, in particular the Returns Directive of the EU of 2008, as well as the increasing criminalisation of immigration in the United States (US) (Ceriani Cernadas and Morales 2011). Various authors have argued that it was partly based on this criticism, and the concern for their nationals abroad, that discourses and policies across the region shifted from closure and securitisation to promoting migrants' human rights, non-racism, non-criminalisation, and regularisation, especially with regards to the rights of South American extra-regional emigrants (Acosta and Freier 2015; Ceriani Cernadas and Freier 2015, Acosta and Geddes 2014, Brumat and Acosta 2019).

The consequent legislative changes produced some of the most liberal immigration and refugee laws in the world (Acosta and Freier 2015; Freier and Gauci 2020), a concrete example being the exceptionally progressive enshrinement of the "right to migrate" in Argentinian, Bolivian, Ecuadorian, and Uruguayan legislation, as well as in the 2008 Constitution of Ecuador (Acosta and Freier 2015). Policy liberalisation also led South America to being regarded as having the most liberal regional regime for human mobility after the EU (Acosta 2018; Geddes et al. 2019; Lavenex 2019). This regime for intra-regional mobility is further complemented with an exceptionally progressive common position on migration that South American countries sustain in international forums, which includes the universality of migrants' rights without distinction, emphasising regularisation as a solution to irregularity (Brumat 2020).

While we do not offer an exhaustive explanatory model for South American policy liberalisation, this paper deepens our knowledge on the European influence on immigration and refugee policy liberalisation in South America in the twenty-first century (approx. 2000-2015), especially under populist, leftist governments (Freier, 2021). We deliberately exclude restrictive developments under centre-right executives (Brumat and Vera Espinoza under revision), and the politicisation of the Venezuelan displacement crisis. These developments, though important to explore, are linked to internal developments and intra-regional international relations regarding host countries positioning vis-a-vis the Venezuelan regime (Freier and Doña-Reveco, 2021). Based on the analysis of 130 original interviews with government officials, as well as Non-Governmental Organizations (NGO) and International Organizations (IO) representatives, in Argentina, Brazil, Chile, Colombia, Ecuador, Peru, Paraguay, and Uruguay, we show that the remarkable policy liberalisation in the region took place in the context of both political and moral opposition to restrictive shifts in EU extra-regional migration governance, even though South America was not the target of such migration governance.

Contrary to the literature, our findings provide only limited evidence for the argument that South American countries adopted a liberal approach to migration in order to protect their nationals abroad. Rather, we find that South American policymakers adopted more liberal migration legislation in both political and moral opposition to the restrictive shifts they perceived in EU migration governance. The paper makes four main contributions. First, it contributes to the literature on the unintended consequences of EU external migration governance by showing the effects of such governance on untargeted third parties. Second, and speaking to the literature on policy diffusion, the article complements the literature on 'negative' diffusion by shedding light on the policymakers' decision to *adopt* policies in opposition to the policies of other political units. Third, here, we shed light on the normative aspects behind diffusion processes by identifying a mechanism of policy diffusion thus far neglected by the literature: moral and political opposition. Fourth, we make an empirical contribution to the literature on South American migration governance by deepening the existing knowledge on the reasons for the remarkable policy liberalisation that took place at the beginning of the XXI century.

The remainder of this paper is structured as follows. Section II discusses existing literature on extra-regional migration governance and policy diffusion, with a particular focus on the EU's policy influence in South America. We then explain our qualitative methods approach in Section III, and present empirical findings in Section IV. Section V offers a discussion of these findings, including our theoretical contribution - moral opposition as a mechanism in diffusion processes, followed by concluding remarks.

II. Extra-regional Governance and Policy Diffusion between the EU and South America

Extra-regional governance, policy diffusion and unintended consequences

In this article, we use extra-regional migration governance or external action as synonyms (see Wunderlich 2012). Building from Wunderlich (2012) and Lavenex (2015), we define extra-regional migration governance or external action as a broad concept that encompasses the institutional factors and mechanisms through which the EU exercises influence beyond its borders, especially in Global South countries. Crucially, the EU may have limited influence on the result of these processes (see Wunderlich 2012). Migration policy externalisation are specific types of policies that are part of extra regional migration governance. Policy externalisation is commonly understood as the "*extension* of border and migration controls beyond the migrant receiving nations in the so-called Global North and into sending states in the Global South" (Stock et al. 2019, p. 1), with the intent of curbing immigration flows through incentives for individuals to remain in place (Frelick et al. 2016). This means that policy

externalisation is the result of purposeful action, whereas it is not necessarily the case for extra-regional migration governance/external action[1].

Policy diffusion occurs "when government policy decisions in a given country are systematically conditioned by prior policy choices made in other countries" (Dobbin et al. 2007, p. 787). In this sense, policy diffusion implies the *influence* of a state's or international organisation's policy choices on those of another political unit. The literature differentiates between learning, competition, coercion, and emulation as diffusion mechanisms (Braun and Gilardi 2006; Simmons et al. 2006; Shipan and Volden 2008). These mechanisms summarise the main forces of diffusion, as policymakers are influenced by: a) the success or failure of policies elsewhere; b) the policies of other units with which they compete for resources; c) the pressure from international organisations or powerful countries; and d) the perceived appropriateness of policies (Gilardi et al. 2019). Within the first subgroup, political units can also draw from the negative examples of 'failed' policies or programs and decide *not* to adopt them. Consequently, negative lesson-drawing often results in the absence of political or institutional change (Dolowitz and Marsh 1996, p. 344).

