



Human Rights Consortium
SCHOOL of ADVANCED STUDY
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Refugee
Law
Initiative

CONFERENCE REPORT

A Liberal Tide: Towards A Paradigm Shift in Latin American Migration and Asylum Policy-Making?

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Finally, we wish to thank all of the presenters, panel chairs and other delegates for their energetic and thoughtful participation on the day.

Abbreviations

ACHR	American Convention on Human Rights
LA	Latin America
RSD	Refugee Status Determination
UNHCR	United Nations High Commissioner for Refugees
IOM	International Organization for Migration
OAS	Organization of American States
Mercosur	<i>Mercado Común del Sur</i>

Introduction

This international conference set out to chart new trends in migration, asylum and policy-making in Latin America. The key question behind the conference was whether the migration and asylum policies developed in Latin America over the past decade offer a new model distinct from the increasingly restrictive and securitized policies of European and North American States. The key questions the conference sought to tackle were the following: Is Latin America moving towards a liberal exceptionalism in the field of migration and asylum policy-making? And if so, what explains this liberal paradigm shift? Regional and country specific perspectives were presented through four panels, which brought together leading specialists from Latin America, the US and Europe to showcase and debate these novel developments.

The conference sought to achieve two goals:

1. Promoting research on migration and refugee policy-making *in* Latin America – since current scholarship concentrates unduly upon the immigration laws and policies of countries in Europe and North America, and migration *from* Latin America to these regions.
2. Emphasizing the growing importance of south-south migration dynamics in Latin America – against the background that research still focuses on south-north flows, despite the fact that more than half of all international migration today is made up by south-south flows.

The conference attracted keen interest from a variety of actors working in the migration, refugee, and policy fields, or on Latin America more generally; including policy-makers, analysts, advocates, researchers, and students. The conference proceedings allowed extensive opportunities for dialogue and exchange within the formal meetings and through informal discussions over the coffee and lunch breaks.

This conference was convened by: David Cantor (Refugee Law Initiative, University of London), Luisa Feline Freier (London School of Economics) and Jean-Pierre Gauci (King's

College London). It would not have been possible without the kind financial support of the Institute for the study of the Americas, University of London and the Economic and Social Research Council.

This report sets out to briefly present some of the debates and arguments from the conference. It is virtually impossible, within the limited space of a short report, to do justice to the depth and breath of expertise and perspectives presented during the day. The report will be divided according to the panels of the conference. The agenda of the conference can be found in Annex 1.

Panel I: New migrations and Regional Policy-Making in Latin America

This panel – chaired by Professor Maxine Molyneux (University College London) – explored the reality of new south-south migration flows in Latin America and the response by regional organisations, such as the Organization of American States (OAS), the Common Market of the South (MERCOSUR) and the Andean Community of Nations.

Dr Marcia Bebianno, from the Organization of American States presented the key findings of the 2012 SICREMI Report. The project's objective is to provide information on migration in the Americas on an yearly basis, using administrative records, census and national survey data and to provide statistical data and information on the evolution of regulatory frameworks and migration policies and programs. The report is the only one of its kind in the Americas.

Based on the report, Dr Bebianno presented some trends in both migration and asylum data noting that trends in international migration did not correlate with recent economic developments in the Americas. She highlighted that in 2010-2011, about 13% of global asylum applications took place in countries of the Americas, of which 75% were in the United States and Canada. Asylum applications in the Americas increased 7% in 2011 when compared to 2010. Although economic conditions have become more difficult in most places within the OECD area, migration levels in the Americas have remained relatively high, with over 3 million people during the period 2008-2010, representing a drop of only 8% from the level of movements in 2005-2007. Bebianno noted that the most serious economic downturn since the Great Depression has not impacted migration movements significantly, which continue and will undoubtedly expand as demographic imbalances in developed countries begin to make themselves felt more strongly.

With regards to legislative and policy frameworks Dr Bebianno noted how, since the year 2000, several countries in the region have enacted new laws and regulations on migration, and highlighted the shift towards less restrictive laws. The new immigration laws recognize the human right to migrate, provide access to residence, reaffirm the equality of treatment with nationals, provide equal access to justice, social services, education, health, social security, labour and employment, consecrate the right to family reunification, among others.

