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Publication Date

2017

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The Bureaucratic Politics of Legal Reform: Chile as an Exceptional Case

By

Mayra Feddersen Martinez

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Jurisprudence & Social Policy

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Calvin Morrill, Chair

Professor Rachel Stern

Professor Irene Bloemraad

Fall 2017

Abstract

The Bureaucratic Politics of Legal Reform: Chile as an Exceptional Case

By

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Doctor of Philosophy in Jurisprudence & Social Policy

University of California, Berkeley

Professor Calvin Morrill, Chair

This study is intended to gain a better understanding of the process of law-making in a presidentially-centric governmental structure, where the president holds legislative prerogatives. When a president retains and controls legislative priorities, participation in the making of laws is restricted to those actors who are close to the president or who hold positions of authority inside the executive. And in either case, to those whom they consult or invite to contribute, at their discretion.

Despite pervasive regional reform of immigration laws and policies in South America, Chile continues to regulate its own immigration with a statute that dates back to the now-discredited military junta of the 1970s and 1980s. This lack of reform in immigration law by Chile is puzzling considering Chilean reform and participation in a variety of other legal reforms which strengthened the country's free trade, human rights commitments, strong civil society, and liberal political order.

Unlike what has happened in the liberal democracies of the North, immigration policies in Chile have emerged out of bureaucrats' understandings about the role of the government in the management of immigration and their relative positions of authority and informal social connections inside the governmental structure. More specifically, high-ranking officials desire to maintain control over immigration law and policy, together with their hierarchical position inside the bureaucracy, have restricted mid-level bureaucrats' attempts for comprehensive legal change at the presidential level. Change has occurred from the middle-out instead of the top-down. In the day-to-day implementation of policies, mid-level bureaucrats have created a reservoir of administrative practices, modifying the status quo and limiting top-officials' reformist actions.

The study builds on an in-depth, ethnographic case study of immigration policies in Chile developed between 2014 and 2016 during which time I spent twelve months acting as an active policy advisor to the Head of the Department of Immigration. I complemented my participant observation with 71 in-depth, semi-structured interviews with central and local public officials, congressional representatives, international organizations, pro-immigrants' organizations, public interest lawyers, academics, and representatives from Chilean economic guilds. I further supplemented my fieldwork with evidence from official policy and legal documents and other secondary data.

To my parents, Patricia and Axel
Whose support was always unconditional

To my husband and daughter, Felipe and Leonor
Who gave me the strength and energy to overcome the dark days

Acknowledgments

First and foremost, I would like to thank all the people who made this dissertation possible. For those who believed in me when the project was still a set of ideas, for those who pushed me into making this an extensive research project, and for those who offered insightful comments throughout the different phases of the research, data collection, and data analysis. I am deeply grateful to all of you!

I am especially thankful to my dissertation committee, in particular to my dissertation Chair, Prof. Calvin Morrill, who spent countless hours reading through my notes and early drafts. I also want to thank his patience and wisdom in guiding me through this long process. I am also grateful to Prof. Irene Bloemraad's early interest in my research and for her sharp observations about my field notes and early versions of the dissertation chapters. I also want to thank Prof. Rachel Stern for her perceptive comments about the challenges of pursuing this type of field research and her intelligent suggestions about how best to conduct myself during my prolonged immersion.

I am grateful to Prof. Cybelle Fox and to the graduate members of the Berkeley Interdisciplinary Immigration Workshop, in particular to Robin Savinar, Christian Philips, Dani Carillo, Vasanthi Venkatesh, Esther Yoaana Cho and Joy Milligan who provided comments on different portions of my research and who saw me grow as a social science scholar. I am very grateful to the Workshop and especially to the support group which emerged out of it and which was central during the early stages of my writing. In addition, I want to thank Gabriela Hilliger, Carolina Muñoz, Juan Pablo Carvallo, Marco Pfeiffer, Patricio Dominguez, Juan Pablo Atal and Miguel Ordenes of the Chilean Student Association for patiently listening to my ideas and for facilitating a place to present my work.

I would like to express my deepest gratitude to my family who have remained a permanent source of emotional and economic support, without which I would not have been able to go through all this process. In particular, I want to thank my husband and friend, Felipe Castro, for believing in me and always pushing me to improve. A special thanks to David Kessler who encouraged me to swim twice a week and who later became an insightful and reliable editor of my work.

Lastly, but definitely not least, I am grateful to my study respondents and informants: thank you for trusting me, sparing the time to respond to my inquiries and opening up your hearts and minds to me, but foremost, for sharing your stories, which make up the core of this dissertation.

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Acronyms

AOICH	American Organization of Immigrants
CIM	Catholic Immigrant Service
CMIIN	Christians for Immigrant Integration
CWB	Children Without Borders
IT	Immigrants Together
RADIX	Non-governmental organization aiming at promoting the rights of children and women
RIM	Rights for Immigrants
WFW	Women for Women

Glossary of Terms

ACNUDH	United Nations Human Rights Office of the High Commissioner
CCPR	Human Rights Committee
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination against Women
CERSC	Committee on Economic, Social and Cultural Rights
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of their Families
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
ILO	International Labour Organization
IOM	International Organization for Migration
MCI	Ministerial Committee on Immigration
MCI	Ministry of Culture
MDS	Ministry of Social Development
MERCOSUR	Common Market of the South
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MJHR	Ministry of Justice and Human Rights
ML	Ministry of Labor
NGOs	Non-governmental organization
NIHR	National Institution of Human Rights
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
SACM	South American Conference on Migration
TCI	Technical Committee on Immigration

UN

UNHCR

UNICEF

United Nations

United Nations for the Protection of Refugees

United Nations International Children's Emergency
Fund

INTRODUCTION

The Bureaucratic Politics of Legal Reform: Chile as an Exceptional Case

On the afternoon of March 4, 2016, I received a facetime call from Hugo, the head of the Department of Immigration. Did you read the newspaper? He asked. He told me that he was happy that the immigration law draft was being considered among the government legislative priorities. He was not sure about this before. If the newspaper had printed it, it was enough. He felt pleased. Did you speak to your people at the Budget office? I asked. He replied, “things are good now. It is better not to shake anything.” What would happen if the Minister leaves? I inquired. I read in the newspaper that he had some disagreements with the President. In Hugo’s opinion, his departure should not affect the progress of the immigration project. He concluded, “I feel confident that our draft will move forward independently of what might happen inside the government. In any case, if the Minister leaves, I am on good terms with the Vice-Minister. They are close to us.”

Despite this conversation, on the morning of April 6, 2016, I received another facetime call from Hugo. Worried, he told me that he had been very active because the Minister of Interior was setting aside the immigration draft. The government was re-evaluating its priorities, which meant leaving the immigration project on hold. I had to act, he insisted. Then, he asked for my help. I need a strategy to deal with the Ministry of Foreign Affairs. They want to have a bigger role in the definition of the immigration policy. Then, he came back to his previous point. The Minister of Interior is under the impression that the immigration draft is too favorable for immigrants. Where does he take that from?” he asked. I responded by remarking that his words echoed those of an evaluation that the Minister had solicited from a close external advisor, with whom I had had a chance to talk, back in February 2016. He sought my help. “I have an opportunity to speak to the President tomorrow. Can you prepare a one-page summary of the immigration draft?”

The above anecdote shows that high-ranking officials in Chile appear to be indifferent toward the increasing importance that immigration has assumed for the country since 2000. Furthermore, there seems to be a disconnection between top officials and the mid-level bureaucrats who are actively pursuing an immigration agenda inside the government.

High ranking officials’ reaction is more intriguing if one considers that the majority of South American countries have undergone reforms similar to those being proposed, and to the fact that the country is a regional leader with its free trade policies, increasing human rights commitments, and liberal political order. Modified only by a few minor administrative changes in the last four years, a legal statute that dates back to the now-discredited military junta of the 1970s and 1980s remains on the books and governs Chilean immigration policy.

The country's lack of action in this broader context introduces the central research question and analytical puzzle that animate this dissertation: Why is there not (yet) comprehensive immigration legal reform in Chile paralleling the modernization seen in other South American countries? I argue in this dissertation that the lack of comprehensive immigration reform results from cultural and organizational conflicts that arise in the law-making practices within the executive. These are characteristically between bureaucrats occupying different ranks within the governmental structure.

In a presidentially-centric governmental structure, bureaucratic actors participate in the making of laws. Whereas in liberal democracies, political parties, interests' groups, and governmental representatives openly interact to produce the laws and policies that govern the nation, in Chile, the President's legislative powers dominate both the ways in which laws are made and the actors who are engaged in their production. Before its presentation at Congress, participation in the making of laws is restricted to those governmental actors who are in power, and to those whom they consult or invite to contribute, at their discretion.

Cultural and organizational dynamics are central to understanding how immigration laws and policies are made in Chile. As the introductory excerpt shows, high and mid-level governmental officials negotiate the terms of immigration law in a context characterized by conflicting interests, information gaps, and organizational constraints. In this country, immigration laws and policies arise out of personal understandings about the role of the government in the management of this sensitive topic. Interestingly, these perspectives tend to diverge depending upon the bureaucrat's relative position in the executive hierarchy. The institutional arrangements within the bureaucracy thus themselves spawn divergent and at times contradictory perspectives on immigration reform.

Immigration scholars in North America, Europe, Oceania and South America have not paid enough attention to the role of organizational dynamics in the production of immigration laws and policies. In the North, an exclusive focus on outcomes and on Congressional immigration laws has relegated to the far background the role that mid-level bureaucratic actors play in the production of these statutes (Hampshire 2013, Hollifield, Martin and Orrenius 2014). Furthermore, and with the exceptions of Boswell (2007) and Tichenor (2002), these theories have largely ignored how power relations play out as different governmental actors within states pursue their interests. How they make sense of different immigration statutes or attempt to implement change under the weight of previous policies, bureaucratic constraints, domestic political conflicts and international human rights commitments are questions that are rarely broached together.

In the South, scholars have only begun to look into immigration laws and policies, revealing the existence of a gap between favorable policies on the books but restrictive day-to-day interpretations (Cantor, Freier and Gauci 2015). Nevertheless, these scholars have yet to look into the process of law-making that is taking place in these countries. By looking at how mid-level bureaucrats participate in the law-making processes, this dissertation attempts to shed some light on how laws are being made in countries where the president and the executive continue to control the law-making process. I pursue this endeavor by developing an organizational approach to the study of legal reform.

An Organizational Framing Approach to the Study of Legal Change: Research Questions

The introductory excerpt highlights the cultural and organizational disconnection that exists between high and mid-level government officials around immigration reform. On the one side, there is a new generation of government officials, located at the mezzo level of the governmental structure, who have started to contest the dominant understanding of high ranking officials about the role of the government in the management of immigration. For young career bureaucrats, immigration is perceived as an opportunity for growth and an affirmation of international commitments that arose, most especially, from Chile's participation in human rights conventions. On the other side, high ranking officials have no particular interest in changing the status quo. For these officials, the maintenance of the emergency decree 1094 of 1975 preserves the discretionary power of the state to retain management of immigration policy and limits the role of human rights in the definition of public policies.

Lack of immigration reform is also a consequence of the organizational structure itself. The President and the Minister have the last word on legislative priorities. Their decisions affect not only the progress of the immigration law draft but also impact the role that other sub-units can have in defining immigration law and policy. In our anecdote, it is possible to see how top-ranking officials control influence in the law-making process by effectively dividing authority between the Ministry of Foreign Affairs and the Department of Immigration.

Elucidating conflicts over the interpretation, debate, and contestation of organizational rules and cultural practices becomes key to understanding the process of immigration reform that is taking place in Chile. In this dissertation, I pursue four research sub-questions that address these organizational and cultural dynamics. They are the base of my "organizational framing approach."

The organizational framing approach consists of a two-step endeavor. I use framing theories to understand the bureaucrats' cultural understanding about immigration, paying special attention to both their individual and collective process of meaning-making (chapters 4 and 5). I complement this cultural analysis with a close up look into the Chilean bureaucratic structure. I survey how bureaucrats in the field of immigration employ these frames within their organizational structures. And I look at how this very structure itself influences the decisions they make in the selection and implementation of these frames (chapters 6 and 7). I conclude by suggesting that even though the head of the Department of Immigration was not able to deliver on his promise of introducing his immigration law into Congress, his actions created a reservoir of organizational practices and social expectations for the future. The extent of innovation shows both the extent of and limits to bureaucratic creativity in the middle ranks of the executive.

My four research questions are the following. First, why does concern about national security, which was the principal consideration and focus of the old immigration law, continue to persist even as it comes under increasing criticism and dissatisfaction from multiple groups? "Terrorist threats" have become increasingly paramount to security approaches to immigration in many countries, especially in the Global North. In Chile, a national security orientation to immigration has long been primary, since the 1950s. It continues to be central despite constant criticism, lack of resonance among many stakeholders, and relatively little public discourse about the threat of terrorism.

Second, how is it that despite the gradual inclusion of international human rights law in the state's organizational rhetoric and practices, it has still not led to comprehensive immigration legal reform? Many ministries in the Chilean state are awash in discourse about human rights, and the state has signed on to too many international regimes, all without leading to a significant legal change in the Chilean regulation of immigrants.

Third, why and how, despite their active engagement in the immigration policy discussion, have immigrant organizations not yet secured legal reforms? This third sub-question accents the interplay of external-internal organizational dynamics, especially as an active set of non-governmental organizations champion the rights of immigrants in Chile.

My final sub-question focuses on how the presidentially-centered bureaucracy both enables and constrains government officials' efforts to achieve legal reform from the inside. This question shows the extent and limits of bureaucratic creativity and highlights the important role that organizational practices have in the production of laws and policies in a presidentially-centric governmental structure.

To address these research questions, I conducted extensive qualitative fieldwork among mid- and top-level public officials across multiple Chilean government ministries as they attempted to pursue comprehensive immigration reform from the inside. I observed how different interpretive frames were mobilized, although ultimately conforming to the executive's enduring understanding of immigration law. My fieldwork consisted of: (1) 12 months of participant observation in three ministries, as well as on two joint committees that gathered more than nine ministries and one hundred dependent services and agencies together to work on immigration; (2) 71 in-depth interviews with government officials, congressional representatives, leaders of social movement organizations, business federations, and international organizations, as well as lawyers, and academics. A comprehensive methodological accounting of my fieldwork appears in chapter 3.

My focus on the public administrative politics surrounding legal reform does not negate the roles of other factors that may lie outside the state. Rather, this focus sheds light on an oft-neglected feature of attempts at legal change. It highlights the important moderating effects that administrative power and politics can play in these dynamics. Moreover, given the inherent difficulty in accessing the many different sub-units of the numerous ministries within the government, I took care not to deliberately force my inferences beyond the Department of Immigration and what I was able to perceive from my interactions with a few other agencies and dependent services. Thus, I approached my research questions bearing in mind that they might not account for the entire experience of mid- and top-level government officials under different power configurations and in other areas of law. With these precautions in mind, and before analyzing my findings, I turn to the various contextual factors that have influenced Chilean immigration law and policy over the past few decades.

First, I present a general overview of the governmental structure in which discussions over immigration take place. Second, I describe how the executive has organized itself to provide immigration services. With the bureaucratic organization in mind, I provide a brief overview of the way in which the Chilean government has dealt with immigration in the past up until the promulgation of the emergency decree of 1975. I conclude by reviewing a statistical panorama of the demographics of immigration today. Additional information about the history of immigration

policies and a history of my involvement in the law-making process is included in the appendix to this dissertation.

A Presidentially Centered Governmental Structure

Politically, Chile is a unitary country, organized under a centralized governmental structure with the President at its head.¹ According to the Constitution, the head of the nation is responsible for the government and administration of the country, the maintenance of the public order, and security both inside and outside the country.²

The President has many functions. This dissertation will focus on one, her legislative role. She is granted the power to participate in the formulation, sanctioning, promulgation, and publication of laws.³ The 1980 Constitution gave the President exclusive power to initiate those laws that have consequences on the administration of the state budget, and on laws that propose to change the political and administrative organization of the country.⁴ The 1980 Constitution broadened presidential powers from the 1925 Constitution, which gave exclusive power to the President to participate in laws that impacted the determination of the general budget.

For the governance and administration of the country,⁵ the President acts with the immediate collaboration of her sectorial ministers, and regionally, through her regional mayors and with the help of the provincial governors (Bermudez 2014). According to the law 18.575, the executive government operates under a hierarchical and disciplinary structure.⁶

In her rulemaking functions, the President and her administration are responsible for executing the laws approved by Congress through general regulations (and exceptionally with the consent of Congress when it touches on law-related issues).⁷ The Presidency and her administration can also enact particular rules to solve concrete cases and issue instructions to achieve a better application of laws and its policies. Besides these prerogatives, the administration can enter into bilateral agreements with private parties, by signing administrative contracts (Bermudez 2014).

The contemporary political regime of Chile had its origins in a U.S. backed military coup that swept the elected socialist president, Salvador Allende, from power in 1973. The then military Commander-in-Chief, General Augusto Pinochet, replaced him. Pinochet ruled Chile until he was finally replaced by a democratically elected president in 1990. From 1973 to 1989 democratic elections were suspended. Before relinquishing power, Pinochet initiated several structural reforms, including approving a Constitution that reinforced Presidential prerogatives,

¹ Political Constitution 1980, article 4, 6 and article 1 law 18.575 of 2000.

² Political Constitution 1980, article 24.

³ **Political Constitution 1980, article 32.1.** The President can also assemble the Congress into extraordinary session; declare war with the consent

³ Political Constitution 1980, article 32.1. The President can also assemble the Congress into extraordinary session; declare war with the consent of the Security Council; declare a state of emergency; be the Commander in Chief in case of war; conduct foreign relations; negotiate and sign treaties; appoint and remove ministers, vice-ministers, regional and provincial delegates, ambassadors, the Chief Comptroller, and the National Prosecutor at will; with the consent of the Supreme Court, appoint higher courts judges (i.e. Supreme and Appellate Courts), and with the consent of the Senate, appoint Constitutional Court judges.

⁴ Political Constitution, article 65.

⁵ According to the Law 18.575, article 1, sectorial ministries, the regional mayor, the provincial governor, and the public services created for the performance of public functions, together with the General Comptroller, the Central Bank, the Army and the Security Forces, the Regional and Local Governments, and the public companies, constitutes the administration.

⁶ Law 18.575 of 2000, article 7.

⁷ In the exercise of its rulemaking power, there is discussion whether the administration is limited to executing the laws that Congress has approved or whether it can also develop and complement Congressional statutes. Carmona, Carlos (1998-99), *Tendencias del Tribunal Constitucional*, *Revista de Derecho Público*, Vol. 51, pp. 181-193. Carmona, Carlos (2001), *Un nuevo estadio en la relación Ley-Reglamento: el ámbito del Reglamento*, *Revista de Derecho Público*, Vol. 63, pp. 155-191.

as we have just noted. It also established the principles of “economic freedom” and “individual liberty.” It also bestowed upon the military a tutelary role over the political system (Sehnbruch and Siavelis 2014).

Although the Chilean political system has been formally democratic since 1990, featuring regular popular elections of municipal, regional, and national officials, including the president and members of Congress, Chile has multiple legacies inherited from the Pinochet regime. Chief among these is a strong central executive, which has more formal authority than the Congress, as explained above. Other legacies include layers of authoritarian constraints in the Constitution, and policies that limit popular political participation (via either political parties or other means.) It enshrines sociocultural authoritarian attitudes that value a “strong” state and military. It also leaves unresolved the egregious human rights violations by the previous regime (for a general discussion of post-authoritarian legacies in Chile, see Garretón 2003).

In recent years, the Chilean government has engaged in multiple reforms designed to move the nation further away from these authoritarian legacies. In 2005, for example, the Congress modified the 1980 Pinochet Constitution to reduce military power over the democratic system. Specifically, Congress abolished “designated” senators (by the Military Defense Council, the President or the Supreme Court), increased Congressional investigatory power and enlarged the authority of the President over military appointments (Sehnbruch and Siavelis 2014). However, Congress could not reach consensus about how to amplify civil rights, temper neo-liberal economic policies and equalize the distribution of power between the President and Congress (Morgenstern, Polga-Hecimovich and Siavelis 2014).

Garretón (2003) argues that the Chilean political democratization was successful insofar as it forced out the dictatorship, prevented the breakdown of society by controlling economic variables, and ensured free elections to form a government made up of a majoritarian democratic coalition. However, the results of this transition did not mean that the political regime and society achieved full democracy. On the contrary, Chile has a “low-quality” democracy with institutional weakness due to both to the continuing presence of de facto right-wing opposition (i.e., Pinochet-leaning political minorities) and participatory weakness due to a lack of popular representation in political positions (i.e., the congressional appointment system).

Inside the administration, the law 19.880 of 2003 established a procedure for making decisions, consisting of three consecutive stages: initiation, study, and conclusion. According to this law, before making a determination, the administrative agency or the central government can collect opinions from the public. Nevertheless, executive agencies seldom invite civil society to participate at this stage of the decision-making process (Bermudez 2014).

In the last decade, the government has engaged in renewed efforts to augment its accountability to the public as it performs its rulemaking functions. On August 20, 2008, the President published the Public Information Act (law 20.285), making available to the public all actions, resolutions, and procedures originating from the administration. On February 16, 2011, law 20.500, which established the participation of legally constituted collective organizations in the governmental decision-making process, was published. Finally, on March 3, 2014, the President promulgated Chile’s first law regulating lobbyists (law 20.730). Despite these new statutes, a representative from an NGO who has specialized in the application of these new regulations notes their shortcomings. He noted the lack of an enforcement mechanism to force the authority to constitute civil society councils and to provide reasons when denying audiences

to individuals or organizations. The lack of coercive mechanisms has limited the practical effect of these laws in fortifying Chilean democracy.⁸

Aside from these recent laws, and the oversight of the Comptroller Office, which oversees the legality of governmental behavior and expenditures,⁹ there are few other formal mechanisms to make the executive accountable when it makes decisions and indulges in its rulemaking prerogatives. In sum, before laws are made, and regulations are published, the government primarily operates behind closed doors. This dissertation attempts to shed some light on this process.

The Executive's Role in the Definition of Chile's Immigration Policy

In 1975, the military junta enacted emergency decree 1094, which established the norms that still regulate the entry, exit, and settlement of immigrants. According to its precepts, the regulation of immigration is divided. The Ministry of Interior regulates affairs inside the country and the Ministry of Foreign Affairs beyond its borders. The emergency decree transferred the immigration authority within Chile, previously bestowed upon the Ministry of Foreign Affairs, to the Ministry of Interior and Public Security.

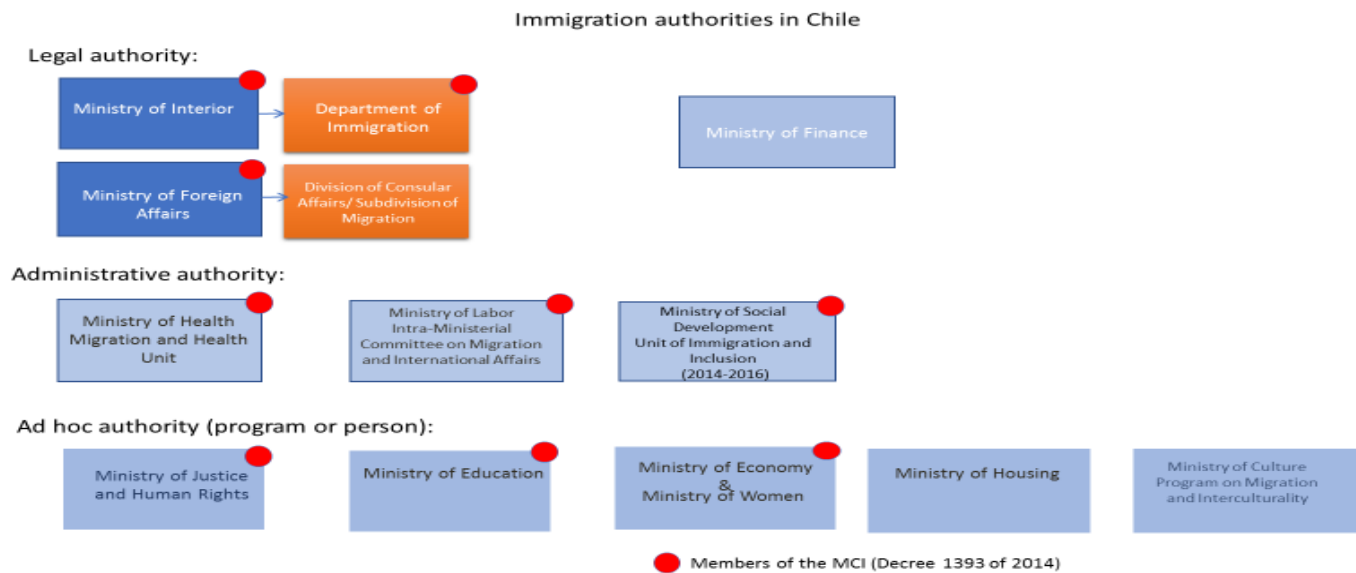
The following chart illustrates the way in which the different sub-units of the executive government are organized to provide immigration services. On the top level, there are those ministries whose authority emerges from a law, in this case, the emergency decree, and exceptionally the DFL 69 of 1953.¹⁰ Below, there are ministries whose action emerged from an administrative regulation. At the bottom rung, there are ministries that have created budget programs or appointed a person to deal with immigration on an ad hoc basis. I identified with a red dot those ministries that participated in the Ministerial Committee on Immigration following the Supreme Decree 1393 of 2014. It is important to mention that the Ministry of Finance is located to the side because its interests relate to the general administration of the budget and it touches on immigration as part of these general functions.

⁸ Multitudes Foundation, Real Condition of Civil Society Councils, February 16, 2016, available at <http://fundacionmultitudes.org/multitudes-al-menos-145-ignoran-instancia-ciudadana/> (accessed on March 20, 2017)

⁹ Political Constitution 1980, article 98 and 99.

¹⁰ A DFL is a regulation issued by the President on a legal subject with the previous consent of Congress. The Constitution establishes the limits of this Congressional delegation. Political Constitution, Article 64 and 32.3. For more information, refer to Bermudez (2014:72-73).

Chart 1. Immigration Authorities in Chile



Source: Emergency Decree 1094, DFL 69 of 1953, Supreme Decree 1393 of 2014, ethnographic notes and interviews.

According to Law 20.502, the Ministry of Interior is in charge of the internal administration of the country, and in particular of maintaining order, keeping the peace, and ensuring the safety and security of the nation (Law 20.502 of 2011). Since 1975, the Department of Immigration has operated within the Ministry of Interior and Public Security, occupying the lowest position within the bureaucratic structure of that institution.

According to article 91 of the emergency decree the Department of Immigration's main responsibilities are: a) coordinating the different administrative agencies inside the executive government, i.e., regional and provincial governments, consular offices through the Ministry of Foreign Affairs, and the General Direction of Police, for the enforcement of immigration law; b) formulating amendments to immigration policy; c) implementing international treaties related to immigration; d) maintaining relationships with other nation-states for the sharing and exchanging of information; e) providing information and assistance to civil society actors involved in migration issues; and f) coordinating with other state actors in their integration efforts (CMW/C/SR.170 2010).

The emergency decree 1094 allocated the internal management of immigration in the Ministry of Interior, and the external regulation of the issue to the Ministry of Foreign Affairs. According to article 6 of the emergency decree, the Ministry of Foreign Affairs (MFA) has the sole responsibility of issuing visas outside of the country. It is important to note that the emergency decree failed to eliminate the DFL 69. The DFL 69 of 1953 had previously created an Immigration Department within the Ministry of Foreign Affairs. According to article 1 (a) of the 521 decree, which complemented DFL 69, "the Department of Immigration will propose and deal with every necessary and appropriate immigration initiative aiming at increasing the productive, technical and spiritual capacity of the nation."

The rest of the sectorial Ministries were not directly considered in the emergency decree. Social ministers have filled the legal vacuum about their role by arguing that they have to provide services to every inhabitant in the country, regardless of their legal status, thus including immigrants. Also, the Presidential Instruction No. 9 of 2008 and the Presidential Instruction No. 5 of 2015 required ministerial offices to become involved in this topic. These circumstances, together with the rising number of immigrants, have pushed social ministers into seeking de facto a more active role in immigration issues.