Gilardi & Wasserfallen (2019) further shed light on the politics of policy diffusion by arguing that studies have overly focused on the idea that effective policies spread as policy makers evaluate policy outcomes in other political units (because either they learn from or they compete with them), while neglecting that this evaluation is always filtered by ideology, and that electoral consequences matter as much as policy consequences. Similarly, Butler et al. (2017) refer to the ideological bias in policy diffusion processes and argue that policy makers tend to selectively learn from other countries governed by ideologically-aligned parties.

Finally, the emerging literature on the unintended consequences of EU external action acknowledges that most scholarship tends to focus on the 'side effects' of such policies in the targeted countries or in the relevant migratory routes (Reslow 2020, Burlyuk 2017). Unintended consequences are understood as particular effects of purposive actions different from what was wanted at the moment of carrying out the act (Baert 1991, p. 201). Such unintended consequences include increasing authoritarianism as a response to democratisation policies, significant numbers of deaths in the Mediterranean due to policies intended at preventing irregular migrants from arriving to the EU (Burlyuk 2017), decreasing state capacities in African countries (Bøås 2021), and reduced bargaining power from the EU in the bilateral relations with third countries (Reslow 2020). As noted by Burlyuk (2017, p. 1015), these studies neglect the broader effects that the EU's actions may have, such as unintended effects on third countries that were not originally targeted by such actions.

In this paper, we study the effects European internal and extra-regional migration policies had on South American migration governance, without targeting the region.

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[1] We would like to thank an anonymous reviewer for highlighting this point.

This approach is particularly helpful for reducing one of the main empirical and theoretical challenges for studying unintended consequences, which is defining the purpose or intent for which the action was taken (Baert 1991, Burlyuk 2017). By studying opposition in a region not targeted, we know that the intent of the EU actions was not to modify South American policies. This implies that the actions and decisions that South American policymakers took in opposition to EU policies were, indeed, unintended consequences. We suggest using the term 'unintended consequences' over other terms such as 'side effects' because unintended consequences are not necessarily negative, they can also be positive or neutral (Daase and Friesendorf 2010, p. 9).

EU policy influence and political opposition in South America

The literature on the EU as a 'normative power' stresses its willingness and capability to internationally diffuse its norms through political dialogue, trade agreements or technical assistance (De Lombaerde and Schulz 2009; Grugel 2007; Lenz 2012; Manners 2002; Sanahuja 2013). In the case of South America, most of the literature on EU policy diffusion focuses on the EU's influence on regionalisation processes (De Lombaerde and Schulz 2009, Lenz 2012, Briceño Ruiz and Rivarola Puntigliano 2010). Here, a wide variety of mechanisms of policy diffusion have been identified, ranging from indirect influence or emulation to direct pressure or coercion, the latter being exerted through trade agreements and cooperation offers. Looking at EU support for democracy in Mercosur, Grugel (2007) argues that these policies did not have the intended effects because the concept of democracy is understood differently by South American governing elites. Lenz (2012) sustains that South American policymakers adapted the EU's institutional arrangements to their local contexts, which has led to the unintended consequence of strengthening South American national sovereignty. Similar to studies that explicitly address unintended consequences, these studies look at policy areas in which the EU 'targeted' South America, such as democracy and economic regional integration, but they do not consider migration.

Regarding external migration governance, the EU has, in recent years, developed bilateral and regional cooperation frameworks, employing policy tools like Trust Funds, Readmission Agreements, Visa-Facilitation Agreements, Frontex Working Arrangements, Naval Security Missions, as well as legal migration instruments to curb immigration, like Mobility Partnerships and cooperation between the European Asylum Support Office (EASO) and third countries (Carrera 2018; García Andrade et al. 2015; Trauner and Kruse 2008). The literature on EU external action, however, tends to focus on Europe's geographical neighbourhood, namely the Southern and Eastern Mediterranean, the Middle East, and Northern Africa because these policies directly target those regions (García Andrade et al. 2015; Jaulin 2010).

In South America, scholarship has explored both the historic diffusion of immigration policies within the region and from Europe and the US (Acosta 2018; Acosta and Geddes 2014; FitzGerald and Cook-Martín 2014), and the more recent diffusion of

diaspora policies (Délano 2014). Recently, Freier et al. (2021) demonstrate South-South policy diffusion processes in refugee rentierism across countries in the Middle East, sub-Saharan Africa, and South America. Overall, however, contemporary policy diffusion between the EU and South America, has been assessed as limited (Acosta and Geddes 2014, Brumat and Acosta 2019). These latter two studies highlight that South American governments oppose EU migration policies, but they do not theoretically understand this opposition as a diffusion process. In this paper, we argue that the liberalisation of immigration policies in South America is an example of both political and moral opposition to the policymakers' perceived restrictiveness in EU migration governance without being targeted by these policies. Through the study of the EU's unintended influence on the liberalisation of immigration policies in South America, we aim to contribute to the literature on policy diffusion, by shedding light on the unexplored diffusion mechanism of moral and political opposition. We contest the claim that the EU has had no influence in South American migration policy liberalisation by shedding light on how opposition gives moral and political meaning to the policies adopted in South America. We thus argue that opposition is a constitutive part of South American migration governance and policy liberalisation.

This process has to be understood in a historical context of the regional search for autonomy from external powers (Deciancio and Tussie 2019; Riggirozzi and Wylde 2017). Contrary to the European experience, regionalism in South America is an instrument for enhancing, not delegating, national sovereignty. As such, region-building is regarded as a way of increasing autonomy to protect national interests from extra-regional powers, such as the US and the EU (Deciancio and Tussie 2019; Riggirozzi and Wylde 2017). In this context, and after the European integration process was perceived as a model for the region for decades (Grugel 2007; Kaltenthaler and Mora 2002; Sanahuja 2013), around the turn of the century, South American countries increasingly distanced themselves from the political and economic influence of the EU (Gratius 2017).