Next, Prof Ana Margheritis spoke about MERCOSUR's Post-Neoliberal Approach to Migration as part of her presentation entitled: *Negotiating Migration Policies within MERCOSUR*. She noted how a considerable number of general and procedural norms have been agreed on among MERCOSUR members in the last decade and related conceptual, procedural, and institutional innovations occurred within the bloc in this policy domain. These include major agreements on free movement and equal rights for nationals of member states, norms on residency, and ongoing negotiations to elaborate a statute on regional citizenship. Moreover, she discussed how increasing cooperation around migration issues in a relatively short period of time has to be understood in the context of rebuilding governing coalitions along the lines of a post-neoliberal model that links domestic growth, equity, and regional governance and brings the state back in the regulation of socio-economic relations.

The content of migration-related norms and the ideas informing these recent developments confirm the emergence of a specific approach and dynamic in the negotiation of migration norms. This dynamic is relatively autonomous, consensual, and fast, in comparison with the slow and conflictive dynamic of trade negotiations.

Dr Margheritis argued how, far from representing a clear shift towards a liberal approach, the ideas embodied in the new agreements combine various factors: a rhetorical emphasis on the defense of human rights and citizenship; a concern with maintaining domestic social order via border controls and residency norms, and the expectation that a common (regional) position would enhance bargaining power in global fora. Furthermore, she reiterated how the recent negotiations' dynamics illustrate the impact of transnational policy networks on the incorporation of human rights and multilateral management considerations, as well as governments' attempt to avoid the potentially disturbing domestic effects of intra-regional flows and to capture political and economic benefits from workers' mobility.

In conclusion a post-neoliberal approach has helped both policy advocates and political leaders to revive a moribund MERCOSUR and give the bloc a discursive identity that can be taken to negotiations with the North. Yet, the tensions and contradictions of a neo-populist discourse that promises to take care of the social debt, while still enacting an economic

model that reproduces poverty and marginality cast doubts on the substance and feasibility of the regional citizenship project.

The Andean Community's efforts in the field of migration were the subject of the next presentation by Ana Durán - Senior Regional Advisor for the International Organization for Migration. After a brief overview of the structure of the Andean Community, Ms. Durán spoke about three sets of decisions of the community in the area of migration namely decisions around: (1) facilitation of the movement and migration control in the community space (2) the facilitation of the intra community Andean labour migration and (3) the consular protection and assistance to Andean citizens in third countries.

Ms. Durán reported how implementation levels of the decisions in the migration area vary. As an example, in the first set, the four countries have implemented the Andean Passport and the use of the Andean Migration Card. In the four countries, the national identity documents have been recognized for tourist purposes, but not with regard to equal treatment to nationals. In the second block, Peru is the only country that has implemented the Andean Labour Migration Instrument. Colombia and Ecuador are in process of implementation; meanwhile Bolivia has not yet initiated the implementation process. In the third block, the members are evaluating the need to develop the regulations of the "Andean mechanism of cooperation in the area of consular protection and assistance and migratory affairs".

The presentation also reported how in order to support progress and implementation of the decisions the SGCAN has created a system to collect statistical data about migration. Since 2005, each country committee includes experts in migration statistics. The Andean Committee of Migration Authorities (CAAM) has been the body behind most of the decisions in the migration area. The committee does not have operative regulation and traditionally, the member country's Office of the Chancellor have been in charge of designating the delegates to this committee. However, the committee stopped holding meetings in year?, and the Andean Migration Forum was created to maintain a coordination scenario between the member countries. There have been tree meetings in Quito (2008), Lima (2009) and once again in Quito (2012). The forum promoted the Andean Plan of Human Development of Migration (which is coming up to be implemented). The CAAM was reactivated in September of 2011.

Ms. Durán then provided an overview of the role of the International Organization for Migration in the region starting with the Framework agreement signed in 1992 between IOM and the Cartagena Board which has an undefined duration and is aimed at the promotion of Andean integration. The presentation then focused on the project “Strengthening the Andean integration through the implementation of the community decisions in the migration area.” Its general objective was to support the implementation of the decisions in the migration area with the purpose of contributing to the integration of the subregion. The project was implemented in the four member countries and ended in January 2011. The main results were: (1) training workshops about the community’s norms in the migration area, (2) training modules for future occasions (3) an information book on ...? (4) a diffusion campaign on ...? through an informative poster and (5) a diagnosis of the improvements and recommendations to implement the decisions in the migration area. The project trained more than 130 officials? in the four countries and created opportunities for dialog between diverse institutions in the Rights Protection Offices. In addition, the airport of Quito-Ecuador and Lima-Peru implemented special service gateways for the Andean citizens and in Macchu Picchu Andean tourists are given the same treatment as nationals.