The above-mentioned legal loophole has generally been filled through administrative rules. Involvement has on occasion arisen on ad hoc basis, usually dealt with through the appointment of a person to represent a Ministry. Given the widespread lack of formal structure, it is difficult to provide a clear and consistent administrative outline. Most of my information comes from my ethnography and the interviews I conducted. I proceed to give a few examples of how different sub-units inside social ministries have created a range of formal-informal institutions to deal with immigration issues.

In 2007, the Ministry of Health (MH) signed an agreement with the Vice-Ministry of Interior, formalized in the Exempt Decree N° 512, which provided access to health care to undocumented pregnant women and children. In June 2008, through the ordinary Decree A-14 N° 3229, the Ministry distributed copies of the Exempt Decree to every public health provider in the country. During 2010-2014 the unit in charge of implementing the Exempt Decree was terminated, ending all actual service provision. For the Minister during that administration, immigration was not a priority, and therefore no resources needed to be allocated for serving immigrants. When Bachelet came into office in 2014, the Ministry of Health reinstituted its immigration unit by designating an official inside the Ministerial cabinet to work on these issues. In 2016, the Ministry of Health formalized this arrangement by creating the “Migration and Health Unit.” (Cecilia, 47 years old, government official, business major, September 2015)

In 2014, the Ministry of Social Development (MDS) inaugurated its immigration unit. This office operated under the supervision of the Vice-Minister of Social Services. It functioned from 2014 through March 2016. The Minister had no official position regarding immigration. The unit was mainly concerned with the operation of a specific program. However, this process was halted after the head of the unit, and afterward her replacement, was let go (Jaime, 62 years old, Ministry of Social Development, Sociologist, Chilean, September and November 2016).

On May 16, 2016, the Ministry of Labor (ML) created the Intra-Ministerial Committee on Migration and International Affairs. This office was responsible for coordinating the topic of immigration and other international subjects within the Ministry. As Ulises, a lawyer and government official noted in a conversation, before this date Ministerial advisors handled this topic on an ad hoc basis. Similarly, during 2015, Juan Cristobal, an official in the Ministry of Culture (MC), noted that the Ministry of Culture (MC) had assigned a small portion of its budget to create a program on migration and interculturality (Juan Cristobal, 33 years old, Ministry of Culture, Anthropology, Chilean, September 2015).

None of the other social ministries created a specialized unit. After the constitution of the Technical Committee on Immigration (TCI) on January 2015, some ministries nominated a person to attend TCI meetings and participate on an ad hoc basis. For example, Julian, a lawyer who worked as an analyst in the Human Rights division, told me in an interview that he represented the Ministry of Justice and Human Rights to the TCI. In December 2014, the

Ministry of Education created a coordination unit within the Division of General Education. A psychologist who worked in this unit, José Pedro, noted in an interview with me that he represented the Ministry at the TCI meetings. The same was the case for representatives of the Ministries of Economy, Housing, and Women.

In Chile, there are a variety of sub-units working on the issue of immigration. Nevertheless, except from the Department of Immigration and the units inside the Ministry of Foreign Affairs, these organizations lack official status. Most of the sub-units performing functions on the issue operate under fragile administrative resolutions or as a result of the personal convictions of the Minister in office. Is this erratic treatment of immigration an historical pattern?

Immigration Policies in Chile

Chile has never been a traditional immigration destination. Chile's geographical isolation along with various political, economic and cultural factors have generated historically low levels of immigration compared to Venezuela, Costa Rica, Argentina, and Mexico (Cano, Soffia and Martinez 2009). Notwithstanding its low immigration numbers, immigration has had a strong impact on the economic, political and social development of the country (Norambuena 1998; Stefoni 2001).

Like other South American countries, between 1800 and 1950s, Chilean governments welcomed and actively promoted immigration. They did so seeking to stimulate the economic development of the country (Freier and Acosta 2015). Between 1838 and 1889, immigration was conceived of as an economic matter, an opportunity to encourage national progress. The National Society of Agriculture (1838) and the Chilean Federation of Industries (1883) were responsible for the organization and reception of immigrants arriving in Chile. The General Immigration Office (1872) and later the Land and Colonization Office (1889) signed colonization contracts with selected immigrants.

Immigration regulations were designed to encourage foreign labor and the settlement of workers. For example, the Act of 1824 established tax exemptions and dispensation from military duties for immigrants who would install hemp, linen, and copper factories using local materials and indigenous workers. From 1886 until 1915, several laws and executive decrees offered land ownership titles and tax exemptions to immigrants willing to settle in the recently annexed Mapuche territory or in the distant reaches of extreme southern Chile (Lara 2014).

Nevertheless, these early 'open door' policies were often intertwined with a racist ideology, which favored immigration from European countries above migrants coming from neighboring countries (Scott Fitzgerald and Cook-Martin 2014). For instance, the 1824 Act, and subsequent laws (1845, 1851, 1856) echoed the prevailing belief that European immigrants would bring development and teach nationals the value of hard work and domestic order (Lara 2014).

Slowly, the different governments in power shifted emphasis from encouraging development to controlling the flow of people crossing the border. From 1915 to 1954, Congress consistently adopted policies, which benefited some nationalities but restricted the entrance and residency of undesirable individuals. In 1953, the President, with the authorization of Congress, enacted DFL 69 that required immigrants seeking to enter Chile to take an oath swearing to

respect Chilean laws. They were also required to carry with them at all times an “immigration card” containing all their personal information.

Successive regulations required information about past work and criminal history, as well as to the moral and physical fitness to enter the country (Lara 2014). For example, in 1959, Congress enacted law number 13.353 empowering authorities to perform documents checks and allowing for the transport of immigrants who had failed to pass immigration controls to a designated territory pending either approval to enter or expulsion from the country. Despite these increasing internal controls, the administration of immigration remained under the purview of the Ministry of Foreign Affairs.

In spite of the state’s efforts to induce migration from Europe, spontaneous immigration from neighboring countries remained the main source of immigration flows between 1800 and 1950. In the 1970s and 1980s, however, dictatorial governments and military juntas came to power in the majority of Latin American countries. These regimes commonly tried to limit population movement as a means of political control (Freier and Acosta 2015).

Tighter legislation in Chile mirrored similar legislation throughout South America. In 1975, the Military Junta in Chile enacted the emergency decree 1094, establishing norms that still regulate the entry, exit, and settlement of immigrants. As noted, the junta transferred authority from the Ministry of Foreign Affairs to the Ministry of Interior, which became solely responsible for the management of immigration within the country.

This new power vested in the Ministry of Interior shifted the government’s focus from a foreign policy concern to a domestic issue to be handled by the Ministry in charge of public security. Notwithstanding this formal shift in responsibility, the Pinochet legislation did not substantially alter the prevailing philosophy. In many of its provisions, the emergency decree is identical to the law 13.533 and its complementary decree (decree 5.021 of 1959). For example, all the inadmissibility and non-eligibility criteria are the same. Also, the extension of police control is the same in both regulations. Aside from the shift of authority to the powerful Ministry of Interior, the main difference lay in the sanctions that the emergency decree imposed on illegal border crossing. The 1959 regulation established a penalty range from 61 to 301 days of prison (less than a year) whereas the 1984 regulation augmented the range to 302 to 540 days of prison (a year and a half).

Beginning in the 1990s and more intensely in the 2000s, the reduction of poverty and the amelioration of economic and political conditions in South America, especially in Chile, began to attract an increasing number of new immigrants. At the same time, more restrictive immigration laws in the U.S. and Europe discouraged many immigrants from selecting these more traditional destinations. These factors have contributed to the development of new migratory dynamics, which have favored the Southern cone. Argentina, Venezuela, Brazil, Chile, and Uruguay have attracted the majority of these new immigrants (IOM, Migratory Profile, 2012).

Responding to these changed conditions, Argentina, Bolivia, Ecuador, Colombia, Costa Rica, and Uruguay have all enacted new immigration legislation since 2003. They have modified their immigration laws to include recognition of individual rights and freedoms (Fourrat 2014; Freier and Acosta 2015; Sanchez 2015). Cantor, Freier and Gauci (2015) argue that immigration laws and policies in South America reflect a pronounced “liberal tide” that resonates with the

new democratic traditions and liberal-legal orders that have emerged in the wake of formerly authoritarian regimes in these nations.

Chile is the exceptional case in this regional scenario. Despite Chile's free trade policies, increasing human rights commitments, twenty-five-year history of democratic elections and its liberal-legal order, the country continues to manage immigration with a 1975 Pinochet-era statute. This situation is even more intriguing when one considers that the current organizational structure has been widely criticized for an inability to deal effectively with the increasing numbers of newcomers. In fact, immigration flows have skyrocketed, as I will now document.

Contemporary Immigration Panorama

In Chile, there are two main sources of information about the number of immigrants residing in the territory. The Census data from 2002 (the census of 2012 was declared invalid) and the administrative registers of the Department of Immigration. The yearly National Socio-Economic Characterization Survey (CASEN) provides complementary information about the socioeconomic characteristics of the Chilean population. However, only immigrants who at the time of the Survey were residing in Chile are included in the measurement.

In 2017 President Michelle Bachelet ordered a new census to solve the methodological problems that emerged from the 2012 Census. As a result, the last available estimates about the stock of immigrants in Chile date all the way back from 2002. According to the Cano, Soffia and Martinez (2009), the low number of immigrants that characterized the period between 1970-1989 started to change in the 1990s when immigrants increasingly selected Chile as a destination. In 2002, there were a total of 184,464 immigrants, corresponding to 1.9% of the total population of the country. Interestingly, 68% were coming from neighboring countries, i.e., Argentina, Peru, Bolivia and Ecuador. Also, females slightly outnumbered male immigrants, and the majority of immigrants were relatively older, concentrated at or above 15 years of age.

After 2002 we know that the number of immigrants has continued to rise. The Department of Immigration calculates the total number of immigrants from the total number of permanent visa applications granted each year, adding this number to the total stock of immigrants who were present at the time of the 2002 census. The result of this calculation shows a steady increase in the flow of immigrants relative to the total national population. The percentage of immigrants in Chile rose. Initially, it was 1.2% in 2002, it increased to 1.3% in 2005, 1.8% in 2010 and to 2.3 % in 2014. Although there are methodological limitations in the way in which this result is calculated, as can be seen by Cano, Soffia, and Martinez (2009) who offer higher estimate rates for 2002, the administrative approximation describes a similar overall trend to the one identified by other researchers.

In 2014, the Department of Immigration estimated that there were approximately 411,000 permanent immigrant residents and 137,375 temporary immigrant residents. From 2014 to 2015, the number of permanent residents has increased by 36% and the temporary residents by 21% (Rojas and Silva 2016). Similar to the figures noted by Cano, Soffia and Martinez (2009), in 2014 74.9% of immigrants came from other South American countries, i.e., Peru, Argentina, Bolivia, Colombia, and Ecuador. Furthermore, in 2014, women continued to constitute a higher percentage of immigrants than males, 52.6% compared to 47.4%. Older immigrants again predominate. 65.5% of the total number of visa applications were submitted by immigrants between the ages of 20 to 50 years old (Rojas and Silva 2016).

Despite this steady increase, compared to the total population of Chile immigrants still represent only 2.3% of the population. According to the International Organization for Migration (IOM), Chile is still positioned behind Argentina as a destination country (IOM 2012), although the number of immigrants entering the country has risen steadily since 1990, and doubled since 2002.

The chart below shows the percentage of foreign-born population in relation to the total population present in Chile from 1854 until 2015, based on estimates by the Department of Immigration. The numbers demonstrate that Chile remains a country with a low percentage of immigrants compared to the total population of the country.

Chart 2. Foreign-Born Population in Chile, Percentage from the Total Population

Year	Total population	Foreign-born population	Percentage of the total population
1854	1.439.120	19.669	1.37
1865	1.819.223	21.982	1.21
1875	2.075.971	25.199	1.21
1885	2.507.005	87.077	3.47
1895	2.695.625	79.056	2.93
1907	3.231.496	132.312	4.09
1920	3.731.593	114.117	3.06
1930	4.287.445	105.463	2.46
1940	5.023.539	107.273	2.14
1952	5.932.995	103.878	1.75
1960	7.374.115	104.685	1.42
1970	8.884.768	90.441	1.02
1982	11.275.440	84.345	0.75
1992	13.348.401	114.597	0.86
2002	15.116.435	193.320	1.28
2005(*)	16.267.278	212.935	1.31
2010(*)	17.094.275	305.212	1.79
2014(*)	17.711.004	410.988	2.32

Source: Cano, Soffia and Martinez (2009) used estimates from the Census Bureau, and Rojas and Silva (2016) used estimations from the Department of Immigration to calculate the number of foreign-born nationals in 2005, 2010 and 2014.

Structure of the dissertation

The body of the dissertation is structured in the following manner: Chapter 2 reviews the literature and introduces the theoretical frame with which this study is conducted. Chapter 3 elaborates on my field methods, including access, sampling, data collection, constraints in the field, and strategies of analysis. Chapter 4 addresses my first sub-question by analyzing the primary frames that have been deployed to support immigration reform in Chile. I ask why, despite being subject to widespread criticism and characterized by conceptual opacity, the security frame continues to dominate discussion about immigration reform? Chapter 5 focuses on my second sub-question, inspecting how mid-level officials have incorporated international human rights frames into their organizational practices. It does this in the context of their inability to catalyze comprehensive immigration reform at the top. Chapter 6 concentrates on my third sub-question. It shows how the relationships that immigrant organizations have established with mid-level officials have produced changes in the implementation of policies. But it also reveals that this relationship has, rather ironically, limited their ability to push for comprehensive immigration reform at the highest levels of the executive. Chapter 7 addresses my fourth sub-question by exploring how the institutional configuration of the Chilean government has limited the ways in which change can be achieved inside the executive. Finally, Chapter 8 concludes the dissertation. I assess the extent of (and the limits to) bureaucratic creativity. I discuss finally the possibility of securing important change from the middle and high levels of the bureaucratic structure.

CHAPTER TWO

The Politics of Immigration: An Organizational Framing Approach

This literature review attempts to bring together theories on framing and on bureaucratic change to determine the factors underlying Chile's lack of comprehensive immigration reform. In spite of Chile's active participation in global markets and human rights regimes, and the recent uptick in immigration flows, the country continues to regulate immigration with a 1975 statute, a holdover from another era. Furthermore, discussion about immigration reform is primarily limited to the ranks of the executive, which is essentially in control of the timing, content, and pace of progress for any statutory reform.

I argue in this dissertation that legal inertia concerning immigration is the result of both cultural and bureaucratic factors. In a presidentially-centric bureaucratic structure, such as Chile, both top and middle-level bureaucrats have significant power to define the terms and content of immigration reform. The personal and institutional views of officials at many points in the administration concerning the management of immigration and of the role of the government in this process have strongly influenced both the formulation of immigration laws and implementation of these policies. Nevertheless, it is their relative position within the bureaucracy that in practice determines the kinds of frames they deploy, and finally, how effective they are in incorporating desired changes into actual reforms of immigration law.

My organizational framing perspective is especially useful for understanding law-making in a presidentially-centered bureaucratic structure. In such a system the executive has a particularly robust control over law and policy. Law-making remains almost exclusively within the purview of the executive (Garretón 2003; Siavelis 2014). Such bureaucracies are especially important in many post-authoritarian states, for it is in and through such complex organizations that law is typically formulated and policy determined. Legislatures and civil society tend to play an ancillary role. (O'Donnell 1978; Robinson 1988; Avritzer 1995; Garretón 2003).

My organizational framing approach consists of a two-step analysis. First, I use framing theories to analyze bureaucrats' cultural conceptions about immigration. I pay special attention to bureaucrats' individual and collective processes of meaning-making (chapters 4 and 5). Second, I complement my cultural review with a close-up, immersive look at the Chilean bureaucratic structure. I survey how bureaucrats in the field of immigration employ these frames within their organizational structures, and how this very structure influences the decisions they make in the selection and implementation of these frames (chapters 6 and 7).

The organizational framing approach explains the role that mid-level bureaucratic actors played in the formulation of Chile's immigration law. My approach differs from the politics of immigration literature, which has only produced a rich account of the law and policy-making dynamics that have taken place in the liberal democracies of Europe, North America, and Oceania. I depart from these theories by suggesting a different configuration of actors and interests. Unlike the countries of the North, in Chile immigration is largely dealt with at the executive level. This has produced a different arrangement of actors and a diverse set of interests.

I complement recent developments in collective action framing theory by applying it to a new empirical context, and most saliently, by using it in coordination with organizational

theories about power and structure. Using both framing and organizational theories, I am able to provide a more realistic portrayal of the operation of the bureaucracy and of the configuration of the state. Not only do bureaucrats employ their cultural understandings about immigration, they do so by acting in accordance with the position in which they are located, which largely determines their motivations, their actions, and, ultimately, the results. From this novel perspective, I also contribute to the politics of immigration literature. This literature has yet to provide a vision of the state that accounts for the different sub-units that operate inside governments and the organizational dynamics that shape the making of immigration laws and policies.

Lastly, this dissertation contributes to bureaucratic theories by underscoring the creative capacity of mid-level bureaucrats during the formulation and implementation of immigration policies and laws. Despite mid-level officials' lack of success in securing comprehensive immigration reform in Chile, their actions have created a repository of social expectations and administrative experiences that will certainly help shape future reformist actions. Additionally, this dissertation adds to the available literature on bureaucracies, which has focused almost exclusively on high ranking officials and front-line bureaucrats, ignoring how mid-level officials also participate in the creation of law.

I start this literature review by examining how liberal states in North America, Europe and Oceania have been dealing with immigration legal reform in the last century. By looking at the wide array of laws and policies that have been enacted and implemented in liberal democracies, I can identify the principal actors who have participated in these processes. Also, I can explore the diversity of voices that exist among these actors, and in particular, how these voices or interests have been translated into specific laws and policies. This initial endeavor sets the background for studying immigration laws and policies in a presidentially-centric governmental structure.

The rest of the literature review presents the theoretical framework that I used to study how mid-level bureaucrats navigated the bureaucracy to reform immigration law. As I stated previously, the organizational framing approach is a two-step process consisting of an analysis of frames and of organizational practices. I explain each of these theories and how they are useful for understanding the way in which change can transpire in a presidentially centered governmental structure.

Immigration Laws and Policies in Liberal Democracies

Liberal democracies experience multiple tensions in managing international migration within and across their borders. Major receiving countries in North America, Europe and Oceania, for example, struggle to uphold the legitimacy of their liberal-legal order while simultaneously controlling migration flows coupled with demands for migrant rights and citizenship. As capitalist economies, these countries confront tensions while sustaining healthy economies in the face of changing demographics and global markets that rely on labor supplies from less developed countries. Yet other tensions arise with regard to policies that provide both de facto access and formal barriers for immigrants in regard to public institutions and services, such as hospitals or schools. These tensions all underscore fundamental differences in ideologies of state- and personhood and can lead to hostile attitudes from host citizens toward immigrant populations. Such dynamics have created intense political conflicts, often leading to

contradictory policy regimes restricting immigration flows on the one hand, and facilitating accessibility on the other (Hollifield, Martin and Orrenius 2014).

In liberal democracies, such as the ones described above, immigration laws and policies are a result of the interplay of these myriad interests. In this context, for example, legislators responsible for enacting immigration laws and agencies charged with enforcing immigration policies learn how to live with -and balance- seemingly contradictory policies. How a specific system actually functions is contingent upon the constellation of actors and ideologies prevailing at any specific historical moment.

States go from cycles of inclusionary to exclusionary policies depending on how actors mobilize immigrant-claims and how able they are to penetrate the institutions of the government with their discourses and frames (Hampshire 2013). Therefore, studying who these actors are, what claims they have, and how they mobilize their interests is essential for understanding how liberal democracies produce immigration laws and policies. I proceed with this analysis.

Anxieties over immigration have fueled citizen perceptions and provided resources for the growth of an anti-immigrant sentiment. Survey data in European and North American countries have demonstrated that opposition to immigration is a persistent feature of public opinion (De Genova 2004; Lucassen 2006; Zolberg 2006; Hampshire 2013).

The threat of immigration has tended to be articulated in four dimensions: cultural, religious, security, and economic. In both the cultural and religious frames, immigration is perceived as a threat to the traditions of the nation. Posting a threat to national identity is the most powerful discourse that anti-immigrant actors can use because it taps into people's most deep-seated affective attachments. After culture and religious threats, there are anti-immigrant security frames. These describe immigrants as prone to crime or being susceptible to recruitment by criminal gangs or terrorists. They are perceived as being willing to participate in violent acts. Interestingly, in North America, since 9/11, the security frame has been fused with the cultural and religious frames. Lastly, there are economic frames that described immigrants as financial burdens on the destination country. They are blamed for taking jobs from native-born citizens, depressing wages, and draining social benefits (Citrin et al. 1997; McLaren and Johnson 2007; Sides and Citrin 2007; Mudde 2012).

In representative democracies, political parties are the main mechanism for the mobilization of public opinion on immigration. Immigration is usually a difficult topic for political parties because it has the potential to divide core constituencies on all sides, center, left, and right. In countries where immigration is not an especially controversial theme, ideological divisions within parties have encouraged political party leaders to evade the issue or to depoliticize it (Hampshire 2013). Nevertheless, once the issue enters the main stage of the political debate, inter-party consensus is likely to be broken (Schain 2006: 286-87).

In Europe, far-right parties, recently on the rise, have been among the strongest promoters of the anti-immigrant frame. Their fierce opposition to immigration is what explains their being lumped together under the label of "anti-immigrant parties" (Gibson et al. 2002, Givens and Luedtke 2005, Van der Brug and Van Spanje 2005). Although these parties also embrace other hot-button issues, they have been able to secure electoral wins largely by capturing citizen's anxieties about immigration (Mudde 1999, Norris 2005, Ellinas 2010, 2013). In North America,

while there are no significant explicitly far-right parties, factions within the Republican Party have nevertheless articulated a virulent anti-immigrant discourse (Mudde 2012).

Research shows the impact that political parties have on policymaking. In countries in which far-right parties have either formed the government or entered into a coalition with a governing party, far-right frames have exerted direct influence. For example, in Denmark, the Danish People's Party played a central role in drafting restrictive immigration and citizenship legislation. In Switzerland, politicians from the Swiss People's Party initiated a referendum to ban the construction of minarets (Hampshire 2013). The influence of the far right in other countries has been more indirect, impacting mainstream parties' policy positions and giving shape to the public debate (Norris 2005, Schain 2006, Howard 2009). All in all, most scholars now agree on the key role that political parties play in explaining differences in policy (Howard 2009, Schain 2008).

In addition to political parties, interests' groups have also manifested deep concern about immigration. Freeman (1979) argued that in advanced capitalist societies immigrant labor has become a structural necessity, offering a flexible workforce during periods of labor shortage and a counter-inflationary force during periods of sustained economic growth (Freeman 1979). In this context, employers and government officials' have expressed marked interest in migration.

Employers, on the one hand, are supportive of a large intake of immigrants. They benefit from the cheap labor and the skills they provide (Freeman 1995). For instance, in the U.S. Tichenor (2002) showed how employer organizations and well-organized immigrant lobby groups exercised great influence over immigration policymaking. In Germany and the United Kingdom, employers' associations and trade unions have also shaped economic immigration policies (Menz 2009).

On the other hand, government officials are actively engaged in the management of immigration, by favoring some types of migration over others (Hollifield 2004). For example, the governments of the OECD countries have lowered entry requirements for highly skilled immigrants. Generous welcome packages include enacting statutes that lead to obtaining permanent residence status and affording rights to accompanying family members (Hampshire 2013). Similarly, Beine et al. (2016) showed that important differences exist between the regulation of high-skilled and low-skilled economic immigrant among OECD countries, suggesting a consistency concerning the goals behind the administration of immigrant flows across national boundaries.

Just like groups with strong economic concerns regarding the impact of immigration, immigrants themselves have a strong incentive to form organizations, which can then lobby to shape policy to benefit the interests of their families and ethnic groups. Voss and Bloemraad (2011) showed how, despite their unauthorized status in the US, the Latino community organized protests against the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437). In addition to the Latino community, immigrant community organizations in other cities of the United States have been able to limit the implementation of restrictive federal policies, e.g., the San Francisco limited enforcement ordinance, the Greenfield anti-raid agreement, and the INS-DOL memorandum (Wells 2004).

Lastly, the legal and institutional structures that immigrants face in the host community impact the implementation of policies in significant ways. The corporatist model that exists in

Sweden and the Netherlands, and the statist model that the French state exemplifies, have provided significant protection and rights to immigrant groups (Soysal 1994). Beyond the institutional configuration of the government, particular organizations, such as courts, have blocked the state's ability to exclude unauthorized residents (Gibney 2008), and have restricted government attempts to restrict immigration. For example, Joppke (1998) showed how a German court upheld immigrants' resident and family rights from a restricted reunification policy that was in force.

In liberal democracies, the making and implementation of immigration laws and policies might appear as a simple confrontation between, on the one hand, restrictionist actors, such as government officials and far-right parties, and on the other, expansionist actors, such as pro-immigrant organizations, economic interest-groups, and the judiciary. While mostly true, this view assumes that government officials represent a single coherent voice.

There is an implicit theory about the state, according to which legislators, civil servants, bureaucrats, government advisors are mere brokers between conflicting interests. As Boswell (2007) explains, this view ignores the interests of government actors themselves and the way in which they translate the reigning ethos of civil society and political interests into policy. In this dissertation, I fill this important gap by presenting a nuanced perspective about the state, portraying how mid and top-ranking officials in a bureaucratic-centric structure can affect divergent policy outcomes.

Studies of the government in this context are uncommon. Restricted access to government organizations has limited the possibilities for designing studies and exploring empirical theories about governmental behavior. This is in part why bureaucracies have traditionally been overlooked in theories about immigration (Boswell 2007). By bringing together collective action framing theory and organizational theories about the bureaucracy, I introduce at least one suitable alternative approach to learning about bureaucratic action.

Studying Legal Change in a Presidentially Centered Governmental Structure

Collective Action Framing Theory (CAFT) serves to approach governmental behavior from a cultural perspective. It pays direct attention to how government officials, either individually or in organized groups, formulate, use, and later appropriate frames when they are engaged in the creation of laws and the implementation of policies. Complemented by a close-up look into the bureaucratic organization in which these officials are inserted, I supplement the cultural theory with an organizational account that centers on actors' organizational position and practices within the bureaucracy. With both theories, I show how the organization influences the process of meaning-making, and conversely, how power relations and organizational practices also determine the available frames and the possibilities for change within an organization.

Using Collective Action Framing Theory to Identify Frames

Although they were initially conceived to explain social movements, researchers have expanded collective action framing theories to organizational contexts. For example, Morrill et al. (2003) emphasize the interactive components of meaning-making among individuals in bureaucracies and other kinds of organizations. Morrill reviews how subordinate-supervisor relations inside organizations create repertoires of contention, which can block or facilitate change inside the organization. Chua (2012), on the other hand, examines collective action

frames that flow inside and outside public and social movement organizations. She found that gay activists adjusted their tactics according to their interpretations of formal public agency and cultural norms, pushing the limits of those norms while simultaneously adhering to them. Although gay activists seek change, they avoid directly confronting the state. Instead, they have developed pragmatic strategies that resonate better with the legal restrictions they suffer, public organizational norms, and broader cultural understandings.

Frames are usually conceived as interactive processes through which social movement activists assign meaning to and interpret relevant events and conditions (Snow and Benford 1992). This concept has been extended beyond the study of organizations and social movements to encompass studies in a variety of disciplines.¹¹ Its origin dates back to the work of Bateson (1972) and Goffman (1974). Goffman extended Bateson's more psychologically focused observation to sociological and linguistic analyses of frames. For Goffman, frames are defined as "schematas of interpretation ... that render what would otherwise be a meaningless aspect of the scene into something that is meaningful." (Goffman 1974: 21). The most common way that frames become apparent is through language, whether oral (e.g., conversation, speeches) or textual (e.g., laws on the books, organizational policy documents, political slogans).