III.   The case study: South American immigration policy liberalisation

As alluded to in the introduction, in the period 2000-2015, the majority of South American countries not only reformed their national immigration and refugee laws, but also created a regional migration regime and adopted a regional stand on migration. On the national level, there is significant variation regarding the breath and depths of legislative reforms. Acosta & Freier (2015) and Acosta (2018) identify a number of aspects of liberal migration policies in Latin America: the non-criminalisation of undocumented immigration (and its consequent regularisation); the consideration of the universal right to migrate as a fundamental right (through mechanisms like family reunification, the possibility of double citizenship or the recognition of the same rights as nationals); and the opening of borders in the context of regional integration.

Against this backdrop and based on legal analysis and semi-structured interviews, Brumat and Acosta's (2019, p. 68) study of Mercosur identifies three stages of EU influence on South American migration policies: in the first one (1990s), South American policies reflected 'some technical aspects, vocabulary and ideas deriving from the EU's experiment'; in the second one (2000-2015), the EU became an example not to be followed, and opposition to it served as an instrument for cohesion and regional identity; and in the third one (2015-2019), 'some' more restrictive ideas and language from Europe (and the US) were used, 'but with different meanings and understandings by Mercosur policymakers and other actors'. None of these studies look at specific aspects of EU policies that South American states oppose, the grounds for this opposition, and the way in which opposition works as a mechanism in the diffusion process.

A common argument in the literature has been that South American governments opposed EU migration governance and are committed to reforming their own immigration policies to set an example for the kind of treatment they expected for their emigrant nationals abroad (Acosta 2018; Acosta and Freier 2015; Bauer 2019; Brumat and Acosta 2019; Ceriani Cernadas and Freier 2015; Geddes 2021; Margheritis 2013, 2016). Margheritis (2011, 2013, 2016) looks at Argentinian and Ecuadorian domestic and foreign policy and argues that increasing attention to emigrants played a key role in the liberalisation of migration policies and discourse. Freier and Acosta (2015) and Bauer (2019) also offer anecdotal evidence of South American presidents publicly invoking emigrants' rights abroad. Looking at the declarations of the SACM, Ramírez et al. (2019) highlight the role of Bolivia and Ecuador in sustaining a position that they label as 'humanitarianism of contestation' (*humanitarismo de contestación*), which they define as an alternative, 'pro-migrant', human-rights-focused, approach that contests 'hegemonic' approaches based on a utilitarian vision of migration governance, which, in turn, played a key role in influencing policy and discourse at the regional level. Based on secondary literature and presidential declarations, Geddes (2021) affirms that emigration is part of a South American 'migration governance repertoire' that has an identity component based on the idea of *Patria Grande*, a homeland for all South Americans, in opposition to the restrictiveness of migration policies in the US and the EU.

However, beyond the anecdotal analysis of presidential discourses and legal analyses, there is little empirical evidence so far in support of the argument that opposition to the European migration governance, and the defence of national emigrants, actually conditioned the liberalisation of immigration policies in South America. Importantly, it has not been studied how the opposition to EU migration governance is reflected in the views of policy and decisionmakers across the region. In this paper we empirically test both arguments, namely to what extent political and moral opposition to EU's extra-regional governance, and the defence of nationals abroad - or an interplay of the two - prevails in the bureaucrats' understandings (Geddes 2021), which likely influenced policymaking.

IV. Methodology

We examine the European influence on immigration and refugee policy liberalisation in South America via 130 semi-structured interviews and regional declarations. Conducted between 2012 and 2018, within and outside the framework of the MIGPROSP research project, the interviewees included key government officials of the main ministries involved in migration policymaking[2] (mainly, Ministries of Interior, Justice, Foreign Affairs, and Labour), as well as representatives of International Organisations (IOs), such as the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), and the International Organisation for Labour (ILO), and main Civil Society Organisations (CSOs) that take part in migration governance, in eight South American countries - Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, and Uruguay.

Governmental officials and representatives of IOs have both played a key role in the development of regional legislation that liberalised mobility and residence. Many of them drafted or proposed amendments to the regional legislation. The representatives of CSOs have accompanied, or monitored, this process. While the study primarily focuses on bureaucrats' stances regarding the EU's intra- and extra-regional migration regime, as they were directly involved in migration-related policymaking, the views of IOs and CSOs were also considered in order to cross-check governmental actors' claims. We combined purposive and chain referral sampling for identifying the key actors. Purposive sampling was executed by checking the lists of the participants in each meeting in regional institutions where the regional migration policies were discussed.

During the interviews, we discussed with government officials their professional backgrounds, their understandings of policy problems and solutions, the reasons for which they adopted specific national and regional legislation,[3] the reasons why they agreed (or not) with their regional partners, and their interactions with other key national and regional actors in the area of migration. We were thus able to collect data on both national and regional migration governance, as reflected in the empirical section. We did not ask any specific question about the EU, the US, and their relationship with, or influence on, migration governance in the region. Rather, the interviewees would bring these topics up in the discussion, which makes the findings more significant. For this reason, we used content analysis with a discourse analytic

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[2] Given anonymity and data protection issues, we cannot reveal the ministerial affiliations for each official cited, but can share aggregated information on the topic. All the participants signed an informed consent form and agreed to share anonymised data.