Panel II: National migration policies of Latin American States

The second panel chaired by Dr Ainhoa Montoya of the Institute for the Study of the Americas assessed whether migration policy and its implementation at the national level also reflected a liberal tendency. It did so through regional case studies from across Latin America.

Dr Beatriz Eugenia Sánchez Mojica focused on Colombia's migration policy describing its ongoing deep transformation process. In the XX century the country did not have a comprehensive migratory policy. The authorities conceived immigration as a national security issue and consequently legislation focused on visas and immigration processes. Emigration was not an issue of concern for the national authorities, although it has played a very important role in Colombian history, particularly since the second half of the 20th century. Colombia has not traditionally been a destination country of migration flows. The continuous internal armed conflict, numerous economic crises, excess labour supply and absence of a decent road system, discouraged immigration. It is therefore no surprise that in 2005 only 0,26% of the Colombian population had foreign origin. Emigration, on the other hand, experienced exponential growth in the 1990s when a combination of severe economic crisis and the intensification of the internal armed conflict led to the departure of hundreds of thousands of Colombians. Currently around four million Colombian people live abroad with the USA, Spain and Venezuela being the main destinations. Put briefly, the same set of circumstances both *discouraged* immigration or international migration?! and *encouraged* emigration.

In the first years of the 21st century, Colombian authorities recognized the need for a proper migration policy. Two factors were instrumental in leading to this recognition. First, Colombia adopted a new economic model based on foreign investment. This required it to upgrade its visa procedures in order to facilitate the entry of investors, service providers and highly qualified professionals. Second; between 1990 and 2000, Colombian emigration grew by 70%. Authorities feared a brain drain and perceived the need of restore links with its diaspora. Law 1465 of 2011 created the National Migration System, a first step towards a comprehensive migration policy. The law enshrines three main principles to guide migratory authorities:

- Migrants' human rights must be guaranteed.
- International cooperation mechanisms must be developed to create an orderly human mobility regime.
- Migrants, both immigrant and emigrants, must be conceived as an important development factor.

Furthermore, authorities developed a sophisticated information system in order to gather timely and reliable data on migration flows. Responsibility for the migration process has shifted from the national intelligence agency to Migración Colombia, a new department of the Ministry of Foreign Affairs. Within the scope of these reforms, Colombia has opened its doors to selected migrants: investors, service providers and highly qualified professionals whilst also developing projects aimed at maintaining links with highly qualified emigrants. Whilst these are positive developments, Colombia remains far from achieving a right-based approach to migration.

Next, José Luis Rocha spoke about the “Ambiguities and Contradictions in Nicaraguan and Costa Rican Migration Policy”. He noted how migration policies in these countries demonstrate concurrent liberal and restrictive currents resulting from the diversity of interests, the strength of the various actors and the heterogeneity of the State.

In the case of Nicaragua, this conflict is apparent in its legislation. The refugee law is very liberal, while the migration law foresees heavy penalties for unauthorized migration and focuses on the imposition of fines through administrative means. The former law resulted from ACNUR pressure, whilst the latter follows financial imperatives in a context of crisis, where the imposition of fines on undocumented migrants, and the taxation of Nicaraguans with US Citizenship are aimed at mitigating the declining income from European external cooperation and the fragility of the assistance offered by Venezuela. In the case of Costa Rica, the conflicted currents appear within the legislation (which juxtaposes protection of human right with anti-immigrant clauses and the expansion of fines) but even more in its application in the form of fines and other bureaucratic hurdles. However, the number of deportations is low when considering both the legislation and widespread xenophobia in the country. A policy of increased deportations is unfeasible because of the dependence of Costa Rica on migrant labour and its implications on its social security model.