In a nutshell, a frame determines the meaning of a situation for the participants interacting within it, enabling individuals to "locate, perceive, identify, and label" (Goffman 1974: 21) their interactions and the world at large (Snow 1986). However, frames are not a 'given' for a particular situation. Actors reflexively and collectively constitute them as they struggle over the production of ideas and meanings (Benford and Snow 2000).

From an individual's perspective, frames are cognitive heuristic tools, which allow individuals to make sense of the world around them (Goffman 1974; Hallahan 1999). As such, they organize people's experience, guide action, simplify, and condense aspects of the environment (Snow 1986; Benford and Snow 2000).

Collectively, frames are a powerful and persuasive tool. They "select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation" (Entman 1993: 53). For social movement scholars, this second characteristic has been central to understanding a movement's recruitment and mobilization strategies (Benford and Snow 2000).

The collective component of frames serves as an analytical tool to evaluate the conditions under which social action is deployed. It is this dimension that this dissertation employs. For frames to facilitate collective action, they have to be credible, meaningful and culturally connected. For example, credible frames are based on facts that can be empirically tested and communicated by trustworthy articulators. Frames are most meaningful when the messages they are meant to communicate, connect well to the central beliefs and value systems of potential

¹¹ Among the disciplines that have used this approach, it is possible to find cognitive psychology (Bateson 1972, Tversky and Kahneman 1981), sociolinguistics and discourse analysis (Van Dijk 1977; Goodwin and Duranti, 1992; Tannen, 1993; Entman 1993; Matsumoto 2015), communication and media studies (Pan and Kosicki 1993; Scheufele 1999; Santos 2004; Papacharissi 2008; Shaw 2009; Balch 2011; Van Corps 2012), public relations (Hallahan 1999; Reber 2005), international studies (Kaufman 2011), the learning sciences (Engle, 2006; Greeno, 2009; Hammer, Elby, Scherr, and Redish, 2005; Polman and Miller, 2010), public health (Chapman and Lupton, 1994; Menashe and Siegel, Vaughan and Seifert, 1992; Lloyd 2003), education (Coburn, 2006; Coburn and Woulfin, 2012; Grossman, 2009; Mills, 2011; Hand et al 2012), political science and policy studies (Schon and Rein 1994, Triandafyllidou and Fotiou 1998; van Hulst 2016).

adherents. Frames are culturally resonant when they are broadly linked to the host society's set of customs and values.

Actors use frames to persuade others about their interpretation of the world, and by this means guide their actions toward the satisfaction of collective goals. This process does not happen in a vacuum. In order to operate, frames require an "external element," which is represented by a given political opportunity and a set of mobilizing structures (Benford and Snow 2000). For example, the new inclusive union structure and ideologies that the Knights of Labor used to enlist adherents collapsed because they lacked the necessary resources to support their strategies. Conversely, the employers' ample resources and crafty maneuvering defeated the Knights actions and sealed the movement demise (Voss 1996).

In organizations, frames perform similar functions (Morrill et al. 2003). They help organizational actors make sense of their surroundings and support collective action. However, as Voss (1996) demonstrated for the Knights of Labor, these frames will only spur action to the extent that they conform to the external conditions in which they are deployed. In the next section, I propose an organizational theory on how to use collective action frame theory for studying legal change in a governmentally centric bureaucratic structure.

An Organizational Perspective to Understand Legal Change

Organizations are multipurpose tools because they can do many things for many people (Perrow 1986). In a presidentially centered governmental structure, the bureaucratic organization is responsible for the creation of laws and the implementation of policies. Given the opacity that reigns in post-authoritarian regimes, these functions have not been sufficiently studied in the context of the workings of the bureaucracy. One way of approaching this law-making and administrative process is by paying close attention to how actors within this organization navigate this process. We can analyze how they strategically select frames and use them to convince others about their appropriateness and their suitability for defining a given situation.

Bureaucracies are organizations characterized by a conjunction of disparate interests characteristically pursuing a heterogeneous variety of goals. The concept of organizational goals is slippery and treacherous (Scott and Davis 2007). Different theories have stressed one function over another. For example, rationalist theories have underscored the cognitive function of goals. Institutional analysis stresses the symbolic function of goals. Today, the various functions of goals: guiding, motivating, symbolizing, justifying, and evaluating behavior do not all coincide because they emanate from different purposes and sources.

How bureaucracies identify which goals and interests to follow is a complex question as well. Political scientists argue that most policy decisions within a bureaucracy represent the outcome of an interaction between two sources of power—the needs or aspirations of groups and the expertise of bureaucrats (Bertelli and Feldmann 2007). For Boemeke, Gallimard and Patty (2006), legislatures, bureaucracies, and interest groups interact with each other in the policymaking process in pursuit of specific goals that they hope to achieve.

Sociologists have claimed that government formulate and pursue goals that are not simply the reflection of the demands and interests of social groups, classes or society. Organizations are also shaped by the personal characteristics and identities of the actors who comprise them. Banaszak (2010) showed that the presence of women's movement activists in a

variety of governmental agencies created political opportunities that promoted change within the state. In her case study, she found that women bureaucrats had drafted legislation, convinced outsiders to support feminist legislation, generated information and resources, and filed lawsuits for the movement.

Given the lack of consensus regarding organizational goals, it is helpful to shift attention to organizational actors. Organizational change has been shown to be catalyzed by shared professional backgrounds and common ideologies among bureaucrats. For Stepan (1973), a cadre of officials enjoying great organizational strength inside and outside the state, and sharing a unified sense of ideological purpose, were able to influence the organization of the state in Brazil and Peru. They were able to install in each a system that best matched their interests. In Japan, Turkey, Egypt and Peru, the professional experience and ideological orientation of official elites successfully molded the organization and operation of state power (Trimberger 1978).

The plurality of agents' experiences found by Wilson (2000) in his historical analysis of the U.S. Postal Service and the Department of Interior exposed how diverse the actors inside these organizations were, and how important it was to pay attention to these actors' experiences and identities. For example, operators working under situational pressures and/or in circumstances where their task was not clearly defined ended up relying on personal beliefs, prior experiences, professional norms, and political ideologies to guide their decisions. In the process of balancing the organizations' resources with the critical tasks of the agency, managers ended up neglecting the organization's true goal and instead pursued what they personally had come to believe was the most critical task.

In a similar vein, scholars have attempted to elucidate the creative capacity of front-line officials. Via ethnographic and other close-up research techniques, these authors have documented day-to-day policy-making by lower-level bureaucrats and operators (Lipsky 1980; Maynard-Moody and Musheno 2003; Watkins-Hayes 2009; Ellis 2011). Consistent with Wilson's (2000) findings, these authors have demonstrated that a bureaucrat's individual identity shapes the ways in which agencies implemented policies. For example, Lipsky (1980) argued that front-line bureaucrats like police, teachers, counselors, and lawyers were part of the policy-making process, because faced with limited resources, they made important strategic decisions. Similarly, Maynard-Moody and Musheno (2003) showed that front-line bureaucrats burdened with the obligation to implement policy brought their personal views of fairness into play in so doing. These individuals exercised discretion and occasionally bent or broke the rules to act in the way that they felt was most appropriate.

Scholars have found that, in addition to manipulating the rules that define their actions, bureaucratic actors change their organization by altering the institutional environment in which they were created. The traditional literature on administrative procedures has treated public agencies as subject to procedures, as mere recipients and not as active agents in constructing the organization's formal structures (Galligan 1996, Lubbers 2008). Political scientists have made the same assumption: they treat procedures as something imposed upon agencies, rather than something agencies collaborate in developing (McCubbins et al. 1987; Moe 1989; Majone 1999; Spence 1999). However, there is a long history of agencies creating administrative law norms on their own.

Bureaucratic agencies can create policy either *de facto*, by simply adopting certain procedures and sticking with them until deviation would be unthinkable or attacked by the

courts, or de jure, by helping to enact rules that mandate the procedures they want. For instance, Reiss (2010) demonstrated that six agencies – the regulators of telecommunications and electricity in England, France, and Sweden – adopted norms of transparency and consultation that went beyond any legal requirement, norms that later served as the basis for the EU's regulatory framework.

The actions of bureaucratic agencies flow from the intentions of the actors but are also limited by the ways and extent to which these agencies can control their external environment. According to Carpenter (2001) when mezzo level bureaucrats succeed in developing established reputations and independent power bases, they can change the terms of their legislative delegation, producing new policies. At this level, there are low rates of turnover, which allow these officials to make cross-divisional and cross-office comparisons, developing technical knowledge, and building coalitions.

In her book, *Protecting Soldiers and Mothers*, Skocpol explored how the institutional configuration of the government and the political party system, i.e. the structure, altered the ways in which social groups and politicians carried out and understood their policy goals. By comparing how male and female workers mobilized labor policies at the beginning of the 20th century, in both England and the U.S., Skocpol demonstrated how the extant political institutions and procedures impacted the consciousness of these reformers and simultaneously influenced the development of subsequent British and U.S. policies.

While male wage earners were unable to win significant improvements in social benefits, politically disenfranchised women achieved significant policy results. Unlike in Britain, there was a negative perception regarding the honesty of the government in the U.S. at the beginning of the 20th century. This perception was fueled by allegations of corruption and nepotism. Furthermore the U.S., as a non-parliamentary polity, was without strong civil service ministries. It also lacked programmatically oriented political parties (Skocpol 1995: 253). In this context, highly organized and territorially extended federations of women were able to deploy culturally resonant frames that garnered sympathy. They proposed a common agenda that won supporters across the political spectrum. The nonpartisan ideology of the women bypassed the twin pitfalls of the partisan political system and the bureaucracy and secured the backing of key political allies who were persuaded to support their initiatives. The results were concrete gains in social policy for women and for children.

Skocpol's perspective offers insights to help understand how change occurs inside governments. Although her focus was on how external constituencies affected governmental policies, the way in which she relates macro and micro processes, i.e., structure and individual-collective interactions, to explain governmental change can also be extended to internal governmental change processes. These are similar to the ones this dissertation examines.

Despite the above examples of change within organizational structures, the political science literature on institutional change has shown that processes of institutional transformation are uncommon. And when they happen, they take place over extended periods of time. For Pierson (2004) the causes and eventual effects of many social processes are far removed from each other. Nevertheless, once a course of action has been set, the costs of reversal are very high. In this context, researchers have two options: to investigate either instances of "critical junctures" (Collier and Collier 2002) or path-dependence formation. For Pierson, this last endeavor involves refocusing attention on the role of power. In his opinion, "power asymmetries

can hide positive feedback processes operating over substantial periods of time.” (Pierson 2004: 41)

In this dissertation, I study how mid-level bureaucrats attempted to use their organization’s power to produce change within their organization. Considering that institutions tend towards stability and perpetuation (Mahoney and Thelen 2010), investigating gradual changes can be of great significance.

Contrary to many sociological approaches that point to exogenous shocks that bring about institutional change, my organizational approach assumes that change is the result of endogenous processes. According to Mahoney and Thelen (2010), actors pursue the creation of different kinds of institutions through their interpretation, debate about and questioning of organizational rules and practices. The ambiguities, which generally characterize organizational rules, create critical openings for creativity and agency.

Nevertheless, the lack of clarity about organizational goals and the diversity of interests that exist within the governmental structure makes it difficult to approach legal change without simultaneously looking at how governmental actors behave and frame their actions. This is why using both theories provide the best results for studying legal change in a bureaucratic governmental structure.

The organizational perspective allows studying the bureaucracy as a living organism. Collective action framing theory serves to identify the different cultural discourses that bureaucrats employ to interpret, guide and make sense of their actions. By itself this theory, however, cannot explain which frames would prevail and how they would be used to promote a concrete policy agenda. Therefore, by adding an organizational approach to CAFT, I uncover the ways in which bureaucratic agents interact strategically inside the organization to develop their interpretations and understandings of immigration.

Additionally, the organizational perspective is sensitive to the interplay among different actors as they come to produce immigration laws and policies. The collective component of this perspective enriches CAFT by searching for meaning beyond individual interactions, to find these processes also occurring during day-to-day organizational practice. As these organizational practices are reproduced, new independent meanings emerge, which could not be accounted for by the simple, singular interactions of individual agents.

Lastly, the organizational perspective explains how power dynamics operate inside and outside bureaucracies. This enables the researcher to anticipate the kinds of conflicts that occur and the outcomes that can be expected to emerge from them. On many occasions, this can directly influence which frame becomes dominant, irrespective of its resonance. Likewise, by focusing on these power dynamics, this perspective also sheds light upon how different actors participate in the reproduction of organizational practices, and how these actors and these practices stand in relation to the power of external actors as they come to present and contest alternative frames.

CHAPTER THREE

An Ethnographic Strategy for Studying Legal Reform And Organizational Framing in the Chilean State

The primary motivating question behind this project - Why is there not (yet) comprehensive immigration legal reform in Chile? – shaped the decision for the research design to take an interpretative ethnographic approach, which aimed at coming to understand the social and political processes that explained Chile's lack of legal reform. As reviewed in Chapter 2, even though the politics of citizenship has identified how in liberal democracies different actors participate in the formulation of immigration laws and policies, it has yet to show how this engagement differs in less liberal contexts, such as in states with strong presidential governments. Similarly, it has yet to tell us about how these immigration frames are employed in public organizational contexts where the executive holds considerable legislative powers.

Because of the lack of knowledge about the ways in which unelected bureaucratic elites participate in the process of immigration law-making, an interpretative and qualitative approach is well suited. By bringing critical attention to the ways in which unelected bureaucratic elites participate in the formulation of laws, this study probes into the processes and mechanisms of law-making in a presidential-centric governmental structure, thus offering a glimpse of phenomena previously inaccessible to social science inquiry (Darian-Smith 2005; Yin 2009).

My study offers a fresh perspective that can lead to theory generation (Glaser & Strauss 1967), or at least to the extension of existing ones (Snow, Morrill & Anderson 2003). With this approach, my dissertation departs from a positivist perspective aimed at verifying or testing existing theories - so-called canonical sociological research (Luker 2008). My perspective builds inductively from the data, instead of working deductively from existing theoretical constructs, freeing the researcher from the intellectual confines of existing theoretical assumptions (Charmaz 2006).

Ethnography of a presidential-centric governmental structure

With the aim of theory generation and theory extension, I entered the field armed with the full theoretical repertoire developed to explain how the politics of immigration and immigration law- and policy-making had been framed in the major receiving countries of North America, Europe and Oceania. Nevertheless, I remained aware that I must use caution in using solely these theories to determine the project's theoretical direction and framework (Snow, Morrill and Anderson 2003). Also, by inserting myself inside a governmental office and within a specific governmental structure, I designed the research to connect the micro and macro processes that contribute to causing changes in specific institutional contexts (Skocpol 1995). With these two sets of theories, I could also investigate the ways in which these processes connect to the larger theoretical puzzle (Glaser & Strauss 1967; Charmaz 2006).

Given that my primary focus was what might be called the organizational ethnography of law, or more specifically on understanding how law emerges in a presidentially-centered bureaucracy through contestation among unelected bureaucratic elites, rather than from either a fledgling legislature or front-line discretion, I approached each method of data collection keeping this overarching unifying goal in mind. As I became more involved in my institutional setting,

my role and access to data also evolved, alternately enabling and constraining the type of information I was able to collect (Emerson 2001).

According to the researcher's theoretical understanding of the aim and goal of fieldwork, the researcher can take on different membership roles (Snow 1986). For example, scholars from the Chicago School cautioned against becoming overly involved in the setting, fearing that this undertaking would lead to an abandonment of the scientific, detached research method. In contrast, existentialists and ethno-methodologists viewed deeper engagement as the only way to get a full and personal experience of the world being studied (Adler & Adler 1987). My research reflects this second perspective. In fact, during my fieldwork, I assumed a variety of roles, which developed progressively as my access to the twists and turns of the executive law-making process grew more intimate.

The section that follows provides details concerning the different roles I performed during my twelve months of fieldwork (Adler & Adler 1987). Parallel to my participant observation, I conducted more than 70 semi-structured in-depth interviews that helped me triangulate the observations that I was making in the field (Yin 2009: 116; Babbie 2013: 117). After exiting the setting, I continued collecting data and interviewing people until reaching theoretical saturation (Luker 2008).

Starting Out (May - October 2014)

During the summer 2014, thanks to a fellowship granted by the University of California Berkeley, I traveled to Chile to work for CIM, a citizen-native immigrant organization which advocated for immigrant rights. This non-profit organization was known for its pioneering work with vulnerable immigrant communities. It was one of the first organizations that began working on this issue, back in 2000, when journalists, and soon after social science scholars began writing about the settlement of Peruvian immigrants around the "Plaza de Armas," Santiago's core city square (Stefoni 2001; Póo 2008).

Prior to the preliminary study, I already had considerable knowledge and familiarity with Chilean culture, law and politics: I was born and lived in Chile for 26 years. Since birth, my family and I lived in several locales around the country until 1995, when I settled in the capital to finish high school. Between the years 2000 and 2006, I studied law at a private university in Santiago. Immediately after graduating, I began working as a research assistant at the Human Rights Center and as an assistant professor at the Human Rights Law Clinic at that same Law School. During those four years, I conducted extensive research on a variety of human rights topics. This exposed me to the non-governmental sector. Also, I had the opportunity to interact with governmental officials in some of the judicial cases in which I represented the Human Rights Law Clinic. Hence, by the time the preliminary study commenced, I already had a rudimentary knowledge of the non-profit world, and made a few contacts who could assist me in gaining access to key actors.

The preliminary study, conducted in 2014, focused on how immigrants' actual experience of rights influenced their perception of belonging, and thus their level of integration into Chilean society. Although this question had been addressed previously in the literature, I wanted to explore the gap between the legal recognition of rights and their effective implementation. I had two objectives. The first was to test the feasibility of such a study in a country that had not reformed its migratory legislation and which had recently experienced an uptick in immigration

flows. The second goal was to establish rapport with a few central actors in preparation for more extensive fieldwork, which would eventually take place in 2015.

I gained access to the organization thanks to a personal contact I had developed during a prior visit to Chile. I contacted her via email. This person referred me to the woman who served as administrator of the research section of the organization. Unfortunately, that woman had resigned and left CIM before I arrived. Luckily, before her departure, the organization's head had approved my internship at CIM. Therefore, I was able to continue my conversations with the person designated to fill that position until the recruiting process was over. It was a young scholar who had recently moved back to Chile after finishing his doctoral studies abroad. He acted as the liaison between CIM and the religious congregation which funded the organization. Without the help of this last individual, I would not have been able to pursue my study.

CIM's organizational restructuring created a space of flexibility, which benefited me. Within two weeks of my arrival, CIM appointed a new person to run the research section. I was put under the supervision of a recently graduated male anthropologist, who introduced me to CIM's work and the purpose of his unit. Like me, my "superior" was trying to figure out his territory within the organization. After a brief conversation about my interests, my "advisor" decided that the best way for me to understand how the law was been implemented on the ground was to interact directly with immigrants who came to seek the organization's advice.

My first task was to help at the front desk. CIM was located five blocks away from the Presidential palace, in downtown Santiago. The building in which it operated was owned by the religious congregation that supported the organization's work. The place had been retrofitted to accommodate the needs of CIM. It had a separate door for immigrants' exclusive access. In addition to the reception room, which could seat around 6 to 8 immigrants, the room had two small offices. One was for a social worker and the other for a lawyer. CIM opened to the public every morning from 9:00 am to 12:00 pm when the last take-a-number ticket was handed out. Before 9 am, people had already formed a line outside the door, waiting to be admitted.

A young woman ran the reception desk. When she was not talking to the newcomers, she sat behind the reception desk and worked on the computer. Some days, a retired woman and every Friday a nun assisted her. Every morning, I came in and assisted whoever was at the reception. The women followed a ritual. As immigrants rang the bell to be let in, the woman who was free from other chores approached the heavy door, opened it and greeted the newcomer. The person entered the room and briefly explained the purpose of the visit. They were immediately offered coffee, cookies when available, and a seat upon which to wait. Depending on the nature of their expressed need, they were handed a number and thus joined the queue to await either the social worker or the lawyer.

My involvement with CIM deepened as I built rapport with my peers in the organization and spent more time "hanging out" in the waiting room. Initially, I was not permitted to ask questions of immigrants. As I spent more time at the reception desk, and with the consent of my "advisor," I started to talk to them, probing into the reasons behind their journey to Chile and about the difficulties they were facing in their interactions with the authorities. Nevertheless, after a few weeks of listening to their stories, I realized the limitations of my endeavor. I could only guess at their impressions of the law based on the stories that they were willing to share with me. But I could not know how they felt about their treatment as they wound their way through the bureaucratic mazes and, afterward, how they eventually fared. I decided to speak to

my “advisor” and present him with an alternative plan. Specifically, I suggested to him that considering my background as a Chilean lawyer, I could accompany immigrants to their meetings with the immigration authority, and provide guidance and support when needed. Four immigrants accepted my company. During the remainder of my time in CIM, I joined them in their interactions with the Investigative Police and at the Immigration Department.

At the same time as I was conducting this preliminary work, I was called for an interview in the Department of Immigration at the Ministry of Interior and Public Security. Similarly to my entrance to CIM, I gained access to the head of the Department of Immigration through a personal contact and thanks to my background as a human rights lawyer.

While still in Berkeley and through a former Chilean roommate, I had been in touch with a young female lawyer, Joaquina, who had been working in the legal section of the Department for the past year and a half. Like me, she shared an interest in human rights. After I explained to her the scope of my graduate studies and my research interests, she immediately expressed her intention to help me contact the Department’s head. Before traveling to Chile, and in preparation for a possible interview, I wrote a long email to Joaquina and to Hugo, the head of the Immigration Department, explaining the purpose of my visit to Chile and my interest in meeting him in person.

My interview was scheduled to take place on the afternoon of May 20, 2014. As usual, I spent that morning at CIM’s reception desk. After we closed for lunch, I left the organization and walked to my meeting at the Department, which was only 15 blocks away. I arrived around 2:30 pm. The immigration department was located two blocks away from the core city square, in a highly commercial area of downtown Santiago. In the last couple of years this area had changed considerably and during my walk I noticed many new Peruvian restaurants and “all you can find” stores.

The Department of Immigration’s entrance was located on the first floor of a commercial building. Immediately upon entering the building, I encountered entrances to several small stores in the corridor. There were large signs posted alerting people to the two main services available there: assistance in filling out legal documents and taking passport pictures. At the middle of the corridor, there was a security guard standing below a black sign identifying this as the entrance to the Immigration Department. The guard was standing beside a high black rectangle table. On the table, he had a stack of papers. There was no door to the Department of Immigration, only a black cord that the guard had pulled aside during open hours (8 am-2 pm). At 2:30 pm the guard said to whomever sought entrance that the Immigration Department was closed for the day. He warned people that if they chose to exit the area, they could not re-enter. Until 4 pm, there was steady movement up and down the stairs.

I took one of the four elevators that were located across from the guard. I pressed the number six in the elevator console. This floor corresponded to the legal and administrative offices. I exited the elevator and turned to the right. After opening a heavy wooden door, I saw a woman seated at a desk. I introduced myself. She directed me to Hugo’s office.

Inside the Department’s main office, I was introduced to Melanie, the head of the legal division. She was a forty-three-year-old woman who had spent her entire professional life working for the Department. I also met Felipe, the head of the research section, a forty-two-year-

old man who had also started his career as a public administrator in the organization. Finally, I saw Joaquina, my lawyer contact inside the Department.

After finishing the introductions, I was seated on a white couch in a corner of the office. Melanie sat on a small white sofa to my right side, and Felipe took his place on a white leather chair in front of me. Hugo, the Immigration Department head, was seated at my side on the white couch. They were all looking at me. I remember talking about my studies in the Jurisprudence and Social Policy Program at the University of California Berkeley, and the purpose of my visit to Chile. After I finished speaking, Hugo asked me what I wanted to do in the Department.

My initial interest in the Department of Immigration arose from my research on the immigration policy field in Chile. The limited empirical evidence that was available looked at the current operation of the emergency decree (Stefoni 2001; Cano, Soffia and Martinez 2009), but no scholar was thinking about how bureaucratic officials were interpreting the law in force, nor about how frontline agency officials were implementing the law when they interacted with immigrants. My questions at this point were influenced by my readings of the Law and Society literature, and in particular of the studies that showed a gap between the law on the books and the law in action.

I explained to them that I wanted to learn how the immigration law was being implemented on a day-to-day basis by focusing on the actions and interactions of immigration officials. They responded very warmly to my expressed intentions. They did not present any resistance. Immediately after I finished my presentation, Hugo asked me what I needed from them. I was pleased and positively surprised by this warm reception. Given the current status of the building, and from my own research, I knew the Department did not have many resources. I had to play it safe to ensure receiving a position within the organization. I responded to Hugo's question by downplaying the number of resources that I required. I replied, "I only need a Wi-Fi connection and a desk."

Despite the limited resources of the organization, I was assigned to work at a small desk in the research section. Although I had neither Internet connection nor office computer, my location was privileged. This unit was located at the physical end of the legal division, in the back corner of the sixth floor. Every morning I had to walk past all the lawyers before reaching my own desk. This circumstance quickly exposed me to most of the staff working on this floor. Also, the research unit was going through physical and staff changes, which made my presence less threatening and opened unique opportunities to probe into the lives of new hires.

I spent time in the research section every afternoon for an entire month. During my first week, I sat at my assigned desk and read immigration cases. Nobody seemed to care about my presence there. As I grew more comfortable in this environment, I started to talk to Felipe, who was seated across from my desk, and share news stories with Tere the journalist who was hired to increase the Department's media visibility. I also began participating in a few lunches and birthday celebrations.

Hanging out in the research section created many opportunities to learn more about the operation of the Department. Although the research section was located far away from the head of the organization, the head regularly stopped by to discuss the issues of the day with Felipe. He often made an appearance around 6 pm to discuss problems or to get alternative viewpoints for decisions he had to make. Through my discussions with Felipe and later my preliminary

interviews with legal staff I came to realize that the Department had significant discretionary power, and that they were using it to their advantage by changing previous restrictive understandings of the law.

The high degree of administrative discretion encouraged me to find ways to increase my access to a wide variety of Department personnel. After three weeks, I requested permission from Felipe to observe how immigration officials were providing direct attention to immigrants in the different sections of the Department, such as handling service numbers, solving tourism concerns, awarding residencies, applying sanctions, and issuing visas stamps. Three mornings a week each lawyer from the legal unit had to descend to the second floor to answer immigrants' legal concerns. I also wanted to observe how lawyers were providing this direct assistance.

In the process of thinking about gaining more access, I started strategizing about ways to spend more time with the head. By chance, I became aware of a trip he was going to make to a northern region of the country. Although the Department had no direct authority over regional authorities, Hugo was concerned about the inability of these authorities to deal effectively with the rising number of immigrant populations that were settling in that area. He was planning an official visit to find ways to reduce the growing volume of problems that the regional office was experiencing.

For me, this trip was a perfect opportunity to learn more about how public authorities were dealing with the challenges of managing immigration, and observe how the Department head would try to convince autonomous regional authorities about the need to provide better service to immigrants. I expressed my interest in joining the official delegation. I explained that my intention was to tag along, and that I would personally cover all my expenses.

On that particular occasion, the trip ended up being postponed. But from that day forward, every time I had the opportunity, I asked for updates and emphasized my interest in joining him on this trip. One day, I arrived at the office and Felipe informed me that they had decided to formalize plans for the trip. With the help of Tere (the journalist) and with Hugo's personal assistant, I learned the exact dates of the journey and bought my tickets. I also researched lodging options and wrote to the head and to Felipe recommending two alternatives to them. I suggested the less expensive option which ended up becoming the choice selected for everyone.