[3] The legislation that we asked about varied depending on the country and the moment in which the interview took place. In most cases, we asked about regional legislation, but in some cases (such as Brazil and Ecuador) we asked about how newly adopted national legislation responded to the regional standards. We only asked about legislation that had been adopted between 2000 and 2017, before the onset of the Venezuelan displacement crisis.

approach (Hardy et al. 2004), which allowed us to identify inductively emerging categories in the data. Such approach gives central importance to the context in which the meanings are constructed. We combined considerations on the historic and political context and on policy diffusion theory in order to search and identify the emerging moral and political meanings in our data.

We analysed the transcriptions of the interviews using the ATLAS.ti 7 qualitative data analysis software to generate codes.[4] Coding is a way of evaluating and organizing data in order to identify categories and patterns that can help to develop 'big picture themes' that are tied to the conceptual frame and questions of a project (Cope and Kurtz 2016). Following Harris and Ogbonna's (2002) approach, we first carried out open coding, in order to identify emerging categories. We then selective coded by evaluating the selected data and refining it into theory-relevant categories.

Following content analysis with discursive approach, we identified four main patterns and we counted the occurrences of meanings in the transcriptions (Hardy et al 2004). We labelled these four patterns as 'opposition to the EU and the US' (62 claims in total, by 49 interviewees), 'EU as a model' (38 claims in total, by 20 interviewees), 'protection of nationals abroad' (9 claims by 8 interviewees) and as 'autonomy' (15 claims by 12 interviewees). Among all these interviewees, 8 of them expressed both ideas related to 'opposition to the EU and the US' and at the same time admiration towards the EU ('EU as a model'). Four interviewees expressed both admiration towards the EU and ideas related to 'autonomy'. Two of this last group also expressed 'opposition towards the EU and the US'. As we explain below, these South American migration governance actors oppose the EU's extra-regional migration governance, but they also show admiration towards the EU intra-regional mobility regime.

'Protection of nationals abroad' refers to national officials explaining the adoption of migration discourses and policies that reflect a liberal, pro-human rights stance with the need for political coherence, to be able to defend the interests of their nationals abroad, as migrant sending countries, without explicitly criticising northern countries. 'Autonomy' refers to South American policymakers' claims that regional positioning empowers them by giving them more standing in international forums, which can eventually enable the region to contradict, or oppose, the externalising or diffusing of extra- and/or intra-regional migration governance of so-called Global North countries - especially the EU (see **tables 1, 2, 3**, and **4**). To maximise the consistency of the codes, each author coded the entire set of interviews separately, we cross-checked it and agreed on a consolidated set of 124 claims. We triangulated these codes with regional declarations, in order to visualise the link between opposition and the adoption of policies.

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[4] We generated the codes in the original language in which the interviews were conducted (English, Spanish, and Portuguese). The quotes that we include in this article are our own translations.

V.   Empirical Findings

Our empirical findings demonstrate that - although South American government officials generally regard the EU as a model of 'efficiency', in terms of the EU's intra-regional mobility regime - the remarkable legislative liberalisation in the region was inspired by both political and moral opposition to perceived restrictive shifts in both EU internal and externalising migration governance. However, we find only limited evidence for the argument that South American countries adopted a liberal approach to migration in order to protect their nationals in Europe.

Opposition to the EU and US

Our results show that when South American policymakers discussed the reasons why they adopted more liberal policies, 'Opposition to the EU and US' came up, with the majority referring to the EU (30 out of 62 quotes), followed by 'developed countries', 'Northern countries' or similar (17), the US (5), and both the EU and US (5). We divided this code into five subcodes, which explore the reasons why South American migration governance actors 'oppose' the EU and the US.

As **Table 1** shows, 44 of the 62 claims differentiate Northern political units from South America ('we are not like them') and criticise their policies. In fewer proportions, South American migration governance actors stated that the EU and US impose their ideas and policies in the region (12 claims in total) and criticise xenophobic and discriminatory sentiments in these political units (6 claims in total). Thus, 'Opposition to the EU and US' by South American policy makers is rooted in their political opposition to regions and countries in the so-called Global North - primarily the EU, but also the US - criticising their policies and establishing that these are often imposed on countries of the Global South, as well as advocating for greater autonomy within the region. Policymakers also adopt a moral counter-position to the xenophobia and discrimination they perceive exists in the EU's extra-regional migration regime.

Table 1 about here

During the interviews, South American migration governance actors often distanced themselves, and their respective countries, from the EU's and US' internal migration regime, and implying a more human rights centred understanding of migration governance in the region (22 claims in total), in opposition to what they saw as economy-centred, xenophobic and discriminatory migration policies. As a Chilean officer succinctly stated:

> How am I going to agree on a commitment, a principle, a set of guidelines, if we are not understanding each other, at least when I speak of orderly, for me, orderly refers to [a conceptualisation of] migration in accordance with the rule of law. Safe, [that ensures] the protection of human rights. And regular,

propensity for regular residence. But does Europe understand it in this way? No. Does Trump? [He doesn't] either (Santiago de Chile, 2017)

South American policymakers also invoked this distancing from the EU's internal migration policies at a regional level. Differentiating between Mercosur and the EU, Argentine officials discussed:

> The comparative advantage of Mercosur to the initial [phase] of the EU, for example, [...] in relation to the ILO system, is the recognition of the equivalence of the rights of national workers and foreigners, regardless of the economic conditions. Regular or irregular, they all have the same rights (Buenos Aires, 2014)

The above-mentioned reflects major discrepancies regarding key concepts in the migration governance of the EU with that of South American countries, such as 'orderly' and 'regular,' - which are seen to be understood in terms of national security in the EU - as well as the recognition of migrants' rights akin to those of national citizens, resulting in criticism of EU policies on the basis of political and moral values by South American policy makers (22 claims in total). Referring to the region's axes regarding integration, and as a sign of opposition to the EU's 'economy-centred' approach to migration, an Ecuadorian official succinctly summed up his argument by saying that humanitarian concerns trumped any economic considerations: 'being human comes before capital' (Quito, 2016). Relatedly, a Peruvian official opposed xenophobic and discriminatory elements in EU's intra-regional migration governance.