This dichotomy in the Costa Rica's migration policy agenda is related to concessions for electoral success, international legitimation and more or less subtle geopolitical, economic and financial agendas. In Nicaragua, the more liberal components of the framework were suggested by UN agencies, but, whilst having juridical weight, they lack legal weight and therefore, in application. Imported liberalism therefore fails. Conversely, Costa Rica shows a liberal application of some of its migration policies: in this case the needs of the labour market and the public finances act as liberalization factors. The fact that public finances are becoming a factor in determining the direction of migration legislation can be interpreted as a shift from a government of laws to a government of bureaucracy with the State apparatus being strongly affected by the neoliberal model. Whilst potentially impacting the design of the legal framework, bureaucracy has maintained its role in balancing and alternating between liberalism and the penalization of immigration as a means of securing financial income.

Luisa Feline Freier presented a joint paper written with Dr Diego Agosta entitled: "Turning the migration paradox up-side down: The discursive gap in Latin American immigration policy-making". She noted how a discursive gap has long been identified in the immigration policy-making of major Western immigrant receiving states. Many governments embark on restrictive discourses of rejecting immigration, while at the same time accepting the entry and residence of substantial numbers of migrants, many of whom end up remaining in their territory without authorization. In Latin America, the authors witness a reverse discursive gap. In the past decade, a liberal immigration discourse has been accompanied by legislative liberalization, but in response to the increase of irregular south-south migration, immigration policy-making has turned more restrictive to varying degrees. Ms Freier then presented the cases of Argentina and Ecuador, using a mixed methodological approach of discourse and legal analysis and process tracing.

Panel III: Novel Trends in Asylum Law and Policy in Latin America

This panel – chaired by Dr Eiko Thielemann (London School of Economics) – aimed to chart new refugee flows in Latin America asking whether the nascent responses by States are in fact as liberal as they appear. It addressed moves towards greater harmonisation at the regional level as well as noteworthy new patterns in national developments.

Prof José Fischel de Andrade spoke about “Novel Trends in asylum law and policy in Latin America” asking whether responses to new refugee flows were liberal, and whether there was scope for greater harmonisation. His short answer to both questions was “yes, *ma non troppo*”. He noted how a recent article in the International Journal of Refugee Law argued that there was a growing trend towards regional policy approaches and the harmonisation of policies and practices. He recognized the harmonisation of policies, norms and procedures in Latin America, querying whether the result of this harmonisation was in fact a move towards liberal exceptionalism. So far, he highlighted, concrete results on harmonisation of policy & norms in asylum law have largely been the outcome of UNHCR initiative. He then noted how, before the 1950s, the region saw various state-driven initiatives at the regional level culminating in the 1954 Caracas conventions (OAS) focusing on asylum as the genus and refugee status & asylee status as the species. After the 1950s, the region saw a series of UNHCR led conferences including the 1981 Mexico “Colloquium on Asylum and international protection of refugees in Latin America”, the 1983 Seminar “Political asylum and the situation of refugees”, the 1984 “Colloquium on International protection of refugees in Central America”, the 1994 “Colloquium on 10 years of the Cartagena Declaration on Refugees” and the 2004 Mexico Declaration and Plan of Action. Other developments included the 2000 Rio de Janeiro Declaration on the Institution of Asylum, the 2011 Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas and the 2012 Fortaleza Mercosul Declaration of Principles on the International Protection of Refugees. Assessing these measures and initiatives he noted that concrete results were in reality independent of the format of the meeting or conference and were closely related to the existence of situations needing to be solved. When such situations were missing, the efforts and initiatives resulted in lofty words. Going back to the critical role played by UNHCR he premised that without the efforts of the refugee agency, none of these meetings would have taken place.

Prof Fischel de Andrade noted how only the 1984 Cartagena Colloquium was successful, explaining this by the fact that there were thousands of persons who needed protection and that the right (Central American) countries were the ones attending the colloquium. The 2004 Mexico Plan of Action, he continued, has been partially successful because the situation resulting from the violence in Colombia has in the last 15 years begun to have a spill-over effect on neighbouring countries. Some harmonization has been achieved as reflected by the Cartagena Declaration, the establishment of RSD bodies in all Latin American countries except for Ecuador and Venezuela and resettlement programmes.

According to Prof Fischel de Andrade, all the declarations made at the end of such colloquia are the result of an advocacy work conducted by UNHCR, the end-result of which may take years, if not decades to be achieved. He also pointed out that Latin America hosts less than 2.5% of the refugee population in the world, and that refugee protection is thus not part of the political agendas of LA countries (apart from those concerned about the situation in Colombia). Prof Fischel de Andrade believes that if the UNHCR wants to successfully make refugee protection an important agenda point, it needs to use cross-issue persuasion, a concept developed by Alexandre Betts, and link refugee protection to issues like immigration, security and trade.