The trip was the turning point in my relationship with Hugo. Although we went continuously from meeting to meeting, starting at 8 am and finishing after 7 pm, I was able to discuss various topics with Hugo during breakfast, while commuting from one meeting to the other, and briefly before each meeting. For example, during the long taxi ride that took us to the last meeting, Hugo asked my opinion and impressions about the morning's discussions. I shared my general thoughts about the regional authorities' positive disposition toward the subject. Hugo showed surprise when I told him that I had realized that he adapted his discourse to fit each audience. He thanked me for my honest response and praised my perception. I replied with a smile and remained silent. Shortly afterward, he confided to me that he had discussed my performance with Felipe, concluding that I was a hard-working person who wanted to understand how immigration actually worked in Chile.

My status as a PhD student influenced Hugo's perceptions about my role in the Department. He liked the fact that I was not focused on the minor day-to-day operational details,

but rather on how the system operated as a whole. He considered me as a person who could help him improve the way in which he was approaching his duties as head of the Department. He believed that because he sometimes lost sight of the overall picture, it was important for him to have people on his team who were thinking about it. He felt I was a person he could rely on.

At the end of that meeting, while we were walking to take yet another taxi, he asked me about my future plans. As in my previous conversation with him, I wanted to play it safe. My observations about the operation of the Department, together with my experience at CIM, had convinced me of the unique opportunity I had of studying the immigrant bureaucracy, to learn from within how governmental officials in Chile were formulating and implementing laws and policies. I responded that I was interested in studying immigration policies and that I felt that the Chilean government could do much more to improve this process. I expressed my satisfaction about the way in which he was leading the Department and how he was trying to guide this process. I offered my help in any way he saw fit.

After we returned from the trip, however, my work inside the Department did not change. During the last month of my internship, I helped Felipe by sorting the administrative data that he had gathered. I also continued my observations of the Department's operation. Nevertheless, my continued presence in the office and the memories of our conversations during the trip, had convinced Hugo that I was a person he should have on his team. Two weeks before I was to leave Chile, Hugo invited me into his office. He and Felipe were chatting when I entered the room. They asked me to sit and listen to what they had to say. They expressed their appreciation for my work and wanted to offer me a formal position in the Department. A person was going to retire soon and they felt I would be a great candidate to take over the position. I was honored by their proposal.

Nevertheless, although I appreciated their proposal, I felt I could not take on such a role at that time, since it would endanger my progress toward my PhD. Their offer reflected the degree to which I had been able to win their trust and forge a solid position inside the Department. Even though I could lose my chance of returning to the organization, I could not accept the position. Moreover, it would have limited the type of information to which I would have had access.

Preliminary Interviews

Before leaving for Berkeley, I wanted to get a sense of the Department's lawyers understanding of Chile's immigration law. I drafted a semi-structured interview guide for an in-depth exploration of this topic (Charmaz 2006). With the help of my lawyer contact, I approached the most senior lawyers in the Department to interview them. I prepared a list of topics and asked open-ended questions. Since this was a preliminary stage of the study, my questions were broad and general. I was mainly concerned about the ways in which the lawyers interpreted the law in force. I initiated the interview with introductory questions regarding their function in the Department. I followed with questions about how they were interpreting the vague terms of the emergency decree. I used specific examples from the law to gauge changes in interpretative criteria and probe into the process they pursued to implement such changes in their decisions.

I transcribed the interviews, and subsequently analyzed the data during the Jurisprudence and Social Policy / Sociology seminar in qualitative field methods at the University of

California, Berkeley (taught by Calvin Morrill). I used this course to think more analytically about my preliminary findings, and to develop a theoretical position for my subsequent fieldwork.

Securing Access to the Organization

Although I had made a good impression on the head of the Department, my position was delicate. I was not yet an authority on the topic and I did not have a fully developed research project. However, my brief involvement had provided me with clues as to what could be interesting to pursue if I were to come back to the organization.

Thanks to conversations that I had during my internship, I came to realize the significant power that the legal and research unit had in the definition of Department policies. Even though Congress had not approved significant amendments to the immigration law in force since 1990, the Department's interpretation of the emergency decree had consolidated a *de facto* immigration policy. Despite this fact, there were no theoretical accounts that had attempted to provide a systematic explanation about how this evolution had come about. I could help in filling this gap.

With this broad goal, I left the Department. I flew back to Berkeley on August 10, 2014. The internship turned out to be central in defining the scope of my research. I went back to my PhD Program with some innovative ideas, which I used to formulate my dissertation prospectus.

After returning from Chile, while writing my prospectus, I kept thinking of ways to regain access to the Department. I had to renegotiate a position that would enable me to observe how government officials were participating in making immigration laws and implementing policies. By the end of August 2014, it came to my attention that the 1393 decree, which created the Ministerial Committee on Immigration (MCI) had been signed by President Bachelet (July 11, 2015). Although the Piñera bill established a similar institution, this new decree broadened its composition to nine ministries and further regulated its main functions. Most importantly, it entrusted to the Department of Immigration the power to supervise its technical and logistical operation. Participating in the MCI could be the perfect way for me to reenter.

Despite the declared obligation to meet every other month, by the end of September 2014 and the beginning of October, the MCI still had not organized its first meeting. I thought that by becoming the MCI recording secretary, I could ensure the operation of the committee.

Based on my previous relationship with Hugo, in September 2014, I *whatsapped* Hugo explaining why I was the perfect person to perform this function. From my personal perspective, it was an ideal opportunity to observe and understand how heads and top officials from nine governmental ministries would make sense of immigration law, and how the Department was going to translate MCI discussions into more concrete policy initiatives. Hugo liked my proposition and he saw in my offer an excellent opportunity to advance his political agenda.

With the help of Joaquina, my lawyer friend inside the Department, we worked on an authorization letter as a way of formally committing the institution to my field research. On October 5, 2014, I sent two tentative drafts to Joaquina. On October 30, 2014, Hugo signed the letter in which he authorized my fieldwork inside the Department from March 1, 2015 to March 1, 2016. I was in!

The preliminary study produced results that would echo and resonate with the findings of my 2014 fieldwork. In particular, it showed how mid-level officials were using the ample powers of the emergency Decree to forge new interpretations of the statute in force, moving the Department's own political agenda forward. Further, it revealed the challenges imposed by the institutional environment. In particular, it showed how the hierarchical and centralized bureaucratic structure limited the scope of possible change beyond a few isolated initiatives. Finally, in a presidentially centered bureaucracy, these progressive actions remained in the nebulous realm of informal initiatives until they either received the approval of top ranking officials or were rejected by them.

Learning the Ropes (February 2015)

I started my yearlong fieldwork on favorable terms. During my summer internship, I had developed a close relationship with the head of the Department and with the head of the research unit. I also had some familiarity with the setting. My preliminary observations of the day-to-day operation of the Department had exposed me to the practices of the organization, expediting my integration into the work environment.

I did not encounter any problems reconnecting with the head of the organization. In fact, immediately after I landed in Santiago, I *whatsapped* Hugo to set a time to meet. It was Saturday February 1, 2015 at 8:30 pm. Four minutes later he replied with a warm welcome. On Monday afternoon, two days after my arrival, Hugo called me to ask when I was coming in to the office. He sounded excited and eager to show me all the things he was working on. The six months that had passed since my last day as an intern at the Department of Immigration had not damaged the close relationship that I had developed with Hugo. It was the opposite. He was eagerly awaiting me, even if it was one month earlier than planned.

I had an unorthodox debut in the Department. Although I had been expected to start in March 2, 2015, I actually arrived one month earlier. February 3, 2015 was thus my first unofficial day at the Department. Despite this unanticipated timing, I was quickly introduced to the group which had been working on the immigration project. Three days after landing, I was meeting Noehmi, Enrique, and Fernando. Noehmi was the American sociologist, whom I had met previously as she arrived a month before the end of my internship. I had also met Enrique earlier while he was working at CIM. After Enrique was laid off from CIM, Hugo invited him to join the research team to develop an educational program. Fernando was a thirty-four-year-old sociologist who had replaced the female statistician who had been working in the research unit and had left to continue her education abroad.

Hugo's openness in sharing the details of the immigration project confirmed to me that I had been placed in a very privileged position. He asked Enrique to explain to me everything that the Department had done regarding the drafting of the immigration bill. Enrique described in great detail the steps they had taken together to launch this project. He told me they had just finished a consultation process involving pro-immigrant organizations in eight cities of the country, as well as international and academic organizations. He was now planning the next phase of the immigration policy agenda. In his agenda, he foresaw two main developments: forming a special drafting committee inside the Department to work on a new version of the Piñera law, and formalizing the recently created Technical Committee on Migration (TCI). There was a third step ahead, but it was not clear how and when it would be finalized. This was the

formation of a Ministerial Committee on Migration (MCI). For Enrique, bringing this committee into existence was to be my function.

The breadth of my access to the Department made me nervous about Hugo's high expectations and the key role that the head wanted me to fill. Even though I had clarified with him that I was in the Department because I wanted to study the organization, I was uncertain about his intentions. Although I had tried to define the terms of my involvement immediately after my arrival, the conversation kept being interrupted by organizational requests. Around 3:00 pm, I exited the Department to meet Hugo at a nearby restaurant. Given that I had been unable to speak with him coherently in the office, I thought that in a restaurant I could retain his concentration. After a few minutes talking about regular life situations, he expressed his wish that I become his chief of staff in order to assist him with his agenda and make sure the Technical Committee on Immigration actually started operating. Although we had discussed my participation in the Ministerial Committee on Immigration, he did not explicitly mention it at the restaurant.

Even though the conditions of my involvement had slightly shifted, I could perceive from Hugo's attitude towards me that he trusted my judgment. It was no minor task to be "informally" nominated as his chief of staff. On paper, I was hired simply as a policy advisor. Hugo explained to me that he could not officially hire a "chief of staff." Only the head of a governmental service was entitled to have such an aide. Nevertheless, in practice he expected me to fulfill that role.

For me, that position provided me with access to his agenda and to any development that took place inside the Department. Nonetheless, this nomination could also fix my hierarchical position inside the organization, jeopardizing my open access to key informants. This limitation luckily proved to be more apparent than real. Only the heads of division and the lawyers of the Department were working on the immigration project. To them, I was not a superior, but only a person in charge of organizing the "boss's" agenda.

During the first two months, my role inside the Department in practice fluctuated. As I mentioned previously, initially Hugo wanted me to be his chief of staff. This function involved running his agenda by filtering requests and resolving schedule conflicts. However, his expectations were constantly changing. For instance, at 6:35 pm on February 11, 2015, Hugo summoned me, along with Fernando (sociologist), Tere (journalist), Oscar (project manager) and Dora (lawyer) to his office. In that spontaneous meeting, he explained that from now on I was in charge of overseeing all "cabinet" matters, so they should not be surprised to see me at every meeting. Fourteen days later (February 25, 2015), Hugo copied me on an email directed to his research head, Felipe, to make sure that he would meet the deadline for submitting the annual activity report. Again, 6 days later, Hugo introduced me to Oscar, a young engineer who had been hired to improve the Department's performance, as the person responsible for "administering his work life."

Given the undefined nature of my position, I was able to push forward projects that I felt best related to my dissertation and tried to delegate to others ones that seemed less relevant to my goals. For instance, I insisted on formulating a schedule of goals and target dates for meetings about the immigration draft. I contacted the ministerial leaders of the TCI, and took charge of the projects that fostered an intra-ministerial and intra-sectorial relationship. Those tasks involved only my planning and organization skills, but they positioned me at the center of the Departments' efforts to modify the regulations in place.

Participating in inter-agency cooperation discussions helped me map the current relationships between various ministries and sectors. Furthermore, by joining in on the legal drafting process and by assisting in the operation of the TCI, I could participate and observe policy as it was being formulated (i.e. immigration draft) and implemented (i.e. TCI discussions about policy initiatives).

My flexible role inside the Department provided me with access to a wide array of topics. Nevertheless, managing the head's different expectations required extensive time commitments, which initially limited my ability to supplement my observations with external information. Slowly, as I learned the ropes, I developed the capacity to distance myself from the organization and reflect on the decisions that I was helping to make.

It is important to mention that during this initial phase of my fieldwork, I was constantly worried about becoming too involved in the process and about inappropriately influencing the outcomes concerning the immigration bill. Considering that to some degree participation was unavoidable, I concentrated most of my energy on planning and organizing, letting the rest of the team make the decisions. By doing the above, I thought I could reduce the risk of biasing my findings. It also enabled me to become a pivotal communication point, which benefited my research.

Initial Interviews

In my first month inside the Department, I did not have an assigned desk. Initially, I worked at the head of the research unit's desk (Feliipe) until he returned from his holidays. I devoted all my time to reading the documents Enrique had shared with me and to cultivate my relationship with Noehmi, Fernando, and Tere. The work load was light during February, so I profited from this bonus spare time to conduct face-to-face interviews with all the members of the research unit.

Before the year started, I wanted to have a clear picture of the initiatives that the Department had pursued in 2014 to implement the immigration agenda. Also, it was the perfect opportunity to test the interview protocol with the safest subjects. My work-colleagues had already accepted my presence in the organization and would not question my intentions. Besides interviewing the members of the research unit, I interviewed Dora and Kim, the two recently graduated lawyers who were responsible for writing the initial working draft of the immigration bill. Lastly, I spoke with the head of the Department. In total, I conducted ten in-depth semi-structured interviews.

Each of the aforementioned individuals had been involved directly in formulating and implementing the Department's policy agenda. It was only natural for me to interview them to learn first-hand their opinion about this process. Because the consultation process with immigrant organizations had just finished and the constitution of the drafting committee was still just getting under way, I was able to get rich and detailed accounts of both of these developments. The interview with the head of the Department produced interesting insights regarding the rationale behind the Department's actions and gave me clues about the organization's future plans. The interviews with the members of the research unit and the two lawyers provided context for the discussions that later influenced the drafting of the immigration bill.

Access to these officials was uncomplicated. I worked in the same office space and shared lunch breaks and birthday celebrations with them. I did not need to send an email to schedule an appointment. I walked over to their office space, introduced myself, and briefly explained the types of questions that I was going to ask them. My continued presence in the setting gave me the perfect opportunity to build relationships that I had not been able to cultivate during the previous summer. The members of the research unit remembered me well. It was quite different though with the two junior lawyers. In the summer, I had interviewed the lawyers who had been working in the Department for more than 2 years. This was not the case with these two female lawyers. I had not previously interacted with them and they initially viewed me with a pinch of suspicion. However, after explaining the purpose of my previous trip and my current role as the recording secretary of the MCI, they opened up to my questioning.

I conducted all my interviews in one of the two meeting rooms available in the Department. From the beginning, I enjoyed a privileged position. The sixth floor had only two large meeting rooms. Hugo's secretary made the head's meeting room available exclusively to me. That room was in fact always accessible to me, except for one occasion. On February 10, 2015, I was interviewing Fernando when Hugo's secretary asked me whether I could move the interview somewhere else because "the boss was waiting to receive a group of people, and he did not have enough space in his office." I considered the secretary's concern for my well-being a sign of my privileged status in the Department. Without complaint, I moved the interview to Hugo's office, where we continued the discussion for about 30 minutes without interruption.

All the interviewees were generous with their time. Each interview lasted from an hour to an hour and a half, during which time I was able to cover the entire content of my interview protocol. This initial testing permitted me to identify the sections of the protocol that captured their interest and also sections that required further clarification. For example, after the interviews I decided to change the order of my questions and start with representative politics, then move to foreign policy, constitutionalism and finish with nationhood. This order provided a more natural flow between questions and did not immediately solicit their personal beliefs regarding immigrants.

I did not receive any rejections or refusals from my interviewees. During this first month, I was able to accommodate each interviewee, go through the entire series of interview questions, and personally transcribe each interview as soon as I had finished it. These initial interviews provided me with the opportunity to interact on a personal level and build rapport with the people with whom I was going to spend most of my time. Further, the interviews allowed me to gain a better understanding of the efforts the Department was undertaking to regain its leading role in the immigration field, mostly by taking the lead in the development of a new immigration draft.

Becoming Comfortable (March – April 2015)

My presence in the Department became more visible as a result of my interviews during that first unofficial month inside the organization. My self-introduction disclosed upfront to all that my research background was law-related and that I had previous experience in human rights. I could not deny my work with CIM or my previous affiliation with my University's Human Rights Center. Under the current administration, this background did not appear threatening. On the contrary, as I will explain in Chapter 6, Hugo was trying actively to change the image of the Department to connect it with the interests of immigrant and human rights organizations. I was

instrumental to his quest. In fact, Hugo benefited from my human rights-legal contacts when he asked me to reach out to them to learn their opinion about a visa he launched in February 2015.

My role in the Department, and in the internal discussion of the immigration draft, evolved from being a passive observer to an active observer, someone who not only contemplated the interactions but also took advantage of a few openings in the conversation to push for specific reactions.

On March 3, 2015, I was asked to join the drafting committee which aimed to formulate an improved immigration draft. The committee was composed of seven officials from the Department, the former head, and two external advisors who came from international organizations. For a month, the committee met every afternoon three times a week. The committee started to work on a draft that the legal section had prepared based on their analysis of the Piñera bill, their participation in the consultation procedures, and other secondary sources. The private committee's goal was to improve the Department's initial draft in no longer than a month. However, conversations about the draft extended until the end of April 2015.

In my peripheral role, I introduced myself to the private drafting committee as a researcher conducting dissertation fieldwork about the way in which the immigration law was being formulated. I clarified upfront that I was not going to participate in any discussions. My role was only going to be limited to taking notes and recording agreements.

I disciplined myself to be a passive observer during the first five meetings. I remained silent behind my laptop, taking copious notes of all the discussions. In fact, one time, the room was so full that the members of the committee asked me to free a space at the table and to sit in one of the chairs located at the back of the room. Not surprisingly the head of the legal division, Melanie said, "You don't use the table anyway" and Felipe joked about me being relegated to second-class citizen status.

My transition to becoming an active observer occurred between the sixth and eighth meeting. At that point, a working rhythm had been achieved and attendees began relaxing and joking more with each other. During all the meetings, I had struggled to stay quiet, believing that I should not interfere in any discussion. However, during the eighth meeting, I spoke up to supplement the debate by offering a comparative example. Immediately, one of the external advisors mocked me by highlighting my conservative position. I laughed nervously. My intervention faded. The conversation continued on to another topic.

Intervening in the discussion required a change in methodology. If I wanted to press attendants and record their reaction, I had to connect better with all the participants. In the ninth meeting, I decided to leave the laptop at my desk and write my notes by hand. I had become accustomed to the rhythm and I was afraid that I was paying less attention to the details. I thought that by leaving my computer outside of the room, I was going to force myself to look at the patterns of the participant's conversation instead of reproducing every word. So, while my notes did not include as many details, this methodological decision significantly changed my role during these meetings. I became more engaged, pressing the attendees for their reactions, and sharing my opinions about alternative wordings.

I fully embraced my role of active observer when the external advisors stopped coming to the Department. After two months of discussions, the private committee had produced a full draft

of the law. Nevertheless, it had to be reviewed internally before it could be shared with Ministry officials. The work continued with the rest of the Department's officials. During this phase of the drafting process, the discussion centered on the nitty gritty involved in the implementation of a statute, in particular, on the concrete problems that arise on a day-to-day basis.

I became progressively more comfortable in the private discussions that followed the committee's deliberations. I employed the technique known as "interview by comment," trying to elicit the participants' deepest opinions and feelings about the draft. The privacy of these meetings provided a safe space for this exercise. Comments were helpful in giving the respondents more freedom to define their answers in relation to their frame of reference and employment situation (Snow, Zurcher & Sjoberg 1982). I used my access to push Department officials into revealing their opinions. I brought back some of the arguments that had been presented by the external advisors. Occasionally, I deliberately made a comment that I was sure the respondent would disagree with and proceed to correct me.

Participating in these private committees gave me a wide variety of arguments that I could use to push my colleagues on topics that had been raised by the external advisors, without having to myself take a personal stance on any of them. Becoming the "devil's advocate" in these meetings served me to identify key concepts and learn in detail the nuances of my colleagues' opinions. Altogether, these meetings gave me a deeper understanding of the different positions that existed inside the Department regarding the immigration draft and the practical challenges that predictably arise when drafting comprehensive immigration reforms.

Although I tried to remain open to all perspectives, my background as a human rights lawyer could have affected the kind of information I was learning. My work-colleagues knew my familiarity with human rights and could have used that knowledge to shape the type of information they shared with me. This limitation initially pushed me to stay on the margins. For example, during the first private committee meetings of the law, one of the external advisors who knew me as a human rights lawyer encouraged me to disclose my opinions and to support his viewpoints. Nevertheless, as I spent more time in the setting and officials began working under time constraints, it was harder for them to manipulate the topics and subjects they disclosed to me.

Furthermore, as my access grew, my confidence also augmented. This enabled me to press my colleagues for less evident, subtler reactions, downplaying my background. Over time, and as I will show in the next section, my long immersion in the setting and my involvement in the subsequent stages of the immigration project changed my colleagues' perception of me. Rather than seeing me as an outsider, they came to consider me an insider, an additional member of the "immigration team."

Interviews with Immigrant-run Organizations and Native-citizen Immigrant Organizations

Given my involvement in the private drafting committees, I needed an opportunity to engage away from the state organization to maintain my perspective. I used interviews with individuals outside the bureaucracy as a way to increase my knowledge of the broader discussion and to keep myself aware of the conflicts that non-bureaucratic agents experienced. The interviews with these informants helped me put into perspective the kinds of questions that were being discussed inside the organization.

From March to May 2015, I concentrated my efforts on interviewing people involved in immigrant organizations. Considering my background as a human rights lawyer and my work with CIM, I anticipated easy access to these individuals. Also, I felt more comfortable with activists than with bureaucratic officials, with whom I had had less previous interactions.

I selected organizations that were founded by immigrants and organizations that were created with the purpose of serving immigrant populations. With this decision, I purposefully departed from the Babis (2016) conception. Given Chile's recent history of immigration, most of the initial organizations that worked in this issue were run by Chilean nationals. As more immigrants started to settle in Chile, newcomers began forming their own organizations, developing a complementary voice.

My sampling was theoretical and purposive. I did not want to experience the entire broad range of immigrant organizations that had been funded in Chile in the last years, but rather simply to focus on finding interviewees who could provide insights into the relationship that immigrants had with the government. More concretely, I was aiming at selecting actors who interacted with the bureaucratic structure to produce the set of policies that the executive was promoting. Therefore, I was focused on approaching only those immigrant organizations which had an ongoing relationship with the Department of Immigration.

Given my position inside the Department of Immigration, I was able to compile a list of all the organizations that interacted with that Department, whether they were organizations that were run by immigrants or by native citizens. To create my list, I used public sources, such as news media articles, together with internal Departmental documents. I checked the list with an informant who had previously worked in a native-citizen immigrant organization and who was now in charge of overseeing the Department's relationship with civil society. Furthermore, in two instances, after finishing my interviews with immigrant-run organizations, I asked my immigrant-interviewees to vet my list of organizations to check for missing organizations. Neither of these informants recommended that I add additional organizations or eliminate any organizations that were already on my list.

Overall, my list included immigrant organizations which were constituted by first-generation immigrants and organizations that were run by Chilean citizens with the purpose of serving the immigrant group itself. Eliminating native-citizen run immigrant organizations would have severely distorted the findings of this research, for these organizations played, and continue to play, a prominent role in the policy-making process, as I will show in chapter 6.

Considering that my goal was to gain perspective on those players who participated in the policy-making process and who maintained a relationship with the Department of Immigration, I selected a subsample of immigrant organizations that would ensure greater variability. I ended up with a list of 14 native-citizen immigrant organizations and 20 immigrant-run organizations.

I contacted interviewees directly via email. I used my Berkeley account because I wanted to keep my role as a researcher and my position at the Department of Immigration separate. I followed the long script that was approved by the Committee for the Protection of Human Subjects. However, to give context and leverage to my request, I included the name of my key informant, who had previously agreed to help me contact potential interviewees. Given the hectic schedule of many of my interviewees, having a personal reference reduced the chances of receiving a rejection.

I was able to enlist 9 native-citizen immigrant organizations and 9 immigrant-run organizations. I did not even have to send follow-up emails, receiving, except in only two instances, immediate favorable responses. I followed up on their responses by sending a copy of the informed consent notice. I also supplied more details about the research. Usually, after the second email, a date and place was selected to conduct the interview.

Of the 14 citizen-run immigrant organizations, I enlisted only those who were currently assisting immigrant populations. Four of the initial organizations concentrated on providing psychological assistance and did not have direct interaction with the Department of Immigration. One organization that I tried to contact counted as a rejection. I could have insisted, but I stopped trying after I learned that the person, with whom I wanted to speak, was no longer working at the organization. So, aside from getting more contextual information, I would not have been able to learn more about how the organization was helping immigrants.

Many of the immigrant-run organizations that started to work independently on the issue had joined networks of immigrant-run organizations. Thus, I often encountered immigrant activists who held a dual affiliation, with both their original organization and with the federation that was subsequently constituted. Because these networks' main goal was to represent a plurality of immigrant-run organizations as they related to the government, I did not attempt to contact additional immigrant-run organizations. My focus was not on how these organizations operated, but rather on understanding how these particular organizations interacted with the government.

From among the immigrant-run organizations which I had initially contacted, I could count only one as a rejection. I followed up several times with the leader of that organization, only to learn finally that the individual had left his original organization and was working for an international organization.

I meet with the interviewees at the locations and at the times they personally suggested. The preferred meeting place was the organization's office, or sometimes a nearby coffee shop. Whenever possible, I tried to encourage meetings in quiet places. The noise of coffee shops made recording difficult.

I conducted all my interviews face-to-face. All the interviewees with citizen-run organizations were generous with their time. The shortest interview with native citizen-run organization was 46 minutes and the longest 110 minutes. Except for a few interviewees, the majority of them had not met me before, nor did they know that I was working at the Department of Immigration. I only discussed my involvement with the executive with one representative of a native-citizen immigrant organization who expressed concern over confidentiality. During the interview, I explain to this person the scope of my involvement in the Department and I provided assurances that none of the information that was going to be disclosed during the interview would be discussed outside of that space. My privileged role inside the Department of Immigration gave me great flexibility to leave the workplace at any time, without having to explain or reveal my whereabouts to anyone.

I applied the same interview protocol that I used for the officials at the Department of Immigration. I started with personal questions about the interviewee, the organization in which they worked, and the amount of time they had been working on the issue. These introductory

questions were extremely helpful to build rapport. I continued probing into their perception about representative democracy, foreign policy, interest politics, constitutionalism and nationhood.

I finished the interview protocol with demographic questions. I adapted these last questions to the Chilean culture. For example, it is not common in Chile to ask about “ethnic origin.” Each time that I asked about it, I had to explain that I was publishing my study in the U.S. so I needed to know whether they identified with a specific ethnicity. Interviewees were uncomfortable with this question. Also, to get at their place of residence, instead of asking openly about it, I asked about the municipality in which they lived. This information was more helpful than knowing the city in which they lived. All my interviewees lived in Santiago, the capital city. Nevertheless, the municipality in which they lived provided key evidence as to the socio-economic background of the person interviewed.

All the interviews with immigrant-run organizations followed the same interview protocol that I followed with citizen-run organizations. They usually started with some background information on the organization and on the interviewee, and continued with the main discourses about immigration, as I have explained before. Similarly to the native-run immigrant organizations, I concluded the interview with demographic questions and an open-ended invitation to comment. This last open question frequently produced interesting insights, allowing me to follow up with additional clarifying questions.

As with the citizen-run organizations, I met with each interviewee in person at either the organization’s main meeting place or at a coffee shop nearby. The shortest interview lasted around 53 minutes and the longest 77 minutes. Because the questions were open-ended and semi-structured, I was able to change the order of questions to accommodate the flow of the conversation. However, in many cases, my interviewees went over the topics of the protocol without me having to question them specifically about it. It was as if they knew the order beforehand.

It is important to mention that some of my interviewees who had participated in immigrant organizations during their formative stages where now working for local authorities, the executive government, international organizations or independent agencies. In some cases, I encountered them representing this second affiliation.

In addition to the formal (recorded) interviews, I conducted informal, unrecorded interviews throughout my field work with both native-run and immigrant-run organizations. These informal interviews took place while observing and “hanging out” in the field, during which spontaneous conversations arose with informants. I kept a record of all my encounters in my field research diary. These conversations were useful to clarify some patterns I identified during my observations, and to provide context about the work and scope of interaction that these organizations had developed with the executive.