> Well, it is common knowledge, right? These grand expressions of xenophobia. If not, let's see, the main political campaigns or political processes that we see today in Europe, the issue of Brexit is heavily marked for example by the issue of migrants. The recent elections that took place in France, in other countries, even in Spain [...] (Lima, 2017).

Further elaborating on this topic, and adding aspects of the EU's external migration regime aimed at preventing irregular arrivals, an Ecuadorian official shared:

> At the international level, we obviously continue to see a setback in the treatment of, for example, the recognition of the rights of people subject to international protection. We have seen it in Europe with people who have gone to seek refuge and asylum, and who have been denied. Or the inhuman treatment they have received at the borders when they have gone to seek some kind of support, and, above all, the recognition of being refugees or asylum seekers. (Quito, 2017)

Adding to this, an Argentine official explicitly stated that the EU's containment policies in the Mediterranean and the way in which they increase migrants' deaths 'reaffirm'

her own position and a human rights-based approach to migration (Buenos Aires, 2015), thus adding moral weight to this opposition.

The officials criticised the 'restrictiveness' of EU extra-regional migration governance and denounced its inhuman character, as well as its failure to comply with standards of international protection and human rights. Thus, in adopting migration discourses that reflect a liberal, pro-human rights stance, South American policymakers, like the above-mentioned cited interviewees, emphasized the need to prioritize the lives of vulnerable displaced populations both in discourse and policies. Indeed, these positions have been consolidated in regional norms and declarations. For instance, some SACM declarations have defined the 'right to free movement of the migrant person' and the non-criminalisation of migration as regional principles while in the same document they have called third-countries to be respectful of human rights (SACM 2002, 2006, 2007, 2010, 2011) or have explicitly condemned some EU policies, such as the Return Directive (SACM 2008, 2009) and restrictive US policies (SACM 2011).

Further elucidating this 'us' vs. 'them' rhetoric between countries in the so-called Global North, specifically those in the EU, and South America, an Argentine official further explained the criticism of EU approaches to extra-regional immigration which does not target South America, led to a differentiated view of South American migration governance.

> Now, I was very impressed [...] by the path that Europe took regarding, let's say, in its approach, Europe, the cradle of human rights, the change [in its approach] about the treatment of international migration. But if you think about it, it actually has to do with the larger political framework in which the European Union in general is inserted [...]. One of the issues that always astonished me, and that is why I always felt that we adopted another perspective, is the fact that they never had a common immigration policy. (Buenos Aires, 2017)

The opposition to the EU's extra-regional migration governance, cited by the Argentine official, partially lies in the considerable political and moral differences embedded in EU and South American migration policies. South American migration governance actors also expressed that political opposition to the EU and US was related to their criticism of the power dynamics embedded in policy discussions, calling for greater autonomy within the region. Citing differing views on 'regularity' and 'irregularity' with the EU, a Chilean official stated:

> [...] the Europeans kept staring at us, challenged us, they felt entitled to teach us about the subject, and we listened patiently and the delegation said "No", because we have another reality, another look, another reading, etc. and we began to understand each other little by little [...] they were merging the concept of what we understood as irregularity and they understood it as illegality, and

the worst of all is that they linked it to human trafficking, that is, they criminalized it from the outset and we said 'no, what about a person who enters as a tourist and infringes the immigration law?', and so they said 'that is a crime' … It is not a crime for us, it is a violation of the law, we are not going to discuss it, the immigration law, but it's not a crime [...] It cannot be treated the same way as a robbery, theft, a murder, etc., etc. (Santiago de Chile, 2017)

South American migration governance actors also established their opposition to countries in the so-called Global North through claims that EU external migration policies are xenophobic and discriminatory (6 claims in total). Implying an amalgamation of the political and moral in this regard, in the context of the Mediterranean, and reflecting Christina Kirchner's discourse cited at the beginning of the paper, an Argentine official shared:

[...] most recently, regarding everything that is happening, especially in the Mediterranean, say, what sparks attention for ... I don't know if this is the right word, lack of 'humanity' due to policies that are so, so, so distant from complex situations, like reduced policies for hyper-complex situations, no, the feeling that today ...the control that Europe is applying, against a situation of failed states and civil wars, just a few kilometres away, seems too limited [...] Especially in the EU, we can observe a rise [...], in my opinion, in xenophobia, discrimination is strong, a rise in, let's say, isolationism [...] (Buenos Aires, 2015)

Regarding the type of actors that made these claims, officials of the ministries of Foreign Affairs were the most critical of EU and US approaches to migration. This is probably because they were the ones who sat at the negotiating tables with representatives of these political units. These actors also emphasized that the EU and US often 'imposed' their ideas and policies on other countries, with an Argentine official precising that South American migration governance actors, while invited to global forums, are often not heard (Buenos Aires, 2017), and a Brazilian official stating that intergovernmental organisations, like the IOM, often respond to the interests of its largest donors, usually countries in the Global North (Brasilia, 2016), which hints at coercion mechanisms within diffusion processes.