In conclusion, he asked whether recent developments really were the result of a more liberal approach by Latin American countries to forced migration. He noted how all governments seemed to support the Brazilian government's management of the arrival of Haitian forced migrants, granting them legal status as well as the development of complementary forms of protection. At the same time, he cautioned around the unstable and fragile political framework in which the protection of human rights in general and that of forced migrants in particular is implemented in Latin America, giving the examples of Ecuador enacting Decree 1,182 on 30 May 2012 derogating the previous legislation (Decree 3,301 of 6 May 1992) that had captured the recommended Cartagena refugee definition, and Venezuela denouncing the ACHR in September 2012.

Prof Dr Andrea Pacheco Pacifico, and Dr Érika Pires Ramos presented on "The Migration of Haitians within Latin America: Significance for Brazilian Law and Policy on Asylum and

Migration”.¹ They noted how the recent flow of Haitians (2010-2012) had shown that Brazilian migration and refugee law and policy is shaped by political and economic interests despite the appearance of pursuing humanitarian imperatives.

Some shifts can be identified in Brazil’s migration and asylum policies during the last three decades: firstly, the 1980 Immigration Law, created during the military dictatorship and still in force, that treats immigrants as criminals and does not address the human dimension; secondly, the 1988 “citizen” Constitution that gives the same rights to regular immigrants as those given to citizens thereby ensuring wider protection; thirdly, the 1997 Refugee Law that opens a new trend in the Brazilian Legal Order, by declaring the Government and the Catholic Church as partners regarding refugee and migrants’ protection; and lastly, the Labour Party’s management of recent Haitian arrivals that has led to changes in the 1980 Immigration Law and to issue, exclusively for Haitians, a humanitarian visa with permanent residence and work permit.

The authors argued that the real reasons for the visa and residence permits for Haitians?! are related to economic and national security concerns. The goal of achieving a permanent seat in the UN Security Council has driven Brazil to adjust its migration and refugee law and policy. Additionally, the forthcoming mega-events in Brazil, such as the Football World Cup and the Olympic Games, are examples of economic interests related to the Haitians’ work permit, as Brazil need workers for construction services as a matter of urgency and Haitians can fulfill these tasks. The authors concluded that Brazil needs to adjust its 1980 Immigration Law and to develop a human rights-driven migration and asylum policy in light of international treaties and of the Brazilian discourse of humanitarian aid and international cooperation.

Dr David James Cantor (Refugee Law Initiative) then gave his presentation entitled: “A Liberal Asylum Paradigm? Countervailing Tendencies in the Andean Region”. He noted how Latin America is renowned for its generous tradition of asylum and certain aspects of asylum policy might legitimately be termed liberal. However, among Andean countries, several recent developments appear to fall outside this pattern, suggesting that the overall picture is actually more nuanced. One particular example concerns the recent adoption of

¹ This paper was only possible due to the collaboration from two NEPDA researchers: Carolina de Abreu Batista Claro (PhD Candidate in International Law at the University of Sao Paulo) and Nara Braga Farias (International Relations Student at the Paraiba State University), who have been publishing extensively on this issue.

accelerated asylum procedures, which are used to deny access by asylum-seekers to substantive refugee status determination. Some Andean countries have implemented these procedures, largely in response to the perceived challenges posed by increasing numbers of claims for asylum from 'extracontinental' migrants from Asia and Africa. Dr Cantor noted how in explaining these developments, the example offered by Europe cannot be overlooked: the use of accelerated procedures has been borrowed from European States; it was developed in Europe from the 1980s onwards as a response to increasing arrivals of a 'new' profile of asylum-seeker from outside the region. The influence and example of other regions should therefore be considered when analysing patterns of policy formation in the asylum field in Latin America. Quite short?

Panel IV: Challenges in Latin American Migration and Asylum Policy-making

The fourth panel, chaired by Dr Jasmine Gideon (Birkbeck College, University of London) sought to address some of the common themes underpinning the current tendencies in Latin American policy-making on migration and asylum.