Becoming a Complete Participant (July – November 2015)

My presence at the Department became taken for granted as my participation in policy-making activities increased. During this period, I performed two parallel roles. On the one hand, I was expected to act like an historian who recorded the developments that the “immigration team” was making. On the other hand, I progressively played the role of a public official whose

job was to represent the position of the Department, the Ministry of Interior and even the government.

As an historian, my interest in documenting the process of crafting the immigration bill did not raise suspicion. On the contrary, it was expected. Inside the Department, the actions that the head was undertaking came to be considered worthy of study. My presence was relied upon to preserve the history of the process, a process that was depicted as “unique” by Hugo and which sometimes produced celebratory discussions around a coffee table, especially after having had a “good” meeting with key players.

At times, however, my role as process tracker was put under scrutiny. For example, during a presentation that was held in the Department to discuss the strategies and the influential players that Hugo had to contact to promote the need to reform the law in place, Hugo joked about my note-taking behavior. I was taking copious notes of the presentation and of the questions Hugo was asking. The head teased me about taking notes for my own project and not for the organization. My immediate reaction was to play down his jokes and remain silent about my intentions. Nevertheless, his gesture made me feel like an outsider. I could never be sure whether he was joking as a sign of self-confidence or because he thought that my notes could expose the limitations of his influence.

I started recording other voices to gather alternative accounts of the story that I was observing. My dual function, as policy advisor and process recorder, gave me access to essential information. I became involved in a multiplicity of activities, which facilitated interaction with officials from the Department but also from outside, who did not have preconceived perceptions about my role.

Through my role as coordinator of the Technical Committee on Immigration (TCI), I met with officials who represented other units of the government. In January 2015, the Department had launched the TCI as an advisory committee whose purpose was to produce empirical evidence that could inform the formulation of immigration policies. In my role as a policy advisor, I started reaching out to the TCI leaders in order to introduce myself and propose a working plan for the year to them. For me, the TCI embodied a unique research opportunity that could complement my fieldwork until the Ministerial Committee on Immigration (MCI) was constituted and began deliberations.¹²

Inside the Department and the drafting committee, my research role had not been called into question. However, once the TCI met, my dual position came under inspection. As a policy advisor working for the Department of Immigration I was asked to organize the first meeting of TCI leaders. On April 7, 2015, I summoned all the TCI leaders. The meeting was a disaster. Just minutes before entering the room, Hugo was making changes to the agenda. I sat behind Hugo and intended to take notes of the meeting. I attempted to take an observational role, and encouraged the head of the research division, Felipe, to take a leading role. However, after Hugo introduced the purpose of the meeting and Felipe detailed the work the Department was doing, the TCI leaders began to explain in turn how they had been addressing this topic in their units. Despite my suggestion, Felipe did not take charge and keep control of the meeting. As a result, it

¹² Despite the enactment of the executive decree 1393 that created the MCI on July 11, 2014 and my insistence about forming it, the MCI was not officially constituted until November 2015.

was not clear who was conducting the discussion and everyone interrupted each other, back and forth, to comment on their own institutional agenda.

During the first hour of the meeting, I was sitting behind Hugo. After the leaders started to speak, I moved to Hugo's side in an attempt to take control over the meeting. As I sat close to him, I could hear him mumbling, "this is out of control, there is no direction, this is no good." Hugo left the room one hour before the meeting wound down to its natural end. After people left, Hugo called me and other Department colleagues to his office to express his indignation. In his opinion, the meeting had not been well prepared, there had been no direction, and two of the invited leaders had taken advantage of the confusion to trumpet their messages.

I considered the meeting a professional failure. At that point in my fieldwork, I still believed that I could observe the interactions without actively participating in them. That was naïve of me. I thought that I could extend my drafting committee role to the TCI discussions. I did not acknowledge the political interests of the TCI members nor the institutional stakes at play. If I were to continue in my position inside the Department I had to become a more active participant.

The only way to ensure my place in the Department was to become an insider and help the head in his efforts at controlling the TCI agenda. I personally took over the relationships with other governmental offices through the presentation of an updated version of the presidential instructive. On April 24, 2015, I introduced a proposal to the TCI leaders. After some initial resistance, all the leaders agreed and started to work on my proposal, making suggestions, editing sections, and adding paragraphs to it. By June 22, 2015, after nine consecutive meetings, the TCI leaders approved an updated version of the presidential instruction N° 9 of 2008.

My participation in this update of the presidential instructive well illustrates how my role changed after this date. Despite my initial resistance to acting as a complete participant, the weight of events forced me to take a more committed role to continue inside the organization.

Becoming a Full Participant

The events that unfolded after June 2015 illustrate how my position in the field evolved out of my peripheral role to being considered an insider in the Department of Immigration, in some ministerial activities and even vis-a-vis external actors.

On July 15, 2015, I left the field for two weeks. When I came back on August 3, 2015, I did not have any difficulty in regaining access. Very quickly I was brought up to speed about the developments concerning the immigration project and the conflicts that had arisen with the Ministry of Foreign Affairs. I was even invited to participate in a private conversation about the operation of the research unit.

I began to fully comprehend the scope of my involvement in the Department when I was asked to participate as a representative of the Ministry of Interior at the South American Conference, which was going to be held in Santiago, Chile, at the Ministry of Foreign Affairs from September 8 to 10, 2015. In front of the representatives of eleven countries, I presented the official position of the Ministry of Interior about the presidential instructive and the central ideas behind the immigration bill.

My leading role became even more apparent when I was asked to synthesize and represent the position of the government during the drafting of the conference's declaration. It is a tradition at these conferences that each session ends with an official declaration that represents the vision of all the countries that have participated in the meeting. During the process of drafting this meeting declaration, the representative from the Ministry of Foreign Affairs of Chile designated me as the spokesperson to represent both the Ministry of Interior and the Ministry of Justice and Human Rights. Although it was a brief role, it signaled the status that I had acquired with the other government officials.

In addition to my new role inside the executive, I started to be seen as a reference point to outsiders. On August 14, 2015, a young researcher from the University of Calgary, Canada, wrote me an email to schedule an interview. She told me that she was studying Chile's immigration policies. She had been talking to NGO representatives, but now she wanted to hear about the experience of "someone who worked inside the government." I agreed to the interview and we met in a coffee shop. Her request was not isolated. On February 17, 2016, a new researcher contacted me. A government official had referred her to me. Like the Calgary researcher, she wanted to interview me to get a sense about how politicians, high ranking officials and other civil actors understood international migration and how their understandings shaped the possibilities and limits of migration governance. Specifically, she expected me to help her reach the Department head and other governmental officials who could contribute to her study.

After October 2015, I became an official member of the "immigration team." The Department's head started to introduce me in meetings outside the Department of Immigration as his advisor on immigration policies. When we were meeting with external actors, he described me as the person who best knew the law, the incarnation of the Department's new immigration project. Outside of the Department, I was entrusted with the coordination and drafting of the Second Report on Migrant Workers, and on representing the Department in a working group that was created as part of Chile's commitment to the Human Rights Council.

Although this newer role gave me access to additional resources, it also came with many responsibilities and limitations. My main concern was about "*going native*." I started to personally feel the Department's successes as my own. At times, I found myself talking in "us" terms instead of "theirs." At this moment of my fieldwork, I felt very close to my work-colleagues. They had come to consider me as one of the team. Nevertheless, I struggled to remain focused on my research goals. By keeping a daily diary, I tried to remain aware and reflect on the impact of my presence on the outcome of the process. To keep a check on my behavior, I started to record my emails and conversations in my daily diary. I wanted to keep a detailed account of my thoughts and opinions, so I could trace my steps.

My prolonged stay in the government had helped me better understand how mid-level government officials acted and how they navigated the bureaucracy. As I became more involved with the setting, I began thinking like them. This understanding gave me the confidence that I needed to approach them directly. I was now ready to interview them.

Interviews with Local Government, Public Officials and Members of Congress

By the end of July 2015, and thanks to the TCI work, I had a clear sense about who the state players were and how the immigration policy-making process was organized. Unlike the

initial interviews with immigrant organizations, I knew exactly whom to approach and with what purpose. I started enlisting the leaders of the TCI, which had taken a bigger role in the policy-making process. Given the novelty of the subject, many governmental services did not have a person exclusively dedicated to assisting immigrants.¹³ As a result, it was likely that many ministerial offices had not even developed an official position until they were forced to confront the issue. TCI leaders, on the other hand, had an interest in the subject, and with varying degrees of success, were trying to create an institutional position within their divisions and cabinets.

I interviewed 13 government officials. I selected these officials based on their role in the TCI and in the MCI. I contacted these actors using my Berkeley email. Even though, I had met them several times and they knew my role inside the Department of Immigration, I wanted to make a clear distinction between my position as a researcher and as a representative of the Immigration Department. The first email was shorter, briefly introducing the purpose of my research. With their reply, I followed-up with a longer email in which I shared the consent form and provided greater detail about the study.

I had been working with all my interviewees for the last 4 months, so we had built a rapport. As the person in charge of coordinating the presidential instructive, I met with all the leaders during our bi-weekly meetings and each month when they gathered their groups. We shared emails and a few phone calls.

All the interviewees accepted my request. I met face-to-face with them at a location and time of their convenience. The majority of my interviews took place at restaurants or coffee shops. They preferred meeting outside of their offices, so they could speak more freely.

The shortest interview lasted for about 35 minutes and the longest 73 minutes. For some interviewees, the topic of immigration was new, so they had not reflected on the topic beyond the task they had to fulfill for the TCI. Their answers were short and their responses were more personal than institutional. Others had a long experience working on immigration, so they were happy to talk about it. In many cases, they had worked on the topic alone inside their organization. They saw in the interview recognition of their work and their contribution. These interviewees were eager for the opportunity to speak to a friendly ear.

I followed the order of the interview guide, but I added some concrete examples that I had learned through my participation in the TCI meetings. The examples offered concrete points that facilitated the officials' memory. For many of them, immigration was one among another ten or twenty topics that they were responsible for.

I started the interview with general questions about their function in the governmental office and afterward went on to probe their position concerning their institutional and personal role on immigration. I continued with the central immigration discourses in the order that I have previously mentioned, i.e. representative democracy, foreign policy, interests' politics and nationhood. I finished with demographic questions.

To supplement these interviews, I enlisted seven officials who were working in local government. Although they acted independently from central governmental officials, I decided to include them in my sample because of their direct interaction with immigrants. Also, the

¹³ For more information about the organization of the bureaucracy in the field of immigration consult the introduction to the dissertation where I have put together a graph that illustrates the main bureaucratic players.

Department of Immigration was starting to reach out to municipalities in order to extend its reach. I wanted to check whether these officials, who had direct interaction with immigrant populations, were more knowledgeable about the topic compared to the central officials whose views were shaped from behind a distant desk. Also, I wanted to check to see if they had some influence on the policy the Department of Immigration was pursuing. In order to secure maximum variation, I contacted local officials representing a wide array of communes, exemplifying differences in terms of economic affluence and immigrant populations.

I met with these officials in person at their municipal offices. I followed the interview protocol with the general context questions and the specific questions about the central frames (see appendix for more information). These interviews were shorter than the ones with mid-level bureaucrats. Except for Jazmin's interview which lasted 71 minutes, most of the other did not extend beyond 40 minutes. The abbreviated length of the interviews attests to the fact that either this subject was new to them or that these local officials were responsible for solving concrete problems, rather than thinking more critically about the subject and its relationship with other governmental policies.

The final group I contacted was composed of congressional representatives. Through media sources and other public accounts, I had generated a list of congressional representatives with interests relevant to the topic. I completed this list with the names of those representatives I had personally met while working at the Immigration Department.

I was able to enlist and interview six congressional representatives: one senator and five deputies. Gaining access to these actors was one of my most difficult tasks. It was not possible to contact them directly. I had to go through their chief of staff, who operated as a filter to weed out undesirable requests. I reached out to three congressional representatives after meeting them at the Department of Immigration. One representative responded to my email directly. And I contacted the last two through my personal contacts. Overall, I was able to enlist a pool of actors who represented the main political parties in Congress, from the extreme left, through the middle, to the extreme right.

Although many of these actors had expressed their opinion in the media, during the interview I had to adapt the standard interview guide because these interviewees had only a general sense of the ongoing discussion about immigration. While three congressional representatives had been involved with the topic due to its relevance for the geographical area they represented, the others had only considered the subject superficially.

I met face-to-face with each interviewee. In the majority of the cases, the interview occurred in Congressional facilities. Four of them in the House of Representatives' building in Santiago, and one of them at the Congressional building in Valparaiso. For two interviewees, I directly went to the political party building that was located in Santiago.

I used the interview protocol, but I added some points to make it more relevant to these actors. Because the discussion of immigration had been located inside the executive, the representatives' knowledge depended on their involvement with the topic during consideration of the Piñera bill in 2013 and on their political agenda during their congressional term. I started with general questions about their work. I then asked about their involvement with the topic of immigration, probing into their opinion about the Piñera bill and their knowledge about the executive's efforts to produce a new immigration draft. I continued with questions about

representative democracy, foreign policy and interests' politics. I finished with demographic questions.

Although the list of topics was long, the interviews were shorter than the previous ones, lasting between 30 to 45 minutes. This showed the relatively low priority that this topic had on the representatives' agenda. Because the discussion of immigration is limited to the executive government, the involvement of congressional representatives was limited.

Although other representatives have later appeared in the media speaking about the immigration bill, by then I had already terminated my fieldwork. However, based on their public declarations, their concerns echoed the opinions manifested by my congressional interviewees.

Exiting the Field (December – February 2016)

After a yearlong immersion, exiting the field was a difficult negotiation. As the end of the year was approaching, I started reminding the head of the Department and my colleagues that I was going to leave by the end of February 2016.

The breath of my involvement with the immigration team and in the activities of the Department had come to be taken for granted. Most of all, my role in organizing tasks and managing deadlines was valued and considered essential to achieving the desired departmental goals. For example, at different times during the last couple of months, my colleagues on the drafting team lamented my departure, claiming that they would not find a person to fill my shoes. Moreover, Hugo, the Department's head, praised my work ethic and joked about retaining my passport so I would be discouraged from traveling abroad.

Besides my specific contributions, I had developed close relationships with the lawyers of the immigration team, with the head of the legal division, with the head of the research division and with the head of the Department of Immigration. For example, on January 27, 2016, the new head of the research unit invited me to her former University to meet her faculty dean and discuss a research project with a group of foreign researchers. While we were in the middle of the meeting, Hugo called me, but I had silenced my phone. He insisted instead with the research unit head. After speaking with her a few times, she decided to leave and left me alone to finish the meeting. When I returned to the office, Hugo complained to me suggesting that I should not have attended the meeting because he needed me to be around. Hugo's reaction reflected either how much he had come to rely on me, or how reassuring it was for him to have a person nearby who would listen to him.

Although I had come to enjoy my work and the freedom of action inside the Department, I always knew it was a temporary position. I never forgot the primary goal of completing my research. Furthermore, as I noted before, I was becoming too involved with my work colleagues and with the outcome of the process. It was time to leave and to start writing.

During my last month in the Department, I spend most of my time finding a replacement and negotiating the terms of my exit. Hugo wanted me to stay in touch and supervise my chosen successor remotely. He agreed to let me go on a six-month leave of absence, after which he could reevaluate my situation.

For the next month following my departure, I retained access to the Department's email. However, starting in April 2016, I could no longer access it remotely. After two months, I

stopped receiving emails, *whatsapp* texts and phone calls. Although less intense, my contact with the Department during follow up trips to Chile in May, August, and November 2016 helped to maintain my presence with key informants.

Follow-up Interviews

After leaving the field, I conducted 13 follow-up interviews. I wanted to complement my observations with the perspectives of business federations and to re-interview some key governmental officials about developments that occurred after March 2016.

In my May 2016 trip, I contacted the most prominent business associations to learn their opinion about the immigration bill that was then being discussed in the executive government. Of the eight major business federations, I was able to interview seven. Only one business association failed to respond to my emails. I did not insist with this federation because I had sufficient variety among the remaining business associations. Among the seven business federations whom I could interview, I was sure I could acquire enough information to account for all likely different postures regarding their involvement in the policy-making process.

I adapted my interview guide to the themes that had emerged from my preliminary analysis of the data. I was particularly interested in learning how business interests engaged in the policy-making process and their experiences with the issue of immigration. From my fieldwork notes and previous interviews, I knew that their participation was limited. Nevertheless, I wanted to learn from their own mouths whether this conclusion was accurate.

A few of these interviewees expressed suspicion of my intentions. At the time I was making contact with them, the media was reporting that business organizations had been unduly influencing the approval of some proposed legal reforms.¹⁴ I reassured my interviewees that the interview was confidential and that I was contacting them merely out of a research interest. However, during the interviews, I used examples to gauge indirectly their degree of involvement during the policy-making process. Nevertheless, I could conclude from their responses that immigration was not a topic of great concern. On the contrary, their attention was focused mostly on the reform of the tax and labor code.

In my follow-up interviews with government officials, I probed into concrete questions that had emerged during my data analysis. I enlisted two new governmental officials to interview to complement my previous observations regarding the formulation of policies within the executive. Furthermore, I re-interviewed TCI leaders, including one official who had joined the TCI after September 2015, and two others officials, who claimed to play a bigger role in governmental circles and certainly were so regarded by the press. Given my previous rapport with these actors, it was not difficult to agree on locations and times to conduct the interviews. I changed my interview guide to investigate some of the patterns that I had detected from my data and to collect supplementary information about new developments in the executive's discussion of the immigration bill.

The follow-up interviews proved to be useful in understanding developments that happened after I had left the field and also helped me clarify some questions that arose out of my analysis of the data.

¹⁴Toro, Ivonne, Soquimich Wrote a Section of the Supreme Decree that Modified the Mining Code, The Clinic Online, April 7, 2016 (accessed on 04/07/16); 24hours.cl, SQM drafted Supreme Decree of Piñera that changed the Mining Code (accessed 04/03/17)

Limitations of the Data

I believe that my ethnographic study is unique because it is an in-depth, close up examination of how bureaucratic agencies formulate laws and policies in a presidentially centric state. Due to access constraints, scholars have not been able to fully comprehend the social and political processes that are involved in the law and policy-making processes that occur inside these institutional structures. My singularity arises out of the different access points that I was able to gain and my evolving role in the bureaucracy. These provided me with rich insights about this often-inaccessible setting.

My unique advantage also uncovers my central limitation. During my entire fieldwork, I tried to remain reflective about my position in the field and towards my interviewees. Keeping a daily diary with my observations, thoughts and fears grounded my concerns and helped me stay connected to the goals of the research. However, as the year progressed and I became more comfortable with my co-workers, I started losing some of the necessary distance needed to assess the information that I was receiving and reporting in ways that did not reflect my recent affiliations. Although my data collection strategies encompassed a variety of different sources, I would never know whether my notes reflect the whole story or that partial understanding that one comes to accept as a reality.

I initiated my observations with a privileged position in the Department of Immigration. As chief of staff of the head, and later as his policy advisor, I was able to speak to and call on an important number of officials inside and outside of the organization. My rejections rates were negligible, almost nonexistent. Inside the organization my close relationship with the head facilitated access to resources. Nevertheless, this advantage did not result in a coercive relationship with the rest of Department's staff. To them, I was a close advisor without supervisory prerogatives. My opinion counted as a recommendation, it did not involve performance assessments.

Outside of the organization, I was valued because of the information I could provide about the processes and actions the Department was undertaking. However, I did not have authority beyond the specific tasks that I was completing. To the extent that I could help the government officials' work, my presence was sought. For example, I met Jaime, the head of the Immigration Unit at the Ministry of Social Development after we had finished writing the presidential instructive. We had not seen each other in the preceding two months. After introducing the goals of the meeting, he complained about the lack of information concerning the status of the instructive and blamed the Department for this outcome. I was surprised when he addressed me with an incorrect name. Despite spending considerable hours working together on the instructive, he had forgotten my name. It was OK for him to lose track of me, as my presence was both limited and temporary.

In a predominantly male environment, my gender could have impaired my chances of participating in meetings or receiving sensitive information. But I did not find it to be an obstacle. On the contrary, with TCI leaders I was perceived as less threatening, which allowed me to press for reactions beyond what might normally be socially acceptable. Also, women were well represented in the middle level of the bureaucratic structure. At several meetings of the TCI, the majority of my colleagues were female. The gender gap however was patent at the higher

levels of the bureaucracy. For example, the Minister of Interior had only male advisors on his advisory team. Given that my interactions with high ranking officials were in the context of the project the Department of Immigration was preparing, I never met with the Minister directly. I was part of a team, which in this case was composed of the head of the Department, the head of the legal division and two young lawyers. Except for the head, we were all females.

My unique position in the Department and my gender helped me navigate the bureaucracy with ease, receive invitations to participate in private meetings inside two key ministries, and autonomously negotiate the terms of the presidential instructive 5 of 2015.

However, my involvement with the middle level of the government restricted my access to immigrant organizations. My previous background as a human rights researcher and my knowledge of the non-governmental sector facilitated my communication with these organizations. Nevertheless, I was not able to interact with them on a more frequent basis, beyond the few interviews that I conducted and when we met at official activities. Although I tried to play an independent role when I was outside of the Department of Immigration, over time the leaders of immigrant organizations identified me with the government, and thus treated me as an outsider.

My relationship with high ranking officials was different. Even though I was part of the executive government, and hence part of their team, I was only a low-ranking official. My encounters with Ministers and Vice-Ministers were always as a “chaperon” to the head of the Immigration Department or as part of a team working on a task. I never had the opportunity to speak to them directly. I interacted with them on the same terms as my co-workers when they asked clarifying questions at meetings, or through their advisors. I observed and took notes of interactions at the other events where these exalted dignitaries were present.

Finally, my main access points were the Department of Immigration, the TCI leaders and groups meetings, and the MCI constitutive meeting. Except for the Ministry of Justice and Human Rights and the Ministry of Labor, which gave me a detailed access to their work on immigration, and my later involvement with the Ministry of Foreign Affairs around the South American Conference on Immigration and with the Human Rights Division for the drafting of the Second Report to the Committee on Migrant Workers, my relationship with other ministries was limited. Although I participated in all the reunions that concerned the topic of immigration, I did not have access to other ministerial affairs beyond this specific topic. The extension of my hypothesis and arguments is therefore restricted to the field of immigration policy in Chile, and in particular to the processes that involved the Department of Immigration and the Ministry of Interior.

Document Collection

The interviews and field observations served as the primary data source and the anchor of my analysis. However, for triangulation, I collected and analyzed other sources of information, enabling me to examine the data in perspective and check the accuracy of the findings.

My preliminary research confirmed the importance of paper and written documentation as part of the culture of the Chilean state. Throughout my fieldwork, I tried to archive the documents that I was receiving as part of my position at the Department of Immigration, and collect additional information through my contacts in other governmental offices.

The organizational documents that I was able to collect, which corresponded to the organization's day-to-day operation, internal memos and policy drafts, supplemented the interviews and field observations. Although many of these documents did not end up in an approved regulation, they confirmed the novelty of the subject within the governmental structure and they provided context to the discussions in which I was involved.

Additionally, I gathered relevant judicial decisions, Congressional reports, published regulations, and newspaper articles, and other public secondary materials that related directly to immigration. My purpose was not to veer into systematic content analysis but merely to provide a richer context for the discussion around the immigration bill and other similar policy initiatives, which constituted my primary goal.

Editing and Presenting Field Observations and Interviews

All of the recorded interviews were transcribed. In the beginning, I started to transcribe the interviews myself. However, as my role shifted from peripheral to fully-engaged participant-observer, I did not have the time to continue with this labor-intensive task. Through personal contacts, I initially found and engaged two sociology undergraduates who helped me with my transcriptions. I provided them with detailed instructions and a model transcript that I had myself transcribed. I emphasized the confidentiality of the information and asked them to destroy the audio files upon completion of their work. They were not told of the real names of the interviewees and the audio files were identified by interviewee pseudonym. Over time, I settled upon a single college student, with whom I developed a close working relationship. Using such local transcribers turned out to be a good decision, as they were familiar with the culture and were able to transcribe at a rapid pace. Each month, the student transcriber sent me eight to ten transcribed files.

The transcripts, however, are verbatim, and reflect the sloppiness of spoken language. My field notes, on the other hand, contained a mixture of descriptions, dialogues and characterizations. To render my notes and interview excerpts more intelligible and readable, I personally translated them from Spanish to English, adapting the grammatical structure to convey their substantive meaning. For the increased clarity of my interview excerpts, I eliminated gap fillers usually found in conversations and weeded repetitive wordings that did not alter their substantive meaning. With my notes, I tried to reproduce them as closely as possible to capture the unique multiple voices and points of view that I was observing (Emerson, Fretz and Shaw 2011).

Analysis

Data analyses required intensive, multiple phases of coding and memoing, beginning with the 2014 preliminary study, continuing with the year-long 2015 fieldwork, and finally with the follow-up interviews and my observations of my trips. This method of analysis is common for projects aiming at theory generation (Glaser and Strauss 1967) theory expansion, and refinement (Snow, Anderson and Morrill 2003). I divided my process of analysis into three phases:

Phase 1 Open Coding

I conducted the initial phase of open coding after finishing my preliminary field study. After transcribing all my interviews and collecting my field observations, I began reading my

notes as if they were a single document. Reading notes as a whole and in the order in which they were written helps one to remain close to the data and to perceive patterns involving the people and events described (Emerson, Fretz and Shaw 2011). I did not encounter many challenges at this point because I had a relatively small data set of notes and interviews. Nevertheless, it allowed me to reflect on and write about the degree to which governmental officials in a presidentially centered bureaucracy were participating in the creation of immigration policies, beyond merely implementing the law in force.

After exiting the field, I pursued an open coding strategy with the interviews and notes of my year-long field work. Nevertheless, while in the field, I briefly conducted focus coding. In the middle of 2015, I left the field for two weeks. I used this quiet time to reflect on the information I had been gathering. I had transcriptions of the initial interviews and of the nine meetings with TCI leaders. Instead of reading line by line, I concentrated on focus coding, categorizing the data based on common patterns, and theoretical coding, specifying possible relationships between the emerging topics and the theoretical categories with which I had entered the field (Charmaz 2006). My purpose behind this methodological decision was to think critically about my initial hypotheses and whether I wanted to move forward with them. This exercise confirmed that I was employing the appropriate theoretical categories, but also that I had to pay close attention to how government officials were navigating the institutional structures to promote competing agendas within the executive.

The second phase of open coding required more discipline and focus. Although I had conducted open coding and focus coding of a set of meetings and interviews during the middle of my fieldwork, it was the first time that I approached the entire field study as a whole. I created two documents. In one, I copied all the interviews, and in the other, I transferred all my field notes. Overall, I had a little more than 2000 pages of written text. It took me two months to read each of these documents line by line. While I was reading, I was creating line by line codes and taking side notes. When I started with this process, I was, frankly, still emotionally connected to my fieldwork. However, as time went by and my reading progressed, I began recognizing some patterns and making comparisons.

With the assistance of Atlas.ti, a computer-assisted qualitative data analysis software program, I conducted a second open coding analysis. This time, as I was reading my notes and interviews, I was creating a multiplicity of codes. The goal was to capture as many ideas and themes while at the same time remaining close to what I had been writing (Emerson, Fretz and Shaw 2011). For example, to trace processes, I used verb codes. These codes allowed me to identify what was occurring instead of focusing on why it was happening. Similarly, I coded time, actors and places where the events and description were taking place. These codes enabled me to reflect on practical constraints and specify the meaning and points of view of those under study.

Phase 2 Selecting Themes and Focused Coding

I began looking at the codes and thinking more analytically about how I could group them together, how the categories that I was finding reflected patterns, and how I could think about other examples and counter-examples. This operation took place after I had finished the second phase of open coding. I asked what sorts of mechanisms were responsible for the actions that I was finding, and where these processes were taking place? This undertaking enabled me to

identify four major themes for which I had a substantial amount of data and which reflected recurring patterns of activities.