Relatedly, as shown in **Table 2**, South American policymakers, especially officials of the Ministries of Foreign Affairs, emphasised that political opposition was linked to the region's collective goal of maintaining autonomy vis-à-vis the external dimensions of EU migration governance. While this can happen on the national level, as discussed in the literature (Deciancio and Tussie 2019), our evidence highlights the importance of the regional unit, as regional positioning empowers Global South countries, allowing them to contradict, or oppose, global leading powers in the international arena (Van Lagenhove 2011; Mattheis and Wunderlich 2017).

In the context of the region's remarkable migration legislative liberalisation, policymakers brought up the importance of presenting regional, South-American-centred proposals at international forums, as it would strengthen their claims and grant them further bargaining power (13 claims in total). Addressing the above-mentioned, an Argentine official remarked:

> Because, beyond Mercosur, we have another mechanism, which is more of a strategic mechanism, by this I do not mean to say that Mercosur does not have strategic axes with regards to migration, but at the level of South America, we have the South American Migration Conference (SACM). There, we reach a consensus on the region's strategic axes. And, it's these axes that will confront those of other blocs, or other countries, at international forums (Buenos Aires, 2012).

Autonomy claims also index intra-regional collaboration initiatives in the field of migration, prioritising the development of the region in this field (3 claims). Referencing a 'South-South' cooperation initiative at the SACM, a Chilean officer stated:

> [...] for example, our VIF initiative, which is the migrant intrafamily violence program that Argentina has implemented, through [Argentina's ambassador to Peru], and he's shared with us that he plans to take the initiative to Peru. What does this mean? This program, which was developed at a national level is now going to be developed at a regional level [...] (Santiago de Chile, 2017).

Adding on the reasons why the Residence Agreement of Mercosur was adopted, an Argentine official who led the negotiations explicitly stated that it was to benefit regional migrants and not Europeans: 'Argentine migration policy is conditioned to Mercosur. When we thought about [adopting the RAM] we thought about the region, we did not think about extending it to Europeans' (Buenos Aires, 2015).

Thus, both at a discursive and policy level, South American officials stress the importance of maintaining regional autonomy vis-à-vis other regions, and prioritising the needs of the region.

Altogether, South America's remarkable legislative liberalisation regarding migration policies can be partly explained in terms of the region's political and moral opposition to both internal and extra-regional migration regimes, including both external action and diffusion, of 'northern' countries - especially that of the EU.

Protection of nationals abroad

Contrary to the literature, our findings provide limited evidence for the argument that South American countries adopted a liberal approach to migration, which sought to protect their nationals abroad. **Table 3** shows that we only identified 9 quotes (by 8 interviewees) in which South American officials justified the adoption of migration discourses and policies that reflect a liberal, pro-human rights stance because, as migrant sending countries, liberal policies reflect a degree of policy coherence necessary to be able to defend the interests of their nationals abroad.

Table 3 about here

Directly referencing the importance of policy coherence regarding migration discourses and policies for immigrants and emigrants abroad, a Brazilian official explained:

> [...] this demand that the region has in relation to the treatment of their nationals in other countries, this somehow reverses in relation to the treatment that the region must give, even for the sake of consistency, in relation to the immigrants who are here. So, the discourse is one of protection, of full respect for rights... facilitating migration. (Brasilia, 2017)

Further elaborating on the topic, and citing a colleague's speech at a United Nations high-level meeting on migration, another Brazilian policymaker explained:

> [...] in his discourse he defended the rights of Brazilians abroad and then he said "but we have to guarantee the same thing here, reciprocity. We cannot be demanding [certain policies] from other countries, if you do not have the same attitude internally". (Brasilia, 2017)

For several South American policymakers, the defence of the rights of their nationals abroad is linked to the adoption of liberal, pro-human rights legislation internally, thus ensuring the protection of their emigrants' rights. While these claims did not contain an explicit criticism of internal EU migration governance, such criticism was implicit, as demanding rights abroad implies that these rights are not already being protected.

Such dynamics also took place at the intra-regional level, as the following quote exemplifies:

> Now Paraguay has become a strong supporter of free mobility within Mercosur, but why? Because they want Paraguayans to go to Argentina as if they were at home (IOM official, Buenos Aires, 2014)

Finally, it is worth noting that South American policymakers' political and moral counter-positioning to EU migration governance is not free from contradiction, as some South American countries also receive immigration, and thus reject policy liberalisation

from this position. From the point of view of a migrant-receiving country, a Chilean officer confided:

> [Migrant-sending countries in the region] will sign anything if that means their nationals abroad are finally being protected, but what happens then to the migrant-receiving country who is responsible through the Mercosur [Residence Agreement] [...] There is no cooperation from migrant-sending countries. None. [...] What is the role of the migrant-sending country[?] None. So what happened to the famous concept of migratory co-responsibility[?] (Santiago de Chile, 2017).

While not the focus of this study, the Chilean officers' remarks shed light on the complex intra-regional dynamics of the remarkable legislative liberalisation in the region, which merits further analysis.

The EU as a Model?

It is also important to point out that the impression that South American migration governance actors had of European migration governance is not completely negative, as they do not oppose the EU's intra-regional free movement regime or its model of integration. Rather, as explored in the following section, these actors oppose the EU's extra-regional migration governance. As shown in **Table 4**, opposition coexists with admiration towards the EU's free movement regime, particularly the Schengen area (14 claims), and the harmonisation of policies that facilitate intra-regional mobility (8 claims). To a lesser extent, interviewees also praised the leadership of some EU countries (5 claims), supranationality and citizenship (4 claims), as well as economic integration (4 claims).