Dr Pablo Ceriani Cernadas (Universidad Nacional de Lanús, Argentina) gave the presentation entitled: “Lights and Shadows in South American Migration Policy Making.” He noted both progressive change in discourse and practices, legislation and policies in the region, but also pointed out contradictions and ambivalences. Ceriani highlighted how discourse isn’t always reflected in practices, and stressed the coexistence of restrictive and progressive policies, rising xenophobia and the on-going conflict between the rights-based approach and national security. He further identified the need for political coherence that can be established through effective Implementation and legislative reform. He then spoke of the need for effective integration policies to combat xenophobia and increase the political rights of migrants. He concluded with the need to improve social policies and to address the root causes of migration.

Diana Trimiño Mora (Refugee Law Initiative) presented “Trafficking and Mixed Asylum and Migration Flows in Central America”. She noted how Central America continues to be an origin, transit and destination region of mixed migration movements. Among these flows victims of trafficking and other crimes, unaccompanied children, extra-continental migrants, and asylum seekers and refugees have received special attention. A regional awareness raising programme on mixed migration was initiated by the Regional Conference on Refugee Protection and International Migration in the Americas in 2009, aiming to enhance the response to mixed movements in a protection-sensitive manner at a national level as well as through regional migration processes and human rights mechanisms.

Parallel to this process, the challenges governments face by specific groups, such as extra-continental migrants, have prompted national and regional initiatives on the treatment of mixed migration. At the Regional Conference on Migration (RCM), the following were launched: the Regional Guidelines for the Preliminary Identification of Profiles and Referring Mechanisms of Migrant Populations in Vulnerability Conditions (to be approved in June

2013); the Ad Hoc Working Group on Extra Continental Migration; and an Initiative for a protocol on migration management of Cuban nationals, among others.

Ms Trimino reported how on the specific issue of trafficking in persons, progress can be identified in the formal institutional spheres. All Central American states have ratified the Palermo Protocol against Trafficking in Persons; enacted specific legislation on the matter; created National Coalitions against Trafficking; and enacted national policies and plans of action. Furthermore, five of the six states grant migratory status or humanitarian visas for trafficking victims and the right to asylum of victims of trafficking is included in the legislation of two countries. At a regional level and within the RCM, the Liaison Officer Network to Combat Migrant Smuggling and Trafficking in Persons has also promoted the following initiatives: the Regional Guidelines for Special Protection in cases of repatriation of children and adolescents who are victims of human trafficking; the Regional Coalition Against Trafficking in Persons; the Regional Guidelines on Combating Trafficking in Central America (2011) and a Regional Strategy for comprehensive care and support for victims. Especially the latter can be seen as evidence for the advancement of the treatment of mixed migration flows in the region.

However, in practice these initiatives still remain mainly on a formally legal level. The challenge remains to make these provisions operational on the ground and applicable to the characteristics of these flows. National and regional capacity building activities have yet to trickle down from central and technical authorities to migration, border officers, police and health authorities. Furthermore, Ms Trimino noted the need to approach mixed migration with an integral, inter-disciplinary and inter-institutional focus. The region has compartmentalised the treatment of persons within mixed flows, with special units often overlooking cases in which a person presents the characteristics of more than one vulnerable group, addressing only one of the person's profiles and possibly denying that person of the necessary protection afforded by the law. It is the integration of profiling, referral and protection mechanisms that could achieve a rights-based approach to these groups.

Next, Karina Sarmiento (Asylum Access Ecuador) spoke about "Challenges and Opportunities in Asylum Policy: A Snapshot of Refugee Status Determination in Latin America". Her paper identified trends in the management of asylum procedures in the framework of due process guarantee in Brazil, Colombia, Costa Rica, Ecuador and Mexico. Some of the findings presented included how in all five countries, a commission belonging to the Executive Branch is responsible

for decisions on RSD (first instance). The composition of each commission varies, but a constant member is the Ministry of Foreign Affairs. Of the countries analyzed, only Brazil and Costa Rica do not set specific terms to apply for asylum. The deadlines established in the remaining countries are: Colombia (60 days), Mexico (30 days) and Ecuador (15 days). Moreover, while all countries analyzed provide for avenues of appeal in administrative fora, there are complications related to the entity responsible for deciding on these appeals, as well as for the term to present a legal challenge (i.e.: in the case of Costa Rica and Ecuador, 3 to 5 days (respectively) is not sufficient time).