I decided to explore these themes by going back to the data and regrouping my codes under smaller, more manageable segments of data. I kept my core themes inclusive while going back and forth between these themes and reworking my codes and their linkages. I was finally able to distinguish four stories or central themes: 1) immigration discourses: how were mid-level government officials mobilizing support for comprehensive immigration reform? 2) The human rights story: how were mid-level government officials appropriating human rights standards and incorporating them into their organizational practices? 3) The social skills story: what was the typology of tactics that mezzo-level governmental officials used to achieve immigration policy reform? 4) Other externally-linked forms of participation in the policy making process: how do immigrant organizations interact with the executive government?

Settling upon these themes facilitated the analysis because it helped me identify trends within my core themes and explore their meaning. Then, I turned to “focus coding,” which is a fine-grained, line by line analysis of selected notes (Emerson, Fretz and Shaw 2011). Within each of the core themes, I developed subthemes and subtopics, concentrating on variation and differences. By breaking up my codes into sub-codes, I discovered new topics and new relationships between them.

Phase 3 Integrative Memos

The last phase of the analysis involved writing integrative memos. In these memos, I elaborated ideas that emerged out of my core themes and I explored their relationships with the available theory.

After reading all the codes and sub-codes pertaining to each theme, I built a diagram that provided a physical representation of three levels of relationships: general topics within the core theme, sub-codes, and concrete examples. I repeated the same procedure with all my themes.

I used my diagram to compose a first written approximation to the core themes that I had identified. For each theme, I wrote an integrative memo that incorporated field notes and interview excerpts. Throughout this process, I attempted actively and consciously to develop theoretical connections and formulate explanatory hypothesis. During this phase, I also brought in documentary data to supplement what my interviews and my notes reflected.

With these analytic memos, the empirical chapters of my dissertation started to take form. As I worked on them, and wove back and forth from my themes to the literature, I began understanding the broader intellectual merit of the study and its theoretical contribution to the politics of citizenship literature. At this phase, I revisited the raw data to double-check the arguments and refine the theory. I have continued to analyze and refine the data as I have continued to draft and improve the dissertation.

CHAPTER 4

Frame Inertia: The Persistence of the Security Frame

Chapter 4 examines an important aspect of the central analytic puzzle animating this dissertation: Why is there not (yet) comprehensive immigration legal reform in Chile? In this chapter, I delve into the cultural side of answering this question, weighing the relative effectiveness of differing collective frames deployed to make sense of immigration (Benford and Snow 2000). In particular, I address the rationales offered concerning the presumed need to reform the current law in the first place.

Despite being subject to widespread criticism and characterized by conceptual opacity, the security frame continues to dominate discussion about immigration reform. Its historical and practical roots provide a partial explanation for its endurance. The continued support by high ranking officials explains why it remains dominant despite the modified administrative practices installed after 2014. Interestingly, counter frames which focused on human rights and on the benefits of immigration, and public frames which emphasize the risks and threats of immigration were only surreptitiously (if at all) incorporated into the rhetoric of these high-ranking officials. Financial concern over state spending and anxiety over losing control of immigration were offered as central motives to explain lack of support for immigration reform by these officials.

How immigration is playing out in Chile offers a useful vantage point for understanding broader immigration policies in South America. In the last few years, scholars from Europe and Latin America have begun identifying the emergence of a regional trend in South American immigration policies. In contrast to regressive and restrictive policies in many Northern Hemisphere countries, scholars have discovered a “liberal tide” of laws and policies that could suggest a new approach to immigration reform (Cantor, Freier and Gauci 2015). Concretely, Freier and Acosta (2015) demonstrated that many laws and policies in these countries have expanded individual rights and freedoms. These cases of liberalization have coincided with center-left or leftist governments and with state membership in regional integration forums, such as the South American Conference on Migration (SACM) and/or the Common Market of the South (Magheritis 2015).

Interestingly, the Chilean case appears to run counter to this emergent trend. Despite some administrative changes that fall under the “liberal trend,” the only immigration law currently in force in Chile does not contain a catalog of rights, nor could it be described as liberal. On the contrary, the military junta enacted this legislation in the 1970s; during its forty years of existence since then, it has not been the subject of significant modification.

Analyzing how immigration policies are being formulated is a timely endeavor since relatively few scholars have begun to systematically evaluate the character, especially the stringency, of these policies (Beine et al. 2016). Although this chapter does not provide cross-national comparative data on different immigration laws, its qualitative approach to the question facilitates a deeper appreciation of the dynamics that take place inside states to produce such policies. It particularly shows how different actors within the bureaucracy hold competing views about what these policies should look like. With this approach, the chapter contributes to the literature on immigration politics by offering a close-up perspective into how the state operates.

It illustrates, most especially, how governmental officials make sense of and deploy different decision-making rationales. As such, it pays attention to factors that are usually absent from these theories, especially how organizational cultural dynamics and individual agency play out in the formulation of policies and laws.

The Security Frame: A Contested but Lasting Frame

In Chile, the security frame, although contested, persists in discussions about immigration reform. Indeed, all state and non-state actors who publicly engage with immigration start out by signaling their dissatisfaction with the underlying assumptions of the security frame, which is exemplified with the emergency decree of 1975 that was promulgated by the Military Junta.

Beyond direct mention of the emergency decree's authoritarian origin, it is unclear what it actually entails. For example, in August 2017, congressional representatives highlighted the explicit rationale that the country needed a new immigration law because the emergency decree "was enacted during the military dictatorship reproducing a national security paradigm" (House of Representatives, Resolution 898, August 4, 2017). Similarly, in a discussion I had with the National Director of CIM, he noted that one of the main themes that organizations are going to face in any debate over a new immigration law is going to be the "security frame" (Fieldnotes, November 3, 2015).

In the absence of a concrete definition, the security frame performs different functions depending on who is holding the frame and with what purpose. For the majority of my pro-immigrant interviewees, the security frame is described in opposition to a rights frame. It is at odds with a perspective that recognized the rights of immigrants. On the contrary, for immigration officials, this frame is grounded in the application of the emergency decree, in their interpretation of this statute and in their duty to control immigration.

In the discussion about comprehensive immigration reform, the security frame is tied to varying personal understandings of the exact role of the government in regulating this topic. In the next section, in an attempt to clarify why it continues to be such a core concept in the current legislative discussion, I proceed to sketch its central components.

The Foundations of the Security Frame

This section explores the three principal dimensions of the security frame. It begins by analyzing its origin, then notes how it has been applied and finally how it is conceived of today.

Actors across all political aisles have claimed that the legislation in force, i.e. the emergency decree 1094 of 1975 and the decree 594 of 1984/2015 that complements it, was enacted under a paradigm which conceived of the immigrant as a threat, a risk to the national security of the country. Members of independent agencies, congressional representatives, local government officials, and pro-immigrant activists believed that when the emergency decree was sanctioned, the authorities feared the immigrant, whom they saw as an "undesirable foreigner".¹⁵

Despite the lack of a clear definition, there is a consensus that the foundations of the security frame can be traced back to the historical origins of the emergency decree and to the

¹⁵ Interviews with Natalia, 41 years old, independent agency, May 2015; Elizabeth, 57 years old, local government, May 2015; Olga, 53 years old, immigrant activist, June 2015; and Modesto, 63 years old, congressional representative, November 2015.

way in which the Immigration Department has implemented its provisions since the termination of the Pinochet period.

The Historical Roots of the Security Frame

After the military coup of September 11, 1973, a military junta under the presidency of Augusto Pinochet replaced the democratically elected government of President Salvador Allende. The junta dissolved the Congress and enacted a series of emergency decrees “with the patriotic commitment to restore justice and fix the broken institutional structure.” (Emergency Decree 1, 1973; Emergency Decree 128, 1973). Among those extraordinary measures was the emergency decree 1094, which the military junta enacted on July 14, 1975 to regulate the entry, exit, and settlement of foreigners in Chile.

The emergency decree reproduced many of the norms that existed in previous laws and regulations. Law 13.353 of 1959 governed the entry, exit, and settlement of immigrants. Before 1959, immigration was regulated by Law 3.446 of December 12, 1918, the DFL 69 of April 27, 1953, and the national security law.

In 1959, Congressional representatives believed that these previous regulations had promoted the entry of people who harmed Chile’s national interests. Given this perceived scenario, it seemed necessary to enact a law to increase control over access, movement and the settlement of foreigners (House of Representatives, Session 39, p. 2736, March 10, 1959). In fact, during the discussions of the Law 13.353, immigrants were described as a national risk. The dominant belief was that individuals who came from other countries were considered more likely to participate in criminal behavior (House of Representatives, Session 68, p. 4466, May 19, 1959).

Historically, Pinochet’s legislation did not substantially alter this existing state of affairs. The emergency decree’s striking similarity to reigning Law 13.533 along with its complementary decree (decree 5.021 of 1959) reaffirms this finding. Although the Emergency Decree 1094 increased control over foreign nationals by requiring, critically, the Ministry of Interior to participate in making decisions that Decree 5021 of 1959 had previously bestowed exclusively upon the Investigation Police, all the inadmissibility and non-eligibility criteria remained identical. Also, the extension of police control is the same in both regulations. For example, in the 1959 and 1984 regulation, immigrants are forced to register with the Investigation Police and get a permit to exit the country.¹⁶ The main difference lies in the severity of sanctions that the emergency decree imposed on illegal border crossing. The 1959 regulation established the penalty range between 61 to 301 days in prison (less than a year). By contrast, the 1984 regulation augmented the severity of punishment, upping the sentence range to between 302 and 540 days in prison (a year and a half).

The retention of the main aspects of prior laws in the emergency decree undermines the prevailing opinion that the emergency decree itself was responsible for creating the security frame (Lara 2014; Dona-Reveco and Mullan 2014). As I explained before, this law only reaffirmed existing cultural perceptions about threats posed by immigrants.

Current understanding regarding the emergency decree reproduces this established and inherited conception. Even the head of the Immigration Department explained the origin and

¹⁶ This requirement was derogated in 1994 with the decree 828.

characteristics of the emergency decree by emphasizing its military nature. On August 21, 2015, Hugo was invited to speak to representatives of the government. He started his speech by explaining that the emergency decree had originated following conceptions prevalent at the time it was enacted. It was inspired, he asserted, by the philosophy manifested by the School of the Americas and the ideals that underlined that project. The decree appropriated the tenets of an anti-terrorist philosophy, which was well represented by the head of the Security Service, General Contreras (researcher fieldnotes August 21, 2015).

In sum, the emergency decree is the continuing embodiment of the way in which immigration has historically been regulated in Chile. Its day-to-day application has also reproduced this vision of control and suspicion toward the foreigner.

The Security Frame in Everyday Application

Despite the return of democracy, the application of the emergency decree did not fade. On the contrary, after the 1990s, all employees of the immigration agency still strictly followed its precepts. Samuel, the former head of the immigration office, who worked in the department from 2000 to 2005, stated,

Before it was like ... we preserved the outlook that they had during the military dictatorship, of distrusting foreigners, that the smallest detail about a person while outside the territory raised red flags. There were a lot of entry prohibitions, many from a punitive perspective. That was the prevailing optic.

The continuing application of the emergency decree has endured during five subsequent democratic administrations (1990-2018), over more than forty years without experiencing substantive modification. For example, during President Eduardo Frei's administration (1994-2000), he introduced a few modifications to the refugee provisions (Law 19.476). But he did not touch the rest of the law. Likewise, President Ricardo Lagos (2000-2006) ratified three international treaties to combat human trafficking and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) but failed to make changes to the law in force. Although President Bachelet (2006-2010) promulgated human rights principles in her presidential instructive N° 9 of 2008, these guidelines were not implemented after Sebastian Piñera rose to power (2010-2014).¹⁷

During Piñera's time in office, the authorities in power made wide use of the law in force. Not only did they increase the application of sanctions but they also "surrendered" border control to the Investigation Police (Felipe, 42 years old, Ministry of Interior, Public Administrator, Chilean, September 2015).

Although, on May 20, 2013, Piñera presented a project to reform immigration law, pro-immigrant groups questioned the motivations behind this project. According to Diego Portales University Human Rights Report (2013), the project contradicted the reality of immigration to Chile because it misjudged governmental capacity and preserved the authorities' high degree of discretion (UDP 2013: 127).

¹⁷ The presidential instructive was brought back to life when Bachelet returned to office in 2014.

Multiple democratically elected governments thus supported the implementation of the Pinochet's legislation. Changes in the jurisprudence of the Department of Immigration started to take place only when Chilean Higher Courts began overthrowing administrative decisions.¹⁸

Therefore, for more than twenty years (1990-2010), the emergency decree has been implemented without its underlying assumptions being called into question. Only in the last seven years (and thanks to Supreme Court decisions) has the Department of Immigration slowly started to readjust its legal interpretations to bring practice into conformity with international human rights treaties that Chile has signed (Felipe, 42 years old, Ministry of Interior, Public Administrator, Chilean, September 2015). Nevertheless, as immigration to the country has continued to rise (Rojas & Silva 2016), a new iteration of the security frame has begun taking shape.

Current Discussions about the Security Frame

Despite the discredited status of the security paradigm, discussions inside the bureaucracy underscored its continued significance. For mid-level bureaucrats, the government had a duty to secure its borders but with limits. For example, during the discussions of the immigration draft, the heads of the legal (Melanie) and research (Felipe) divisions were debating with the external advisors about the best way of understanding the tension that immigration brought to the country. According to the Department's officials, regulating immigration required finding a balance between immigrants' rights and the state's sovereign powers. Although the law had to include rights, it could not restrict the authority's ability to sanction immigrants who had infringed it. Furthermore, Felipe and Melanie were on guard against including "too many rights" which could limit the power of the state to control immigration flows in the draft. They were also worried about putting "too many restraints" on the government, limiting its capacity to act (Researcher fieldnotes, March-April 2015).

A number of mid-level bureaucrats also asserted a legal right to make decisions regarding Chilean territory. For Jaime, an official working at the Ministry of Social Development, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) still permitted states to make decisions regarding the entrance and exit of immigrants. Building from a decision of the Constitutional Court, Felipe and other officials at the Department of Immigration believed that the international human right to migrate did not imply that the state had a duty to create a subjective right to migrate (Constitutional Court 2013, *Alerte Daniel v. Vice Minister of Interior*). In other words, the state could prohibit the entrance of foreigners and set restrictions within the purview of its internal laws and regulations (Researcher fieldnotes, May 2015).

Concern over control was not exclusive to immigration officials or mid-level bureaucrats. High ranking officials also believed in control. For a number of high ranking public officials, the government had the sole responsibility for regulating its borders. According to a close advisor at the Ministry of Interior, the problem of the Department of Immigration draft was that it had established an "absolute right to migrate" and that it limited the power of the government to regulate immigration. In his opinion, the draft created "an open-door policy" that was "too"

¹⁸ Interviews with officials that worked in the legal section of the immigration department, February 2015. Also, opinions collected during the legal drafting meetings, researcher field notes March-May 2015.

beneficial for immigrants. In his opinion, the draft granted an “absolute right of entry and limited the state capacity to deport immigrants once inside.” (Researcher fieldnotes, February 2016)

The former Minister of Interior accepted his advisor’s opinion. In fact, in April 2016, he asked Hugo for additional clarification because he was under the impression that the immigration draft reflected a “pro-immigrant perspective,” which was undesirable (Researcher fieldnotes, April 2016).

Under the current administration, discussions about the security frame underscored a fundamental question about the prerogatives that governments have to regulate immigration. In a nutshell, the question was whether these functions ought to be broad or narrow, and to what extent was it possible-or desirable-to limit the state’s power. So far, these discussions have not been resolved, pending the introduction of a new law in Congress. Notwithstanding, in the meanwhile, the emergency decree as it is continues to permeate day-to-day implementation and decisions made by immigration officials.

The emergency decree, and the security frame, coexist however with new discourses about immigration. On the one hand, supporters of immigration describe it as a human right and as an economic and cultural opportunity for the country. On the other hand, public perception about immigration continues to stress the risks and dangers associated with the arrival of immigrants. Below, I explain these frames and their limitations.

The Rise of Alternative Frames

International human rights commitments and the economic contributions of immigrants to Chile have provided the bases for the most prevalent counter frames in the Chilean immigration discussion. In contrast to the security frame, these frames link the opening of Chile to the world in its post-authoritarian manifestation.

By the end of the 1980s and more intensively after 1990, Chile opened its borders to free trade and became an active member of the United Nations and the Organization of American States (OAS). As a result of Chile’s economic and political stability, a growing number of immigrants started to pick Chile as a destination country (Cano, Soffia and Martinez 2009; Rojas and Silva 2016). These circumstances have influenced the way Chile relates to the world, and, in the field of immigration, have enabled the emergence of new frames. In what follows, I sketch how these new frames have been employed, the problems associated with each one of them, and their relationship to the security frame.

The Human Rights Frame: The Value of Immigrants Lies in their Humanity

The central premise of the human rights frame focuses on recognition of the dignity of each immigrant person. According to Miguel Yaksic, the director of the most prominent immigrant NGO in Chile, this frame emerged as particularly salient in debates about immigration reform in late 2016. Yaksic highlighted several dichotomies. In particular, he believed that framing immigration as a problem versus an opportunity or associating it with crime was faulty. In his opinion, all of these framings “treat the immigrant as a means of production, ignoring that his value does not lie in his contribution but in his humanity [sic]. And they are all false because

we cannot do anything to stop people from migrating, because their motives are far too powerful.”¹⁹

For the proponents of the human rights frame, the logical response to the “immigrant problem” is to enact an immigration law that would include a strong catalogue of human rights. The incorporation of these standards is not only a moral duty but also an international obligation. In fact, since 1972, and particularly after 1990, Chile has ratified multiple international human rights treaties. Although the jurisprudence of the Constitutional Court has manifested the legal hierarchy of human rights treaties (Bermudez 2014), negating its constitutional rank (Medina 1990), Chile’s participation in supervisory treaty bodies has increased the internal visibility of these standards. In fact, between 2010 and 2012, Chile has submitted reports to seven treaty bodies: the CMW (January 2010),²⁰ the CESCR (March 2012),²¹ the CEDAW (September 2012),²² the CRC (October 2012),²³ the CED (January 2013),²⁴ the CCPR (December 2013)²⁵ and the CRPD (August 2012).²⁶

The country’s voluntary commitment to international human rights is the foundation of this frame. Immigrant groups’ central demands include the introduction of human rights standards into current legislation. For example, to an immigrant leader from Colombia, there is an urgent demand for a legal reform that would recognize human rights treaties (Aldo, 37 years old, immigrant activist, journalist, May 2015). Similarly, Ivana, a 34-years old, immigrant leader from the U.S. stated,

The most important thing is that the law includes human rights norms because the current regulation does not include anything about it.

Most of the problems associated with the 1975 emergency decree and its complementary regulations stem from its illegitimate origin, and its outdated and inefficient prerogatives.²⁷ For Susana, Leonor and Juan these difficulties could be solved with legislation that “would recognize the rights of immigrants and that would respect human rights treaties.”

Despite the transparent clarity of the demands which they advance, pro-immigrant organizations have been unable to convince public authorities of the relevance and timeliness of enacting these sought-after changes. Although Piñera and Bachelet have expressed their political commitment to human rights, their actions have demonstrated the opposite.

In 2010, Chile reported to the Committee on Migrant Workers about the steps the country had taken to comply with the Convention. The draft bill that was the object of the committee’s revision was postponed for reassessment when former President Piñera came into office in 2010 (CMW/C/CHL/CO/1, October 19, 2011). In 2013, Piñera introduced a new bill into Congress. In this proposal, former President Piñera explicitly argued for the need to conform to the international treaties that Chile had signed. In its body, the bill included the recognition of the

¹⁹ Yaksic, Miguel, Serious Debate About Immigration, *El Mostrador* Letters, December 15, 2016 (accessed on December 16, 2016)

²⁰ Committee on Migrant Workers (CMW)

²¹ Committee on Economic, Social and Cultural Rights (CESCR)

²² Committee on the Elimination of Discrimination against Women (CEDAW)

²³ Committee on the Rights of the Child (CRC)

²⁴ Committee on Enforced Disappearances (CED)

²⁵ Human Rights Committee (CCPR)

²⁶ Committee on the Rights of Persons with Disabilities (CRPD)

²⁷ Interviews with Josefina, 45 years old, lawyer, March 2015; Leonor, 35 years old, lawyer, April 2015.

right of labor, health, social security, and education. However, it also established conditions for the exercise of those rights. These conditions were widely criticized by human rights NGOs (UDP 2013). Further, since July 24, 2014, the bill has not been discussed and no progress has been made for its modification (House of Representatives, Immigration Act, Message 089-361, May 20, 2013).

Likewise, the current president in office, Michelle Bachelet, stated in her political program (2014-2018), that the government would make an effort at “developing an immigration policy and a culture based on the promotion and implementation of international human rights treaties and of the rights of immigrant persons.” (Bachelet, Michelle, Political Program 2014-2018: 155) Nevertheless, despite this political promise new legislation has not been introduced into Congress.²⁸

In 2016, the National Institution of Human Rights (NIHR) praised the efforts made by the executive during 2015 and 2016 to guarantee the rights of immigrants. However, it lamented the fact that Chile still had one of the oldest statutes in Latin America, and that governmental rhetoric had not translated into a new law. “The urgency to have legislation and public policy that conform to the global reality and the standards of human rights is a constant concern of NIHR and of civil society.” (NIHR 2016: 43)

Interestingly, the economic slowdown that started by the end of 2015 and intensified in 2016 decreased the primacy of the human rights frame. Government officials turned away from human rights to instead stress the benefits that immigration brought to the country. Ulises, a high advisor at the Ministry of Labor stated,

We shifted the discourse from focusing on a human rights vision in the first half of the governmental period. As I always said to my bosses, human rights are a vision of humanity, which is something that we have to do as human beings. And we moved to an opportunity angle, that immigration is something we need, as a society. Incorporating immigrants will help us improve in a variety of areas: creativity, opportunities, and demographic renewal. First and foremost, immigration is an opportunity according to the great national frame that the president has now given us. It is an opportunity that coincides with our productivity agenda.

The above quote illustrates an important shift in the immigration discussion. In the rest of the chapter, I introduce this frame and explain its limitations.

From Economic Contribution to Economic Opportunity Frame

In private, the head of the Immigration Department, Hugo, told me that he believed that Chileans are not interested in human rights. In his opinion, Chileans only want to know how much they are going to benefit from having new people living in their neighborhoods. As a result, in his public appearances he has stressed the economic, social, and cultural benefits that immigration produces, individually and for the society as a whole (Researcher fieldnotes 2015).

²⁸ Sandoval, Rodrigo, Head of the Immigration Office declares that there would be no immigration law during this government, El Mercurio, November 28, 2016 (accessed on December 9, 2016).

Recognition of the economic contribution that immigrants can bring to a host society was fundamental in the formulation of many of the South American immigration laws enacted in the early 19th century. However, as dictatorial governments and military juntas came into power between 1970s and 1980s, this vision shifted for the majority of Latin American countries (Freier and Acosta 2015).

In Chile, the economic contribution frame appeared quite visibly as an “opportunity” in August 2014 when a right-liberal think tank published a book under the name of “Immigration Chile: Ignored Opportunity.” In this book, Bellolio and Errazuriz (2014) argued for a system that promoted open borders and a selection mechanism adjustable to labor market demands. The authors believed that a flexible instrument could accurately administer the issuance of visas to grasp immigrants’ potential and contribution. This system of selection would operate within the limits imposed by the respect and protection of the human rights of migrants, as recognized in international treaties, thereby ensuring their integration to the host society (2014: 99).

For the advocates of this frame, immigration becomes an economic instrument. For the head of the immigration department, the “opportunity” of immigration is the master frame that would allow him to convince Chileans to welcome immigrants. Also, given the unmanageable nature of immigration flows, it is better to take advantage of it, as opposed to resisting it (Interview, May 2016).

Business guilds also held this vision. Representatives of business interests believed that immigration has helped in the economic development of the country.²⁹ For example, according to Blas, the former president of the biggest construction guild:

One should go to the history of the country, right? Immigration has produced development for the country, hasn’t it? Consider southern Chile with the Germans or the Croats in the north. I would tell you that uh, the immigrant is a person that for my taste has the grace of a person who is willing to work. Now, if you are looking to work and to contribute to the society, the Chilean society, immigration is very virtuous, of course.

Similarly, for Bastian, a 56-year-old male, who represents a federation of business guilds, immigrants bring with them skills that natives do not have or have not appropriately developed. Therefore, immigration is a cheap and fast alternative way to promote economic growth. In his words,

Well, one of the things we have been discussing for a long time as a country is how to improve the professional and the labor skills of native workers and people who have been technically formed at universities, or people who have not had access to this level of education. And clearly, Chile being a country that aspires to a higher level of development, it is important to quicken the stride, so to speak, rush the pace, because there are cycles, as is happening now with the price of copper, which is so important for Chile in many ways; it is important to accelerate the process. So, in that sense, foreign labor, I think specialized and focused labor, that is, in the sectors we represent, I feel it is important.

Interestingly, the economic contribution/opportunity frame does not contradict the security frame. On the contrary, it builds from the instrumental conception of the immigrant person. In

²⁹ Interview with Bernardo, 75 years old, business guild, agricultural engineer, May 2016.

this case, however, the focus is not on the problems but on the possibilities. Miguel Yaksic made a similar point. It is not shocking to find at the end of Bastian's comment a reflection about the risks associated with the arrival of immigrants. Nevertheless, as he signals, in the Chilean case these fears are unfounded because the immigrants who come to Chile are different. In his words,

We are aware of the social burden that immigrants generate, as is demonstrated everywhere, but Chile has a different model. Here, immigrants contribute more than what they cost. If we add it up, we get a positive sum. Obviously, the goal is to improve so that the country grows and develops.

The latent fear that immigrants can become a burden for society explains why more powerful frames have started to emerge to restrict immigration to the country (see next section, public perceptions about immigration). The traction of these arguments becomes evident when supporters of immigration pragmatically select "less desirable" frames as necessary way of moving the subject forward. For Gabriela, a former immigrant activist and current PhD student, there is a danger implicit when using the "opportunity" frame, but for a pragmatic perspective she prefers to use it, as opposed to continuing under the veil of the security paradigm. In her interview, she explained to me how she viewed this frame,

Consider this person as an economic migrant; don't see him as a risk, but as an opportunity" I could be critical and say "of course, he [the head of the Immigration Department] continues to use the same angle" but what I understand is that he is looking to what has been tried in other countries, like the United States where if it were not for the immigrants in California, they would not have had vegetables to buy at the grocery store. Secondly, [the head invites us] to look at other people, to learn how people solve their problems, how they think, what they have done; all of that makes you know more, learn about other languages, and learn about other cultural and social practices.

Gabriela echoes the rationale that other immigrant activists have recently deployed to justify this frame. For many, the arrival of a diverse group of people is perceived as a cultural asset that could positively influence the parochial Chilean mentality. According to Javier, a 27-year-old Chilean male, who worked at an international organization,

Immigration policy mainly has to be focused on knowing how to use the social capital that comes with migration, either for labor, economic, academic, social, but especially in the cultural and educational domain. I think those are the most important factors because cultural diversity provides the wealth we need for our social base to grow and thereby complement our strengths and to learn more skills, and really grow, for true development.

In sum, taking advantage of the profits of migration has become a salient frame because it touches on the egoistic nature of individuals. But it is also a message that easily resonates with multiple constituents inside and outside the government. Furthermore, it is a frame that has implicitly allied immigrants' supporters and business interests. Not only do representatives of business guilds use this frame, but it has also been taken up by one of the most influential conservative Chilean newspapers. *El Mercurio* has made the economic "opportunity" frame the focus of many editorials and articles.³⁰

³⁰ El Mercurio, Editorial, Immigration Debate, December 4, 2016. El Mercurio, Editorial, Immigration: Agreements, Disagreements and Loopholes, December 8, 2016. El Mercurio, Hernan Felipe Errazuriz, Migration and Contradictions, December 10, 2016. El Mercurio,

Lastly, for the government, it has been a convenient frame that has served to justify the *laissez-faire* policy it has de facto pursued (Stefoni 2011). The administrative actions that the immigration office has adopted pending a legal reform are based on the belief that immigration is an opportunity that will have to cease sooner rather than later.³¹

The moral value of human rights is both its strength and weakness. There is an intrinsic weight in human rights postulates, which are difficult to contradict. Nevertheless, its abstract and vague nature allows for conflicting interpretations. Conversely, the simple nature of the opportunity frame renders it resonant but also prey to cost/ benefits analysis and other instrumental calculations, the inputs to which can vary according to political and economic assumptions and dynamics. These characteristics which facilitate its emergence, also foreshadow subsequent potential impasses based on conflicting assumptions.