Table 4 about here

Twenty interviewees expressed admiration towards the EU's intra-regional free movement regime and its model of integration, depending on the type of actor in question. Officials from Ministries of Foreign Affairs tended to praise the free circulation of people and the lack of border controls in the EU. Many Ministers of Interior and Labour aspired to the unification of border and information controls in the Schengen area, which is reflected in the quote below by an Argentine official:

> You go to the EU and you check into a hotel in Geneva or Switzerland and all of Europe knows about it, and if you want to go to another country, you know that, wherever you arrive, the guys already know where you have been and the police know it. Everyone knows it. Upon entering the EU, you are already registered and they know all your movements. It is an essential security criterion. (Buenos Aires, 2014)

However, even regarding free residence we found some criticism. An Argentine official declared: 'Europeans, for example, have more restrictions, than we do, regarding free residence. In essence, free residence is tied to various conditioning factors related to the labour market' (Buenos Aires, 2015). Thus, the Argentine official points out that the South American free residence regime is more liberal than the European, as free residence in South America is not based on the economic situation of the mobile population. In this way, officials define South American migration governance as more 'human-centred', in opposition to the EU, which in their view is 'economy-centred'.

Other South American migration governance actors admired the harmonisation of EU policies, specifically with regards to employment opportunities. Citing current fears of regional competition, an Uruguayan official explained:

> Why can a German welder weld in Germany, Sweden, Denmark, Italy, and Spain? Because he is certified throughout Europe, that is what is missing here [...] Argentina is afraid of doing any of those things because it is afraid of Brazil, Argentina is afraid of Brazil and of Brazilian people entering [the country] [...] putting at risk Argentine labour. (Montevideo, 2015)

Despite the fact that South American migration governance actors praise certain elements of the EU, this does not necessarily translate into policy diffusion through learning in the South American region. Rather, several officials acknowledged that attaining the above-mentioned praised characteristics of the EU would involve a lengthy process that requires the participation of all countries in the region. Further elaborating on the constraints that South American migration governance actors perceive, regarding the application of the EU's intra-regional free movement regime and its model of integration in the region, four South American officials highlighted a lack of strong leadership roles, akin to those assumed by France and Germany in the EU.

VI.   Discussion and Concluding Remarks

Much of the literature on the EU's external action in the area of migration governance has focused on the region's implementation of policy and legal immigration tools to extend its border and migration controls into transit and sending states in the Global South. Scholars tend to analyse these dynamics in the context of the Mediterranean, the Middle East, and Northern Africa. Related studies also focus on the different mechanisms of policy diffusion processes operating between the EU and other regions - especially coercion and emulation - and the structural constraints shaping the reception of diffusion processes. However, it has not yet been acknowledged that policy diffusion can also occur in 'untargeted' political units and that external action and diffusion can thus have unintended consequences in third countries.

Our empirical analysis shows that, although South American migration policymakers generally regard the EU as a model of 'efficiency', mainly in terms of the EU's intra-regional mobility regime and integration model, they adopted more liberal migration legislation in both political and moral opposition to the restrictive and economy-centred character they perceived in EU migration governance. Despite the literature suggesting that South American governments emphasised, at least discursively, the protection of the rights of emigrants as a motivational factor for reforming their own immigration policies, our findings only provide limited evidence in support of this argument.

Responding to the EU's extra-regional governance, South American policymakers framed their political opposition in terms of the perception of unequal power relations in international forums and the desire of South American governments to maintain national and regional autonomy. Moral distancing is reflected in the way that policy makers see EU migration governance. This includes internal and externalised policies, perceived as inhuman, xenophobic, and criminalising, as well as their failure to comply with standards of international protection and human rights of immigrants and refugees. In response, interviewees stated that the South American region prioritised a set of values based on a human rights approach to migration, which translated into policy and law. These moral and political meanings shape the evolution of the regional norms (Halloran Lumsdaine 1993) and so they give a deeper sense and orientation to the regional integration project.

We have thus shown empirically that EU's internal and external migration governance can have effects on political units that were not targeted by those policies and it can lead diffusion processes driven by *political and moral opposition* to existing policies in other political units. Political opposition can be related, for example, to the goal of maintaining autonomy vis-à-vis the externalising or diffusing political unit. While this can happen on the national level, it is especially relevant on the regional level, as regional positioning can empower countries in the Global South to contradict, or oppose, global powers in the international arena (Van Lagenhove 2011; Mattheis and Wunderlich 2017). Moral opposition, on the other hand, is based on ideological or ethical considerations and beliefs. We thus help fill a theoretical gap in the literature by showing how the opposition by a political unit (B) to the policies of a political unit (A) towards unit (C) gives normative meaning that shape the policies developed by unit B.

Our empirical findings suggest that theory should differentiate between three processes. First, political or moral opposition in political unit B can target the active external action or policy diffusion of policies by one state or organisation A in this unit B. Second, moral or political opposition in unit B can also target the external action of unit A towards a third unit C. Third, unit B can also oppose the internal policies of unit A. All of these processes might influence policy shifts in unit B. In all three cases, the policy of unit A leads to unintended consequences in unit B. While most scholarship

on the unintended consequences of EU external action has studied the first process (Borlyuk 2017, Reslow 2020, Bøås 2021, Grugel 2007), in this article we have shed light on the mechanisms of policy diffusion and their unintended consequences by looking at the second and third processes (see figure 1).