Furthermore, based on reports by organizations in Mexico, Costa Rica, Ecuador and Brazil, asylum-seekers have access to their record. In Colombia these documents are confidential. In Colombia, Costa Rica and Ecuador, there are accelerated procedures to RSD in situations where applications are *manifestly unfounded or abusive*. In Colombia and Costa Rica, asylum-seekers may undergo an eligibility interview to determine the basis of the claim. In contrast, Ecuador uses a preliminary "admissibility" process, which filters asylum applications presented within the territory.

Ms Sarmiento also made a number of recommendations geared towards a harmonized policy in the region. These include: ensuring due process in domestic systems, promoting the plurality of national commissions; ensuring access to adequate challenge mechanisms (i.e. the Administrative Immigration Tribunal of Costa Rica constitutes an impartial appellate body), ensuring that accelerated procedures comply with internationally established due process guarantees, promoting comprehensive regional and domestic policies on refuge, fostering dialogue between governments and civil society, promoting harmonization of domestic laws and practices, ensuring commitments made at regional and international levels. Moreover, the refugee determination process in Ecuador and Colombia must be regulated through domestic laws.

Dr David Cantor concluded the conference by opening the floor for a discussion including participants and the audience. Various issues were raised including the role of the churches in migration work in the region and the need to be clear about terms used. In particular the question was raised as to what we mean by liberal policies?

ANNEX I: Conference Programme

CONFERENCE PROGRAMME

18 March 2013

Some presentations delivered through the use of remote technology.

08.45 – 09.15 Registration

The Senate Room, Senate House, University of London
Malet Street, London, WC1E 7HU

09.15 - 09.30 Welcoming address

Professor Linda Newson (Director, Institute for the Study of the Americas)
Dr David James Cantor (Director, Refugee Law Initiative)

09.30 – 11.00 Panel I: New migrations and regional policy-making in Latin America

This panel – chaired by Professor Maxine Molyneux (University College London) – explores the reality of new south-south migration flows in Latin America and the response by regional organisations, such as the Organization of American States (OAS), the Common Market of the South (MERCOSUR) and the Andean Community of Nations.

- Marcia Bebianno (Migration and Development Program, OAS)
 - *"The Organization of American States and International Migration in the Americas. Findings of SICREMI Report 2012"*
- Prof. Ana Margheritis (University of Florida)
 - *"Negotiating Migration Policies within MERCOSUR"*
- Ana Durán (Senior Regional Advisor, International Organization for Migration)
 - *"La política migratoria común en la Comunidad Andina"*

11.00 – 11.30 Coffee

11.30 – 13.00 Panel II: National migration policies of Latin American States

This panel – chaired by Dr Ainhoa Montoya (Institute for the Study of the Americas) – assesses whether migration policy and its implementation at the national level reflects a liberal tendency through regional case studies from the Andes and Central America and a thematic study of policy-making at the national level.

- Prof. Beatriz Sánchez Mojica (Universidad de los Andes, Colombia; Co-Director, Latin American network on Migration)
 - *"En tránsito: La política migratoria en Colombia"*
- José Luis Rocha (Central American Jesuit Service for Migrants, Nicaragua)
 - *"Ambiguities and Contradictions in Nicaraguan and Costa Rican Migration Policy"*

- Luisa Feline Freier (London School of Economics) and Dr Diego Acosta (Sheffield University)
 - *“Turning the Immigration Paradox Up-Side Down: The Discursive Gap in Latin American Immigration Policy-Making”*

13.00 – 14.00 Lunch

14.00 – 15.30 Panel III: Novel trends in asylum law and policy in Latin America

This panel – chaired by Dr Eiko Thielemann (London School of Economics) – charts new refugee flows in Latin America and asks whether the nascent responses by States are in fact as liberal as they appear. It addresses moves towards greater harmonisation at the regional level as well as interesting new patterns in national developments.