The limited efficacy of the human rights and opportunity frame becomes palpable when other discourses surface appealing to the dormant and publicly controlled fears of many Chileans nationals. I analyze these fears below.

Public Discussions about Immigration

In Chile, recent public discourse about immigration has stressed the criminal and economic threat that immigration brings to the country. The claim that immigrants pose a threat to host societies is hardly novel. With the growing politicization of immigration from the 1990s, and especially after the terrorist attacks in the United States on September 11, 2001, the anti-immigrant rhetoric that characterized immigrants as a threat to liberal nations has only increased (Hampshire 2013). Chile is no exception. One commonly finds examples of the criminal, health, and economic threats posed by immigrants expressed by Chilean state actors in both elected and unelected (bureaucratic) positions.

Although mid-level bureaucrats and pro-immigrant organizations rejected this public perception, its resonance in the public discourse has influenced the tone of the debate. Furthermore, for the supporters of the security frame, these perceptions have fueled and grounded their position.

Immigrants as Criminal and Public Health Threats

The arrival of immigrants poses challenges to host societies. One of the most evident problems that public opinion highlights about immigration relates to the rise of criminal activity. For Matilde, a 34-year-old female congressional representative, immigrants represent a complex threat. Not only have they come in large numbers to “mess up our neighborhoods,” but their different “idiosyncrasies” also threaten Chilean traditions.

Today, we, we have an overwhelming influx of immigrants. Moreover, we have a flood, not of people from countries I feel that at least we have similar idiosyncrasies, ways of acting alike, like identities. For example, the Peruvian, Bolivian and Chilean daily life-styles are very similar, versus what is happening today with Colombians who make a mess of our neighborhoods. As a neighbor told me, which perfectly reflects what I am

Immigrants Contribution: How to Maintain Productivity in an Aging Context, December 16, 2016. El Mercurio, Juan Andres Fontaine, Open Door? December 18, 2016. Pardo, Gabriel & Infante, Mariana, RUT-ID Bank Accounts Skyrocket, El Mercurio, January 14, 2017. Obregon Castro, Pablo, 22% of Immigrants Pay Taxes and Contribute with US\$ 495 Million a Year, El Mercurio, January 29, 2017.

³¹ Interview with Hugo, 43 years old, government official, lawyer, February 2015.

saying, they party from Monday to Sunday. Trafficking drugs is important to them as well as consumption of illegal substances. I would not dare venture to guess a percentage, but it is an extremely normal thing. Like a person who smokes ... deals, and obviously with brackets, “this affects or impacts the fact that among Bolivians, Peruvians and Chileans the skin is the same,” here there is an issue. Also “hey, the city is packed” You’ll forgive the phrase, but “our city is crowded with Blacks” and that perception fuels our discomfort about the explosion that we are experiencing.

In Matilde’s mind, Colombian immigrants threaten Chilean traditions. She portrays immigrants as being unable, or unwilling to integrate into Chilean society (see generally, Massey and Pren 2012). Chile is not a special case in this regard. In Costa Rica, for example, the immigration law that was enacted in 2006 (replaced by a 2010 law) presented Nicaraguan immigrants as “threats” emphasizing that the country was being “flooded,” “bombarded” and “invaded” by “illegal” immigrants who were characterized as the primary cause of the deterioration of the country’s social services and its rising crime rates (Fourrat 2002).

Immigrants are often defined as threats to public health, carriers of disease and pollutants (Markel and Stern 2002; Santa Ana 2002; Chavez 2008). In such discourse, migrants literally threaten the nation by bringing with them diseases that rarely appear in the host country. They thus metaphorically threaten the body of the nation as human “germs” that infect an otherwise healthy national body (Chavez 2001, 2008). For Modesto, a politically independent male Senator, immigration in his opinion is a sanitary hazard. In his interview he said that,

Chileans hardly had tuberculosis. Tuberculosis is a disease tied to poverty, now it reappears, and some say it is a sexually transmitted disease.

The Senator makes an association between poverty and immigration, blaming foreigners for bringing back problems that Chileans had previously solved. He also reiterates the belief that immigrants are more likely to be involved in prostitution, suggesting that it is the cause of the recurrence of diseases.

The public discussion about the threat that immigrants create remains latent. For almost a year after these interviews, there was no mention of these risks. However, by the end of November and more intensively in December 2016, after the head of the Department of Immigration declared in the media that the executive was considering not sending the immigration bill to Congress,³² the debate exploded.

Politicians reproduced people’s dormant thoughts about immigration. The right-wing coalition *Chile Vamos* (“Chile Let’s Go”) issued a public statement about restricting immigration to the country.³³ Both the presidential candidate from the conservative right, Manuel José Ossandón, and just a day later, the presidential candidate from the liberal right, Sebastian Piñera, linked immigration to crime. For Ossandón, the “doors of the country would not be open to all,”³⁴ and for Piñera, it was “naïve and stupid to believe that an immigration policy would not end up importing evils, such as criminal activities, drug trafficking, and organized crime. Many

³² Sandoval, Rodrigo, Head of the Immigration Office declares that there would be no immigration law during this government, *El Mercurio*, November 28, 2016 (accessed on December 9, 2016).

³³ Trump effect reaches Chile: contending congressional representatives advocate for additional restrictions against immigrants, *El Mostrador*, November 28, 2016 (accessed on November 29, 2016)

³⁴ Ossandon, Jose Manuel, Ossandon closes his speech against foreigners: “the doors of the country, like the doors of any house, are open but not to all,” *El Mostrador*, November 28, 2016 (accessed on December 1, 2016)

of the criminal bands that are in Chile, like the ones that are cloning credit cards, are made up of foreigners.”³⁵ These assertions produced an immediate reaction among the center and left-wing parties, which generally denied the association between immigration policies and criminality,³⁶ and denounced the rhetoric as an electoral ploy.³⁷

This is an explosive debate. However, the negative opinions of the two congressional representatives quoted above represent perspectives shared by many Chilean nationals, especially in areas where immigrants are most highly concentrated. Besides the association with crime and disease, immigrants are described as a threat to the native-born citizens’ economic stability.

Immigrants as Undeserving Economic Threats

In discourses about access to social services, immigrants become fingered as parasites that suck dry the resources of the nation by taking jobs from citizens and both using and abusing public services (Chavez 2008; Newton 2008). Moreover, in times of economic downturn or social crisis, anti-immigrant rhetoric increases its resonance (Pedraza and Rumbaut 1996).

Concerns over immigrant “deservingness” and access to services have emerged during regular community activities. For Mateo, one of the congressional representatives of the Santiago district, immigration is one of the hardest topics to discuss with his constituents. In his public meetings, he can usually convince his voters about such issues as crime and drugs, but immigration is always the subject where he cannot secure any positive consensus. In his opinion, equality of treatment between Chileans and immigrants is:

Extremely difficult to achieve because it involves resources, it involves workplace security, that is, for those who work, especially as unskilled workers, anyhow, whatever category one would want to locate the immigrant is a ... is a direct competition, and the employers know, they know that it is good for business. Then the native worker does not want someone to compete for less money because that's what happens, he competes, wages decline, and the native doesn't like that idea. In a system like ours, we all have to compete for social rights! Natives and immigrants compete to be categorized as poor. You do not want the arrival of someone who is poorer; The Chilean thinks, “Hell, I need a subsidy. I want access to healthcare, housing, etc., but if someone has worse conditions, he will be competing for those benefits, which are not guaranteed.” All of that creates additional stress and produces heightened nationalism.

From this perspective, immigration is a threat because it increases the competition for already scarce resources. The congressional representative repeated this concept five times in this short excerpt. This situation is particularly complex in the Chilean context because according to the 1980 Constitution, the government has a subsidiary role in the provision of social goods. The Chilean economic model that arose after Pinochet limited the role of government in the provision of public goods and bestowed upon the individual the responsibility for his survival. This frame is also present in most liberal democracies, where immigrants are described as an economic

³⁵ Piñera, Sebastian, Piñera joins with the Chile Vamos’ critiques against immigration after falling in the polls, *El Mostrador*, November 29, 2016 (accessed on December 1, 2016)

³⁶ Amplitud criticizes Chile Vamos proposal “crimes have nothing to do with immigration politics”, *El Mostrador*, November 29, 2016 (accessed on December 1, 2016)

³⁷ Lagos, Ricardo, the worst that could happen is that we start using immigration for an electoral purpose, *El Mostrador*, November 29, 2016 (accessed on December 1, 2016)

burden on the destination country, taking jobs from natives, depressing wages and draining social benefits (Mudde 2012).

The criminal, health and economic threats emphasize the risks that immigrants bring to the country, either because of their assumed criminality, lack of good health, or threat to jobs and social benefits. By focusing on the social ills that immigrants are expected to produce in the receiving society, this depiction introduces an abstract and intangible threat that was absent in previous understandings of immigration.

The recent discussions that have emerged with the continuing arrival of immigrants have identified the common fears that arise with immigration. This discussion, which occurred parallel to the internal definition of the immigration draft, has not translated into changes concerning the fate of the next immigration bill. Interestingly, more basic concerns over state spending and control over state resources keep dominating high ranking officials' rationale regarding the future of immigration in Chile. I examine this last argument in the next section.

Winning Frames: Economic and Security Concerns

The public discussion over immigration has stressed the historical foundations of the emergency decree and the new risks associated with the arrival of more immigrants. Despite the public resonance of alternative frames, such as human rights and the opportunity of immigration, backstage (and later front stage) discussions that emphasized the economic cost of enacting a new immigration law and the restraints that a new law would put on the power of the government to control immigration have stalled the advancement of the immigration draft.

The Economic Cost of a New Institutional Structure

The question regarding the cost of enacting a new immigration law was always present among the immigration team members. At every stage of the process, during the private committee meetings and in close-door meetings with other government officials, the question of cost surfaced. For example, one of the external experts joked about the additions he was suggesting because they increased the costs that the government had to face if it were to implement the law. He rubbed his hands and expressed satisfaction, like a child who knows that he will be rewarded with candy. Inversely, during the discussions of the immigration draft, the advisors of the Minister of Interior insisted on eliminating any disposition that could be interpreted in terms of generating costs for the government. So, for instance, instead of establishing a rule that demanded that decisions be personally communicated to the person, they favored a rule which gave the administrative official the choice of notifying the person by mail and only exceptionally in person (Researcher fieldnotes, March-September 2015).

Part of the reason why it was so important to reduce costs was that before signing any law, the Direction of Budget had to approve and sign off on a financial report. That office seldom supported drafts with excessive costs. According to representatives of the Ministry of Finance, who had asked for clarifications with the Budget Office, either the Ministry of Interior would produce a law with zero cost, or the project would not be supported (Researcher fieldnotes, January 2016).

Furthermore, as the year advanced, the President in office had encountered several problems in financing her reforms, and the country was starting to face an economic downturn. These contextual circumstances explain in part the difficulties that the immigration law faced.

Despite the utility of a financial document and of estimating the economic costs of creating a new institutional structure, the need to produce a financial report was downplayed during internal discussions of the draft, until the intervention of the Vice-Minister of Finance during the first meeting of the Ministerial Committee on Immigration (MCI). After November 2015, the cost that the law would entail for the country became one of the most pressing concerns. For example, the first question that the advisors of the Ministry of Foreign Affairs asked when the immigration team presented its immigration draft was about the cost that this statute would create for the government (October 14, 2015). In the last meeting that the immigration team had with the Ministry of Interior (January 15, 2016), one of the central points of discussion was whether or not to insist upon the creation of a new institutional structure, considering the cost this would entail and the presumed resistance of the Budget Office.

The Ministry of Interior's lack of support weakened the Department of Immigration attempt to enact a new immigration law. The refusal to back up the Department's institutional proposal affected its intention to improve both its internal and external operations. This decision, however, indirectly benefited the Ministry of Foreign Affairs which could keep its prerogatives, which would have been significantly reduced under the Department of Immigration draft. According to the head of the legal division of the Department of Immigration (Melanie), if the Minister of Interior had insisted on creating the institutional structure that the project had projected, he could have overridden the position of the Budget Office and the draft law could have continued on course.

After the MCI, the economic frame became dominant. In the press, representatives of the government explained that the immigration draft was under revision at the Budget Office, pending its economic evaluation. Although internally there were conflicts with the Ministry of Foreign Affairs, the public rationale for delaying the introduction of the law remained its economic cost.³⁸

The cost associated with the presentation of the law, most especially the fiscal toll of creating a new institutional structure, divided the Vice Ministry of Interior and the head of the Department of Immigration. Even though the previous Ministry of Interior (Jorge Burgos) had supported the creation of an Immigration Service, to the incoming Ministry of Interior (Mario Fernandez) and for the Vice Ministry (Mahmud Aleuy) the Service was perceived as simply more bureaucracy. On December 14, 2016, the latter explained to the House of Representatives that the immigration draft was making a conceptual error by believing that there were virtuous institutions and that a new institutional structure could adequately solve the problems associated with the structure established in the emergency decree (House of Representatives, Foreign Relations Commission, Special Session, Vice-Minister December 14, 2016).

Although relevant for the future of the law, the discussion of its economic costs did not touch the core questions that were deployed in previous frames. The discussion over the costs can be conceived of as a strategic way of avoiding taking a position on the matter. Let it be noted that the maintenance of the emergency decree serves to accommodate those who are not seeking to overhaul it, in this case the current Minister and Vice Minister of Interior.

³⁸ El Mercurio, "Emerge Among Representatives of Immigrant organizations Critiques Against the Ministry of Interior for Postponing the Law and Reject the Creation of an Immigration Service," February 4 2017 (accessed February 6, 2017)

The Return of the Security Frame

At the center of the struggle over reform of the immigration law is the conception of the role that the government plays in its regulation. In this case, resistance to change underscores acceptance of the way things are, in particular, of the ample powers entrusted to the authorities. High ranking officials, and a few mid-level bureaucrats are not at all uncomfortable with the way this decree deals with immigration. So, why change it?

Thus, backstage, the security frame has found secret allies. Despite the growing familiarity with the human rights frame and the increasing interest with the economic opportunity frame, neither of these frames has dislodged the centrality of the security frame. The latter continues to exist under the current legislation, and has been fortified after more than forty years of implementation.

In private meetings, mid-level bureaucrats strategically selected the restrictive aspects of the immigration draft to convince higher officials about its pertinence. Deemphasizing the security frame in public, but using it as an internal strategy to convince higher-ranking officials, reinforced the dominant opinions shared by those officials who wanted to keep control over immigration.

For example, when it was time to persuade the Ministry of Interior about the frame under which the immigration draft was conceived, the head of the Department and of the study division de-emphasized the human rights frame. In their opinion, the majority of Chileans were not concerned about human rights, but rather about the risks that immigration could bring to the country. Therefore, the best way of convincing other Chileans was to highlight how the immigration draft protected the country by keeping strict internal and external controls over immigrants. Although the law recognized rights, it was rigid in terms of incorporating a broad catalog of inadmissibility, sanctions, and deportation clauses (Researcher fieldnotes July 2015, and same discussion when preparing the meeting with the Minister in September 2015).

This emphasis on security found added cogency when seen in the light of the higher officials' understanding of Congress. In the eyes of the Minister's advisors, congressional representatives were expecting a law that was hard on control. Therefore, it was important to keep broad control over immigrants; otherwise the law had no chance of being approved (Researcher fieldnotes, August 2015). According to Burgos, the former Minister of Interior, the immigration draft that the Department of Immigration had prepared was weak on control, fostering instead a "pro-immigrant perspective" which was difficult to justify. He was hesitant to support legislation of this sort (Researcher fieldnotes, April 2016).

The departure of the Minister of Interior and changes in governmental priorities further cemented the future of the immigration draft. Despite the fact that the Department of Immigration had finished its draft (submitted to the Minister in February 2016), the final decision about whether to support it fell exclusively into the hands of the incoming Minister of Interior and on its Vice-Minister. The latter ended up taking over the agenda and nominating a special group of advisors to draft a new version of the immigration draft (conversations with a key informant, August 2018). This version that has been kept from the public pending introduction into Congress.

The chapter explored the central components of the security frame and provided additional insights to explain its persistence in the discussion of immigration legal reform in Chile.

In a presidentially centered bureaucracy, where the president holds legislative powers, the formulation of laws is finally limited to her advisors and cabinet of ministers. By looking at the frames deployed in the discussion surrounding immigration reform, this chapter showed the different types of frames that were available, and how differently positioned government officials played out their position in defending their specific understanding of immigration and of the role of government in its regulation.

The authoritarian legacy that has made the Chilean executive solely responsible for the formulation and publication of laws has foreclosed the possibility of securing change from the outside. As the chapter showed, external actors such as pro-immigrant advocates and business groups had considerable difficulties in convincing high-ranking officials of the centrality of the human rights and opportunity frames.

Furthermore, the disassociation that exists between high and mid-level bureaucrats demonstrates the underlying difficulties in initiating change from inside. The human rights and the opportunity frames, supported by mid-level bureaucrats, will remain on the margins until it is scaled up to the higher levels of the government. In this context, high-ranking officials' attachment to what remains a strong executive bent on maintaining control over its organizational structure renders reform from within unlikely.

Although this chapter demonstrated a lack of efficacy with regard to human rights frames influencing substantive immigration policies and laws in Chile, this does not mean that human rights cannot influence government behavior in other significant ways (in the middle and low level of government). In the next chapter, I investigate how mid-level government officials have appropriated human rights standards in the production of different individual and collective projects related to immigration reform on the margins of state law.

CHAPTER 5

Framing Human Rights in Immigration Law and Policy inside the Chilean Government

In this chapter, I analyze the ways in which mid-level bureaucrats appropriated human rights frames in the implementation of immigration law and policy. Despite the low resonance of the human rights frame for the overall reform of immigration law in Chile, as discussed in the previous chapter, this frame is not unknown within the government. On the contrary, government officials draw from it to develop and justify individual and collective projects at organizational levels below the executive and distinct from broad immigration legal reform efforts.

Overall, I argue that while human rights may lack decisive strength in the discussion of immigration law reform, they can still infuse meaning and give shape to immigration-related policy behavior in ad-hoc ways. Indeed, the diffuse use of human rights frames by mid-level bureaucrats signals the state's commitment towards these standards at the same time that it allows high ranking officials to maintain the security frame in place. Within the executive, human rights frames perform a symbolic function which does not threaten state understanding of its sovereign role in controlling and managing immigration.

The chapter begins by investigating how mezzo-level governmental officials make sense of this frame as they struggle to incorporate it into specific policies and laws. With the transition from meaning to discourse, and eventually to practice, the human rights frame is translated into concrete commitments. While one governmental official expressed frustration, some pragmatically benefited from the frame's openness and inclusiveness. Others actively embraced it, initiating training and starting educational campaigns.

The progressive use of human rights frames in organizational practice serves as the central finding of the chapter. In the last part of this chapter, I explore specific examples of how some departmental agencies have used this frame to develop particular projects at the organizational level and to advance individual professional careers in the administration. Others employed it to enhance their internal legitimacy, gain autonomy from competing departments and agencies, and to make an impact on government. Independent of these motivations, and with different degrees of success, the organizational usage of the human rights frame demonstrates the slow but steady incorporation of these standards into Chilean governmental practice.

Human Rights as Diffuse Individual and Organizational Projects

How does the commitment to human rights enter into domestic law and policy? This question has emerged as important among scholars who study the interplay between international and national legal regimes. This is because, as Hafner-Burton (2012: 264) notes, "all governments have made promises to uphold at least some aspects of the system." So far, answers in the literature to the "how" question have tended to treat states as unitary structures (Meyer et al. 1997; Simmons 2009; Tsutsui et al 2012). This approach largely ignores internal subdivisions. Moreover, it misses exploring the processes through which actors within those subdivisions selectively come to make sense of international regimes, contend among themselves as they develop rationales for state participation, and ultimately push toward state-level compliance.

Understanding how actors within the government comprehend, communicate and use human rights frames puts us one step closer to responding to the “how” question, identifying the state-level mechanisms through which states import human rights principles into local law and policy. Also, the mechanisms by which bureaucrats appropriate human rights indirectly expose their motivation for trying to implement these regimes.

The survival of the security frame, as discussed in the previous chapter, does not contradict the central finding of this chapter. Although human rights frames have not been able to dominate the immigration discussion, they have influenced mid-level government officials’ organizational practice and usage below the level of the executive and of comprehensive immigration legal reform.

The chapter presents its central findings by moving from meaning-making to discourse to organizational practice and usage. How do the ideas of human rights take shape, what form are they given, and what impact does that process have upon policy formulation?

It is important to mention that this chapter’s perspective stems directly from the scope and focus of my fieldwork, which was limited to the study of the law-making process within the middle level of the government. Therefore, the vision that I present highlights the legal repercussions of the human rights frame in this particular context. But we must also remember that focus on the human rights frame creates meaning for people, and thus also influences practice in a broader social context as well. Consideration of the human rights frame infuses its values into the social discourse for society, and this more comprehensive aspect should not be neglected.

I start out by exploring the significant ambiguities that arise out of the concept of human rights. Next, I go on to investigate the different degrees of commitment that various mid-level government officials manifested towards this frame. Finally, I show that the difficulties that emerged in the day-to-day implementation resulted in diffuse organizational practices. None of these practices, however, translated into structural reforms. Consequently, the invocation of human rights remained limited to particular projects, both individual and collective. These initiatives primarily helped officials advance their careers and/or enhance departmental legitimacy and power.

What Do Human Rights Mean in the Mid-Level of the Chilean State?

This section explores the ambiguities of meaning that exist around the concept of human rights at the middle level of the government structure. Uncertainty around this concept may emerge out of a lack of knowledge about the existence and details of actual international human rights treaties, as well as out of differing conceptions of the term’s significance and usage.

I begin by analyzing the conceptual gap that exists concerning human rights treaties. I then concentrate my investigation on the different meanings that this concept has assumed within the middle level of the bureaucracy. By clarifying the ways in which government officials make sense of human rights, I delineate the context in which they define their commitment toward this subject.

Conceptual Imprecisions Regarding the Meaning and Usage of Human Rights Treaties

During the 12 months of my primary fieldwork I kept hearing about the “rights approach” at each meeting and conference I attended, with both government and non-government officials. When I asked government officials to explain the term’s meaning, responses varied significantly. In some interviews, simply asking the question and waiting as the interviewee fumbled for an answer generated an awkward moment. They treated my question almost like a test of their legal knowledge about a subject that they should know well, but were quite uncertain about.

The actual answers that I received varied significantly. A couple of mid-level government officials working in the social ministries – Education, Culture and Labor – explained that human rights generally related to the kinds of rights immigrants had, while officials in Justice and Economy, for example, saw human rights as a principled position from which one should make decisions. For an official at the Ministry of Justice, the “rights approach” was both a method and a set of entitlements for immigrants.

Other than within legal divisions, human rights treaties were not directly referenced in bureaucrats’ daily interactions. For example, when I asked Fernando and Noehmi, two close advisors of the head of the Department of Immigration, about how much human rights treaties influenced their decision-making on a daily basis, they both gave me negative answers. Considering how much attention the head of the Immigration Department gave to human rights language in his presentations, I was surprised by the fact that his closest advisors did not view these standards as informing their work. For Fernando, “treaties are not my expertise. I do care about them, but they don’t really affect my work. When I have to prepare a PowerPoint presentation, I go to the legal department to get advice. They always help me!” Noehmi explained to me, “Perhaps, we don’t use it in our everyday work. Nevertheless, it is a fact that today we recognize them much more than we did before.”

Human rights awareness has increased in the last few years. The above quotes confirm that bureaucrats actually knew about the existence of these treaties, even if they were unable to discern how they might use them. The above also shows that, depending on a bureaucrat’s position in the government, his or her attitude toward these standards could vary considerably. In what follows, I examine the different meanings that human rights take in everyday bureaucratic practice.

Human Rights Debates over Its Meaning

Government officials offered differing interpretations of the “rights approach.” While some mid-level officials underscored its normative significance by referencing its international legitimacy and the set of rights thereby entailed, others conceived it as simply a set of parameters that circumscribed what the government could legally do.

While some older officials conceived of human rights as a general principle, the younger generation generally attributed a concrete meaning to them. As one example of a more senior official, Roberto, a 72-year-old lawyer working at the Ministry of Economy, held that “the rights approach is a formal legal structure that establishes the boundaries of action. The logic behind the law is to set the obligatory parameters of social behavior. The rights approach is fundamental to every public policy decision which proposes creating a new law.” Similarly, for Jaime, complying with human rights treaties is an aspiration that comes after certain internal conditions

are met. All in all, for both, human rights established a desired course of action which is “supposed” to guide government behavior but lacks a detailed set of obligations and prohibitions.

For middle-aged bureaucrats, the human rights approach is, first of all, a compendium of individual and collective rights arising from international treaties. For Jose Pedro, a 49-years old psychologist working at the Ministry of Education, “This approach implied coming to terms with Chile’s international and human rights commitments. Concretely, following this perspective involved incorporating ethical and political elements into the formulation of public policies.”

The most junior generation of bureaucrats assigned a concrete meaning to these international standards. Juan Cristobal, a 33-year-old anthropologist at the Ministry of Culture, held such beliefs. Nevertheless, over time he had become confused by the term, stressing the evolving meaning this term carried as he encountered its use within the government bureaucracy. In his words,

Initially, I thought that the rights approach started with the Universal Declaration of Human Rights and the concretization of individual rights, now also collective rights. But now I hear contradictory discussions. Just the other day, I was listening to a debate in which academics were arguing about the use of this framework for determining scores and points to allow access to social programs. I thought that when we spoke about beneficiaries of public policies, we were no longer speaking about human rights. Perhaps, I need a Master’s degree. I don’t get all these distinctions. Six years ago, everything was clear in my mind!

Both Jose Pedro and Juan Cristobal seem to think that participating in human rights treaties entails recognizing a set of values that are usually understood under the rubric of rights. This is one of the ways in which state officials enact the values of a Western progressive culture (Simmons 2009:62). But the passage from the abstract to the concrete implementation of these norms confused Juan Cristobal, especially when the government used this frame to allocate social benefits. Underlying his disorientation is the assumption that rights cannot be conditioned, and when they are divided into categories and points they lose their essential nature, if not their efficacy. Interestingly, knowledge of human rights is tied to an academic understanding, supporting his belief that he needs to go through a diploma program to grasp its particularities.

Contrary to the perspective of younger staff, older government officials carry with them a restrictive understanding of rights, accountable perhaps to their pained consciousness of the widespread and serious human rights violations that occurred during the Pinochet dictatorship. According to Alma, a social worker at the Ministry of Labor,

When we talk about human rights, we tend to associate it with violence, to think about the victims of repression, of the dictatorship. Sometimes, people forget that there are rights that are associated with human rights, like the right to adequate housing, to health care, to have a job. For immigrants, this approach means facilitating their access to social programs, to the legalization of their status. Mostly, about trying to help them and in the end about facilitating their access to certain rights.

This more limited perspective, however, has started to disappear as older public officials have begun to retire and a younger generation of officials has joined the state bureaucracy. For these younger officials, like Juan Cristobal, Jose Pedro and Alma, the human rights approach simply

means rights. More concretely, this approach assures that individuals, in this case immigrants, have access to a set of rights that grants them access to social benefits. Interestingly, in Alma's quote, rights are associated with legality, implying conversely, that undocumented immigrants do not have rights because if there were to have rights they would be legally enjoying the social benefits that the country already provides to citizens and documented immigrants.