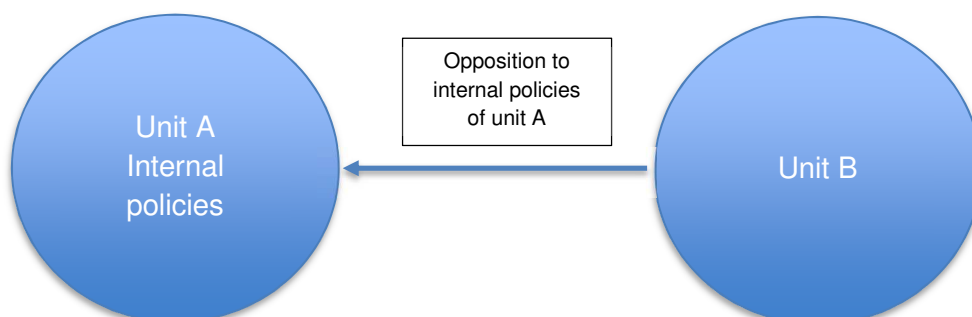**Figure 1: Opposition as a Mechanism of Policy Diffusion**

Process 1
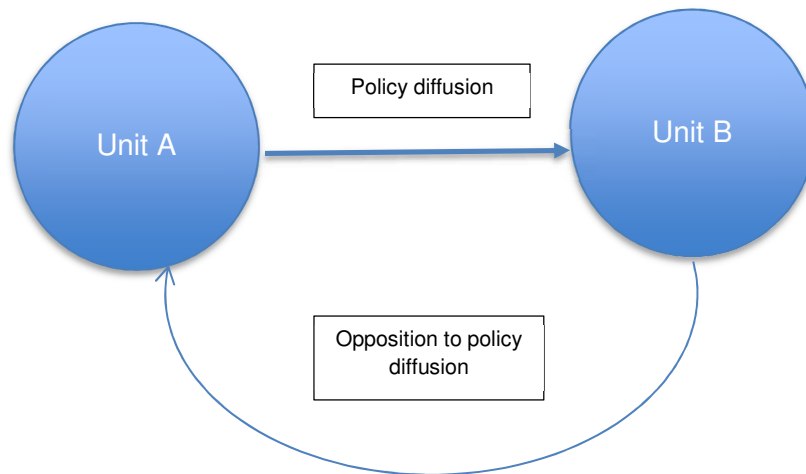
Process 2
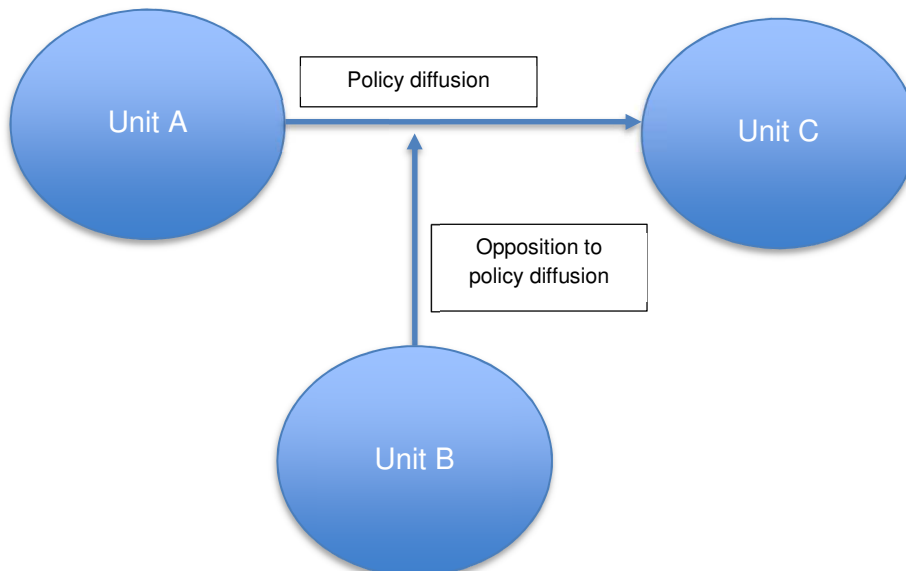
Process 3

Source: authors' elaboration

We have also shown how diffusion processes can be mediated by the ideological positions and understandings of officials in both partner and third countries. Our findings imply a greater need to be attentive to distinct regional settings, the distribution of ideational and discursive power, and the type of policy diffusion it can and cannot enable. Regarding our case region, future studies should untangle the processes through which South American political and moral opposition to EU migration governance led to what one might call 'moral learning', the adoption of a set of values based on a human rights approach to migration, and its translation into policy and law. As we conclude it is important to point out that South America's migratory context has recently changed significantly with the displacement of over 5.6 million Venezuelans, hundred thousand of Central American citizens and COVID-19. Even though many South American governments, at least initially promoted regularisation programmes for Venezuelan citizens and sustained a human rights-based migration regime (Bauer 2019), policy reactions since then diversified, oscillating between openness and, often securitised, closure (Freier and Doña, 2021). Our article thus raises a number of additional follow-up questions: What are the structural and ideational constraints hindering the diffusion of the EU's intra-regional free movement regime and/or model of integration in the South American context?; How do political and moral counter positions interact with countries' shifting migratory contexts, and specifically, increasingly restrictive reactions to the Venezuelan displacement crisis?; How does the EU react to unintended policy consequences, such as policy liberalisation in South America? Lastly, the striving for autonomy is something that is shared by other regions in the Global South (Acharya 2016). Thus, future studies should explore unintended consequences of extra-regional migration governance and diffusion policies, and opposition as a diffusion mechanism across other countries and regions in the Global South.

VII.   References

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