- Prof. José Fischel de Andrade (University of Milan, Italy)
 - *“Regional Harmonisation and the Provision of Asylum in Latin America”*
- Prof. Andrea Pacheco Pacifico (State University of Paraiba, Brazil) and Dr Erika Pires Ramos (International Law Center, Sao Paulo, Brazil)
 - *“The Migration of Haitians within Latin America: Significance for Brazilian Law and Policy on Asylum and Migration”*
- Dr David James Cantor (Refugee Law Initiative)
 - *“A Liberal Asylum Paradigm? Countervailing Tendencies in the Andean Region”*

15.30 – 16.00 Afternoon tea

16.00 – 17.30 Panel IV: Challenges in Latin American migration and asylum policy-making

This panel – chaired by Dr Jasmine Gideon (Birkbeck College, University of London) – seeks to address some of the common themes underpinning the current tendencies in Latin American policy-making on migration and asylum.

- Dr Pablo Ceriani Cernadas (Universidad Nacional de Lanús, Argentina)
 - *“Lights and Shadows in South American Migration Policy Making”*
- Diana Trimiño Mora (Refugee Law Initiative)
 - *“Trafficking and Mixed Asylum and Migration Flows in Central America”*
- Karina Sarmiento (Asylum Access Ecuador)
 - *“Challenges and Opportunities in Asylum Policy: A Snapshot of Refugee Status Determination in Latin America”*

17.30 – 18.15 Plenary discussion: Does Latin America offer a new liberal paradigm for migration and asylum policy-making?

Chaired by Dr David James Cantor (Refugee Law Initiative)

Additional participation by diplomatic representatives of Latin American States

18.15 – 18.20 Closing words and thanks from the convenors

From 18.20 Informal drinks locally

ANNEX 2: Participants' List

Speakers and Chairs

1. Linda Newson (Director, Institute for the Study of the Americas)
2. David James Cantor (Director, Refugee Law Initiative)
3. Jean-Pierre Gauci (Kings College London)
4. Maxine Molyneux (University College London)
5. Marcia Bebiano (Migration and Development Program, OAS)
6. Ana Margheritis (University of Florida)
7. Ana Durán (Senior Regional Advisor, International Organization for Migration)
8. Ainhoa Montoya (Institute for the Study of the Americas)
9. Beatriz Sánchez Mojica (Universidad de los Andes, Colombia; Co-Director, Latin American network on Migration)
10. Luisa Feline Freier (London School of Economics)
11. José Luis Rocha (Jesuit Service for Refugees and Migrants, Nicaragua)
12. Eiko Thielemann (London School of Economics)
13. José Fischel de Andrade (University of Milan, Italy)
14. Andrea Pacheco Pacifico (State University of Paraíba, Brazil)
15. Erika Pires Ramos (International Law Center, Sao Paulo, Brazil)
16. Jasmine Gideon (Birkbeck College London)
17. Pablo Ceriani Cernadas (Universidad Nacional de Lanús, Argentina)
18. Diana Trimiño (Refugee Law Initiative)
19. Karina Sarmiento (Asylum Access Ecuador)
20. Nicolas Rodríguez Serna (Refugee Law Initiative)

Other Delegates:

1. Alejandro Estivill
2. Alex Cruz
3. Alfred Woeger
4. Ana Macouzet
5. Anita Ogurlu

6. Beatriz Alfaro
7. Belinda Brown
8. Beth Fernandez
9. Brendan Quail
10. Carolyn Williams
11. Catherine Maclay
12. Chiara Liguori
13. Christina Soper
14. Christopher Dorey
15. Eliane Strogurski
16. Elizabeth Connely
17. Gabriela Urrutia
18. Gina Rico
19. Giuliana Doloriert S
20. Hailu Hagos
21. Harriet Gray
22. Helia Lopez Z
23. James Enoch
24. Juliana Salgado Vega
25. Larissa van Es
26. Laura Stacey
27. Lindsay McQueen
28. Manuel Padilla Behar
29. Margherita Blandini
30. Maria Quintero
31. Maria Valles
32. Marie-Benedicte Dembour
33. Matthew Klein
34. Matthew Scott
35. Megan Ryburn
36. Mehrunnisa Yusuf
37. Melanie Rowland
38. Nicholas Maple
39. Pauline Pedexes

40. Philip Baker
41. Roger King
42. Rosie Doyle
43. Rupert Knox
44. Sebastian Ramirez
45. Serena Gonfiantini
46. Sherif Elsayed-Ali
47. Siegi Mandelbaun
48. Simca Theresa Simpson
49. Simone Toji
50. Stefania Barichello
51. Stephen Fox
52. Susanne Melde
53. Tanja Bastia
54. Themba Lewis
55. Vibeke Andersson