A second interpretation of the rights approach emphasizes its procedural component. This perspective does not contradict the way that Juan Cristobal, Jose Pedro and Alma considered the topic. On the contrary, it seems to build from the previous understanding. Andres is a lawyer who works at the Public Defense Office at the Ministry of Justice and Human Rights. He explained to me that, "in forums and academic debates, we hear everyone speaking about the rights approach. I think that is good. But we cannot forget that this approach is a method to incorporate a set of international parameters into public policies."

Human rights are more than a set of rights. For Andres, it is not enough to conceive of this approach as limited to the tangible benefits it provides, the way that Alma, Juan Cristobal and Jose Pedro explained. He believes that human rights must intrinsically include a procedural component through which they realize their existence. Interestingly, again in this quote human rights are tied to "academic debates" stressing the place where these discussions are generally taking place, which is not necessarily inside the bureaucracy.

Human rights are also perceived as parameters that determine the outer limits of governmental policies. Gustavo is thirty-two years old economist who has devoted his professional life to the public sector. When I interviewed him, he was working for the General Secretary of Government in the Department of Civic Participation. He explained to me that, "when you speak about the rights approach, the priority is to consider that each right has a policy correlation. In other words, we have to make sure that every right influences every policy we implement. I believe that in the long run, every public policy should be built following this perspective."

Nevertheless, as Julian, one mid-level official at the Ministry of Justice argued, it is as yet unclear which reading of the human rights precepts the interpreter should prioritize. In other words, does the more general or the focused/efficacy interpretation bind the practitioner? In his words,

The rights approach has to do with individual entitlements and with specifying the obligations that the national institutions have regarding those entitlements. When I speak about entitlement, I mean favoring groups of the population who are in vulnerable conditions. So, for us it is not just about the human rights treaty, it is also about the interpretation of the Committees, the Inter-American Court of Human Rights, and the European Courts of Human Rights. In sum, the entire human rights corpus. However, not everyone inside the Ministry of Justice shares the same understanding. For many, there are compatibility problems that arise from treaties that pertain to the Universal versus the American system of protection. For the restrictionists, we are obligated by only the most constrictive interpretation of the norm.

Julian's views epitomize the minority understanding of human rights that exist in the middle level of the bureaucracy. It is a set of rights, a procedure, and also a body of law. It is interesting, however, that he makes an association between vulnerability and entitlement, as if human rights

were limited to those individuals who are in weaker social positions. Lastly, he exemplifies the restrictive perspective of those whose understanding of human rights is concrete and limited rather than normative and universal. That position is also represented in his Ministry. In my interviews, Roberto and Jaime articulate it.

Like any other international treaty establishing broad conventions among nations, human rights treaties are by design of a general nature. The earliest such treaties, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights were formulated so as to accommodate the positions of different governments. This was considered essential to secure a higher ratification rate (De Shutter 2014). By defining rights broadly, they could secure the adherence of a wider range of governments than might otherwise have been willing to ratify.

Treaties requisite vagueness in the language of many articles in itself makes the challenge of implementation more difficult. It also partly explains why governments tend to select the interpretation that best matches their interests depending on the local context. But the very flexibility that is an express part of the treaty architecture presents problems for government officials charged with implementing mandated rights. In the next section, I explore one example that illustrates the stressful challenge of implementing broad concepts into everyday practice.

The Challenge of Implementing Human Rights

The following example illustrates the ongoing controversy over the interpretation of human rights within the Chilean bureaucracy. On May 29, 2015, between 9 to 12 A.M., the Technical Committee on International Affairs and Human Rights, a thematic advisory committee created under the Technical Committee on Immigration, met at the Diplomatic Academy in Santiago. It was the fourth time that the ministerial offices and governmental services joined to discuss the ways in which the government was complying with human rights treaties.

Despite the fact that it was the fourth time that the same officials had met to discuss the relationship between human rights and immigration, a heated discussion arose between Jaime, the representative of the Ministry of Social Development, and Andres, the representative of the Human Rights Office at the Ministry of Justice and Human Rights. For Jaime, the obligation to comply with human rights treaties extended only to the terms of the covenant that had been ratified internationally. This obligation entailed following precisely the text of the Convention on Migrant Workers. Accordingly, the government was entitled to make distinctions based on legal status, which meant that he had full authority to deny undocumented immigrants access to social rights and services.

Andres energetically disputed this perspective. His main duty as an attorney at the Public Defender Office at the Ministry of Justice and Human Rights was to provide pro bono legal assistance to anyone who did not have the means to afford a private lawyer. In his opinion,

It is not appropriate from the government's viewpoint that we discuss the possibility of not abiding by international law. We are a country that respects treaties. What is appropriate is that we think carefully about what we're working on, so as to meet our obligations and comply with our international responsibilities. If we want to go further, that is good, even perfect, but we cannot do less. We must start from that assumption. Just because other countries do not respect the law or make war does not mean that we're

going to do the same! We all agree that we will respect the law, and we will respect the rules, and we will try to implement international treaties. The discussion can always go a little further... we are not saying that immigrants should have more rights than Chileans, but we are talking about the specific content of those rights, which should allow those persons to have an equal standing with nationals, independent of their place of birth.

The conflict between Jaime and Andres underscores the problems that arise from the absence of a clear consensus about what human rights mean for domestic policies. This conflict leads to implementation challenges and a selective appropriation of international standards.

The multiplicity of meanings logically results in a plurality of governmental commitments. Depending on whether the government official follows a more general, extreme, or focused/efficacy vision about the type and degree of commitment the treaty demands, stances may range from a dismissive indifference to commitment to taking vigorous concrete actions to ensure compliance. Similarly, as the previous section showed, depending on the bureaucrat's reading of the degree of obligation entailed, appropriate action can translate into incorporating the entire human rights corpus or a more restrictive interpretation of the norm. I discuss each of these reactions in the next section.

Commitment to Human Rights Discourse versus Organizational Practice

In this section, I explore the different types of commitments that mid-level state officials have developed to implement the human rights frame. Officials' engagement fluctuated between two perspectives: indifference versus proactivity. In the middle, I find pragmatic responses that privilege external and internal state interests.

Human Rights as an Empty Vessel

After Bachelet was elected to her second term in office, human rights talk became a recurrent theme at official meetings where mid-level bureaucrats gathered. During Bachelet's first administration, she signed the presidential instructive number 9 of 2008 in which she recognized the need to adapt administrative practices to human rights norms. In her second term in office, she reiterated this promise as a component of her political program. In November 2015, she signed a new presidential instructive in which she strengthened and extended the application of human rights norms to immigration policies (Rojas and Silva 2016). Mid-level government officials viewed the changed political landscape as an invitation and a baseline for developing their own institutional agendas. As a result, at many official meetings the dominant topic was the best way to interpret and implement the presidential wishes.

Given the challenges of meeting these human rights standards locally, implementation of many of their provisions ended up being dependent upon officials' goodwill. In confidence, a representative of the Ministry of Interior told me that the "human rights" approach, in his opinion, had no meaning. "People use it all the time, but it is empty. It is used for everything, but on the ground, what does it mean?" (Felipe, 42 years old, government official, public administrator, September 2015) Felipe struggled with the indeterminate nature of human rights. Joking or not, his statement reflected both frustration and indifference concerning the way in which he was supposed to regard these broad mandates and translate them into policy.

In a presidentially centered bureaucracy, the actual impact of the proclaimed espousal of human rights depended upon its concretization in domestic policies. For the person in charge of

international relations at the Ministry of Labor, “it is different when the order is based on what a higher political authority has said, as opposed to a mandate that is grounded in the existence of an international treaty. Unfortunately, we live in a country where international commitments don’t have the same weight. Maybe we are better off than our neighbors, but we are still behind. It is palpable. When you say, this order does not come from me it comes from the Presidency, the discourse shifts, it is no longer a matter of will!” (Ulises, 40 years old, government official, lawyer, July 2016). Here we also see the power of the executive, or even a suggestion from the executive, in being able to compel a sense that human rights are not simply a matter of personal discretion but of state authority. Even though officials may recognize the importance of a wide range of rights, those human rights that are recognized in official Chilean government documents necessarily carry more weight than those that are only referenced in international treaties.

Human rights norms come after domestic norms. For Julian, the specialist on human rights inside the Ministry of Justice and Human Rights:

Whenever you want to implement an international norm, you have to explain how binding it is. In other words, whether these commitments are mandatory or whether they reflect a declaration of intentions. And whenever you speak to another lawyer, he immediately underscores the lack of a constitutional norm that tells the interpreter about the position in the internal hierarchy of these international treaties. It is like when you say that you are an “internationalist” you put yourself in the back of the line. And this does not only happen when you discuss the topic of immigration but every time you have to justify a legislative reform or a new bill.

The frustration of government officials emerges out of the lack of clear guidelines on how to implement human rights and of the lack of compelling necessity to adopt these norms when they are not specifically articulated in official documents. In this context, mid-level state officials have developed two distinct approaches: using human rights frames in a pragmatic way or directly adopting a position, persuading other public officials to integrate this position into their own personal understanding of the subject, and sometimes providing training. I explore these dimensions below.

Pragmatic Approaches to Human Rights

Mediating between indifference and action, the majority of mid-level government officials took a pragmatic position towards human rights. In 2015, Chile was the president pro-tempore of the South American Conference on Migration (SACM). In that role, the Ministry of Foreign Affairs hosted a three-day meeting with representatives of Argentina, Brazil, Bolivia, Colombia, Ecuador, Guyana, Peru, Surinam, Paraguay, Uruguay and Venezuela. During the drafting process of the Santiago Declaration (the official declaration of the Conference), a heated debate arose between representatives of Venezuela and Colombia. Colombia wanted to include a reference to human rights commitments expressly crafted to highlight Venezuela’s illegal action in conducting mass deportations of Colombian nationals living within Venezuelan borders.³⁹ Venezuela naturally rejected incorporating such language.

³⁹ The Guardian, Venezuela deports almost 800 Colombians in border-region crackdown, available at <https://www.theguardian.com/world/2015/aug/24/venezuela-colombia-deportation-border-crackdown> (last visited 8/30/2016)

After hours of fruitless discussion, the representatives of the Ministry of Foreign Affairs from Chile terminated the debate by reminding the participants about the “human rights approach, a standard that we all agree on.” The Chilean representative argued for the strength of this framework. He stated that it was broad enough to encompass and serve all the interests at the table. Because we have to move forward with the Santiago Declaration, he argued, we should just follow the example of previous declarations in the manner in which we incorporate the standards (Researcher Fieldnotes September 8-10, 2015).

The day after the meeting, I asked Sonia, a female official from Chile who had participated in the meeting about the foreign officer’s words. She compared what I recounted to her with what she had often experienced with the issue of gender:

As a former Foreign Affairs employee, I frequently hear "let's talk about gender!" I wonder then, but how do we do it? I feel the same when we speak about the “human rights approach” ... I mean, I think that it is often used as a slogan... One understands the complexities of negotiating with other states; that you have to be cautious, that you have to avoid diplomatic conflicts. But you also need to know where the policy is headed, and who the ultimate beneficiaries of the rights approach that you are advocating are. Sure, we can say, "we are for this," this is basically discursive, but many times nothing gets done. When you need to materialize the approach, it is not clear, even though you know what human rights are.

Due to its openness, the human rights approach, especially as embodied in the human rights treaties that give it substance, is a helpful arena in which to delineate and discuss conflicting international interests, as was the case in the example between Colombia and Venezuela.

State-level participation in regional forums provides exposure and the appearance of compliance with human rights norms (Simmons 2009). For example, in South American countries, membership in sub-regional integration projects, e.g., the South American Conference on Migration, MERCOSUR and the Andean Community, along with the involvement of transnational organizations, like the United Nations High Commission for Refugees (UNHCR) has pushed states into repeating similar frames and generating comparable immigration policies (Cantor, Freier and Gauci 2015).

Nevertheless, as Sonia points out, the declarative usage of human rights underscored its main problem: its excessive broadness renders it impotent to solve concrete domestic problems. As a result, many NGOs have questioned governmental intentions. According to Susana, “some government officials’ have the reputation of being good at orating, but bad at executing.”

A few government officials have acknowledged that Chile initially joined human rights regimes without fully understanding the obligations this would entail. Most often, government officials believed that they could enjoy the benefits of participation without the encumbrance of living up to the commitments to which they had consented (Hafner-Burton 2012). The head of the Department of Immigration complained to me that one of the problems they had with representatives of the Ministry of Foreign Affairs was with the treaties it had signed. In his words,

Officials from the Ministry of Foreign Affairs sign treaties with no real clarity about Chile’s capacity to comply with their provisions. For example, the country is one of the

few destinations that has ratified the International Convention on Migrant Workers. Of course, the rest of the members are happy to know that there is a treaty that protects their nationals abroad! But for the countries that have to implement it, what does it mean to ensure those rights? How many countries that are in the same situation have joined this convention? That is the problem. Chile should include those rights in its legislation, but before doing so it has to know the impact that the recognition would have for the rest of the country, because we are talking about rights and nobody so far has thought whether we are in a condition to fulfill those commitments.

Pro-immigrant organizations complain about the partial and imperfect implementation of human rights treaties. These non-governmental organizations had expected that these norms would guide governmental behavior. For Gabriela, an academic working on immigration issues,

In every bill or governmental document, there are pages and pages enumerating all the treaties that Chile has signed. But it stays like that. And immediately you have conditions on those rights. For example, to apply for a housing subsidy you had to wait five years after obtaining permanent residence, or in the case of health care, you could only access free coverage after two years of residency. Do you see? There are a ton of exceptions to this “super” human rights framework. One would say, ‘Why do you include them if you are not really interested in their implementation?’ We don’t win anything by having it as a declaration of intent.

Some government officials have responded to the above criticism by embracing the human rights approach and making it part of their organizational agenda. For less powerful countries it is the value of the human rights system that provides the necessary justification for its implementation. As a new democracy, government officials are looking to make credible commitments to international law (Landman 2005) and to local stakeholders. For the head of the Department of Immigration:

Small countries like Chile see in these types of legal documents, the capacity to show their moral commitment to some subjects, but foremost they do it to signal the international legitimacy of the system. And again, I insist, because Chile lacks the economic and military power that would enable it to stand alone, the country relies on the international peace that is grounded on the validity of these international principles. I insist. Beyond its enforceability, by conforming to these regimes, a small country like Chile signals its value and legitimacy.

The Supermarket List: Human Rights in Governmental Policies

Many mid-level governmental officials see in human rights a way to win the favor of competing political actors and the favor of the president. On April 27, 2015, I was invited to participate in a meeting of the legal section of the Ministry of Interior to discuss the Immigration Department’s conformity with the UN Final Human Rights Report. The purpose of the gathering was to identify which aspects of the UN recommendations could be complied with and which required more resources.

The lawyer who organized the meeting did not know how to go about demonstrating compliance with these treaties. Neither was she able to clarify whether the Department had to report on actions that had occurred earlier, or only for the current presidential term. Her lack of

clarity showed that this assignment had been handed to her without her having been briefed and provided with an explanation of its purpose. Absent clear guidelines, the meeting devolved into what amounted to a hunt for ways of presenting treaty compliance so as to obtain organizational legitimacy. She and my colleagues agreed that the human rights report could be used as a way to show that Chile was in compliance. The rest of the meeting was devoted to finding some international norm to which Chile was already conforming. They found a possible candidate in the question of the number of children that had been detained in the previous year for violating immigration law. The immigration official argued that this did not happen in Chile. The three state officials concluded that they would highlight this fact to make sure that the general public, i.e. NGOs and international organizations, were aware of this finding and recognize in it proof of the government's commitment to human rights (Researcher field notes, April 27, 2015).

A similar discussion continued in other offices. On October 2015, I met with legal advisors from the secretary of the presidency, who were coordinating Chile's response to the Human Rights Council. Again, during November and December 2015, the legal section of the Ministry of Interior organized a series of meetings to explain the recommendations and request the Immigration Department's feedback. In one of those preparatory meetings (December 7, 2015), the head of the legal section explained to the mid-level governmental officials' present in the room that the Chilean government lacked a human rights policy. In its place, he said, "We have a supermarket list. Despite this lack of policy, we are going to continue with our efforts. Nevertheless, to avoid conflicts with NGOs, I would recommend that all of you lower your expectations of what we can actually achieve." (Researcher field notes, December 7, 2015)

Increasingly, mid-level officials are incorporating human rights standards into their practice. This appropriation is done either for pragmatic reasons or because they believe immediate implementation is part of the President wishes, as she explicitly mandated in her political program. Throughout my fieldwork, I found a number of mid-state officials who were highly committed to human rights. These individuals have started to go beyond the limits imposed by their position to reach out to colleagues in other departments as well as subordinate government officials.

Human Rights as a Duty to Educate and Train

Educating and training other public officials is one possible solution to the widespread lack of clarity about human rights. It might also be the solution for the superficial engagement that a few governmental officials manifest with the vital issues involved in human rights definition and application.

Andres, in every case that he litigates as a pro bono lawyer for the Public Defender's Office, includes a reference to human rights treaties. He believes that one of his goals is to teach local judges, front-line bureaucrats, and government officials about the existence of these standards. Four other public interest lawyers confirmed their adoption of this same strategy. Education through litigation has been a well-documented strategy that human rights organizations pursue to implement these rights on the ground (Simmons 2009: 130). Although Andres is part of the government, he repeats the same tactic, thus articulating the relevance and encouraging the implementation of human rights from within.

Given the general lack of knowledge about human rights norms and Chile's obligations, Cecilia, a representative of the Ministry of Health has been putting together a pilot project in

different regions of the country to teach relevant human rights norms to public health providers. She knew little about human rights when she initially designed the project. However, she proudly shared with me that “she [had] read everything that the governmental program said, studied human rights, and learned from the National Institution of Human Rights.” After a few months of preparation, during which she had “worked elbow-to-elbow with the National Institution of Human Rights, she was ready to train as many regional officials as possible.”

The Human Rights corpus is derived from both domestic and international sources. In Cecilia’s understanding of human rights, it included the presidential program, human rights treaties, and the National Institution of Human Rights’ postulates. Her comprehension of the subject echoes Ulises’ above-noted apprehension that these standards carry meaning only insofar as they are codified in official documents and domestic institutions.

The above examples demonstrate that a strong level of commitment towards human rights exists in some mid-level officials. The anecdotes also illustrate the ways in which state officials have started to invoke human rights for different individual and collective projects. In the next section, I further scrutinize this topic by examining the motivations of state mid-level officials for pursuing human rights projects.

Using Human Rights for Individual and Collective Projects

This section explores how human rights are invoked and attached to specific governmental projects. In my interviews and field observations, I found two distinct motivations: mid-level government officials either employed this frame to push their government careers, or to enhance their department’s legitimacy and power vis-à-vis other competing government agencies.

Individual Action

Mid-level government officials took advantage of the human rights frame to leverage others into following their policy preferences inside the government. This frame became a powerful tool to persuade other officials to advance the issue of immigration inside their institutions and to push others to focus attention on this key issue when setting their agendas.

The Intra-Ministerial Committee on Migration and International Affairs

In mid- 2015, Ulises received a phone call inviting him to join the international unit of the Ministry of Labor. The Minister of Labor at that time, Ximena Rincon (May 2015-November 2016) was assembling her new cabinet and wanted him to join her team. Before this appointment, Ulises had worked as a lawyer at the Ministry of Economy and the Ministry of Interior. Although he always expressed a desire to work on employment law, this was the first time he would hold a position fully dedicated to this area. The instability of the position did not frighten him because he was passionate about the subject and believed he could make a real contribution. He accepted the appointment and started to work as a direct advisor to the Minister, running all the international affairs of the cabinet. In that capacity, he had to compile and write reports about the ways in which the Ministry was complying with its international commitments, mainly at the behest of such international organizations as the International Labour Organization (ILO), the Organization for Economic Cooperation and Development (OECD), and the several other treaty bodies that had jurisdiction over Chile.

I met Ulises in conjunction with my position at the Immigration Department. He had replaced Alma, the representative of the Ministry of Labor on the Technical Committee on Immigration. From the outset, Ulises arrived with the intention of promoting the topic of immigration inside the Ministry. Previously, immigration and human rights had been limited to its application in particular cases. He believed that this topic was central to Chile's international relations and he wanted to make sure that the Minister would develop an official position in this regard (Researcher fieldnotes, September 25, 2015).

Providing an institutional response to immigration was part of a human rights perspective that the Ministry of Labor could not avoid. Initially, Ulises justified the need to create a specific structure because it was "something that we as human beings have to do." Nevertheless, as the second year of administration transpired, his vision shifted. The narrative that helped him justify his actions within the Ministry evolved from a human rights perspective to an opportunity frame, "something we have to do if we want to benefit as a society."

Luckily for Ulises, the Minister at the time shared a similar vision about the matter. During Ulises's interview, he told me that Rincon "had the political will to make this happen. However, we did not have any formal structure or a specific budget. Plus, the Ministry did not have a human rights section. Rincon left it to our discretion. Instead of having a focal point, 100% focused on the subject, we decided to lodge it inside the international division because we believed the topic had so many ramifications. So, we created a structure that would include all the dependent services and all the relevant topics within the same unit."

On May 16, 2016, the Intra-Ministerial Committee on Migration and International Affairs started to operate. The Minister committed a portion of its budget to the operation of this Committee and hired a lawyer to direct it. Besides organizing bi-monthly meetings, the Committee was ordered to write reports and produce informational brochures to educate the rest of the Ministry of Labor on these international standards.

In less than a year, Ulises managed to formulate an official position inside his Ministry and move economic resources to finance labor programs for immigrants. Initially, he did not have a special budget to perform his duty. His only resources were his time and dedication. Because he believed that this was part of his purpose inside the institution, he allotted all his available resources to the success of this task. Although the human rights frame helped him support his initial actions, over time he changed the rationale to justify his actions, not on the normative weight of human rights, but on the contributions that immigration could bring to the country. This change in tactics demonstrates how diffuse these organizational practices are, none of which translates into an institutional commitment that goes beyond the person who is promoting it.

Insiders are not the only ones responsible for using human rights frames within the bureaucracy. Outsiders also introduced this frame into the government. The example below illustrates how an external advisor to the government was able to infiltrate a perspective concerning children into the draft of the new immigration law.

The Incorporation of Children Frames into the Department of Immigration Law Draft

A recurring frame during the private drafting meetings at the Department of Immigration was the "rights of immigrant children." Its foremost advocate was Pedro, an external advisor

who was invited for his knowledge of international law and human rights as well as for his connections inside the government. Besides his technical expertise, this 44-year-old lawyer, who held a Ph.D. and a Master of Law from two prestigious English institutions, had been a consultant with the United Nations International Children's Emergency Fund (UNICEF) since April 2009.

Without Pedro's participation in the drafting meeting, this frame would certainly not have been fully incorporated into the draft. The "rights of immigrant children" had only recently surfaced as a discrete topic in Chile. Before 2011, the subject had not been included as a part of UNICEF's cooperative agreement with the Chilean government. According to Pedro, "we started to see it as an area that required our attention. In particular, we began thinking about the effects of migration on the lives of children and the lives of their families. Together with the International Organization for Migration (IOM) and the United Nations Human Rights Office of the High Commissioner (ACNUDH), we worked on a strategy to make this topic more visible. We used this report to build a working relationship with the government." (Pedro, 44 years old, international organization, lawyer, May 2015)

Initially, Pedro approached the Piñera government. He knew that a team was working on a new immigration law. UNICEF intervention was limited. According to Pedro, they shared information with the drafting team, "but it was always from the outside." In July 2013, after the bill was introduced into Congress, Pedro was invited to present UNICEF's perspective on the matter. Despite UNICEF's report and Pedro's efforts, however, the Piñera bill did not include an explicit reference to the rights of the child.

During Bachelet's second time in office, a new drafting team was put together. This team operated secretly inside the Department of Immigration. From the beginning, Pedro joined in private discussions about the immigration bill. During a single month, he spent three afternoons each week attending meetings at which the draft was being discussed. His official affiliation with UNICEF prevented him from voting or formally offering his opinion inside the committee. Nevertheless, his *de facto* involvement in the drafting process greatly influenced the content of the initial draft.

As the recording secretary at the meetings, I well remember how skillful Pedro was. After a long debate, he would summarize the discussion by clarifying the central dynamics at play. For the young drafters, his articulate opinion provided a clear structure and easily accessible guidelines which strongly permeated what they eventually wrote in their draft (Researchers fieldnotes March 2015).

During Pedro's interaction with the Immigration Department, he strongly advocated for the recognition of the rights of children in the immigrant legislation. He supported his claim by calling attention to the fact that President Bachelet had manifested political commitment to move the rights of children agenda forward (Bachelet Political Program, 2014-2018). Including this topic in the immigration law was the logical opportunity to do the same for immigrant children. By means of emphasizing this salient issue, one could capitalize on the political advantages that it might accrue in support of immigration more generally. Although the rights of youth and children were formally included in Bachelet's political program, it was largely through Pedro's persistent participation that explicit inclusion in the law's language was secured. Except for Pedro, there were no youth specialists in the private committee meetings.

Even though many of Pedro's proposed provisions had been watered down, the drafting commission kept all the specific references to immigrant children, i.e. the principle of the superior interest of the child, the right to a name and nationality, the right to family reunification, and a special procedure for the entry of accompanied and unaccompanied minors (Working Draft, July, 22, 2015).

Pedro and Pablo, the other external advisor, participated throughout March and the first weeks of April 2015. During the following months, a team of lawyers and the head of the study division, all from the Immigration Department, went over every aspect that had been discussed in the private meetings. They produced a new draft that was afterward presented to the Minister of Interior (Researcher fieldnotes, June-September 2015). This new draft maintained several of the precepts that had been recommended by Pedro.

In sum, human rights frames appeared in the Chilean bureaucracy through the inclusion of a new official inside a ministerial cabinet and due to the participation of an external advisor in the drafting process of the immigration law. In both cases, particular individuals gave impetus to the frame and persuaded others about its appropriateness. The establishment of a new committee in the Ministry of Labor would likely consolidate the Ministerial position and extend its term beyond the duration of Ulises's tenure in the Ministry. However, the actual resonance of the children frame would depend on government officials' familiarity with and investment in the issue. In particular, it would hinge upon whether they managed to convince high ranking officials to incorporate these standards in the final draft of an immigration bill.

In addition to individual motivation to incorporate human rights frames, I found during my interviews and field observations that mid-level government officials were making use of human rights frames to justify collective projects. In the section below, I investigate two concrete illustrations of this finding.

Collective Action and Department's Legitimacy

Mid-level government officials exploited human rights frames as a way of increasing their department legitimacy and power over their constituencies and other governmental agencies. I will first explore how these officials built internal legitimacy so as to explain subsequently how they extended their reach beyond the purview of their agencies.

Despite years of litigation in court, public interest lawyers had faced an administration relentlessly hostile to immigration issues. But from his first public presentations, the head of the Department spoke explicitly about incorporating human rights treaties as a basis of his mandate. This was not how things had been done previously. Felipe, the current head of the Frontiers Division, had been working in Department of Immigration for the last twenty years. He had outlasted four department heads. When I interviewed him, he was working as head of the research division. In his opinion, "human rights became more important when we had to write the government report to the Migrant Worker Committee in Bachelet's first period in office [2011]. Then, we came back to it when we had to deliver the report at the UN during Piñera's term [2013]. Somehow writing this report allowed us to consolidate many interpretations we had gradually developed, that we had been considering or thinking about all along." (Felipe, 42 years old, government official, public administrator, September 2015) As Felipe recognized in his interview, the Immigration Department had to be forced into adopting these standards, which changed significantly after the arrival of the new head of the Department.

Felipe's opinion reflects the reality that incorporation of human rights treaties was limited to a few cases and then only after external pressure was put upon the Department. With the arrival of a new director the Department's behavior direction changed radically.

The Department head truly thought that enabling human rights was to be an unquestionable goal toward which the organization's actions should bend. In private, he repeated the same opinion. For example, during the drafting committee meetings, he advised his employees to grant full authority to those Supreme Court decisions that directly implemented human rights treaties. Also, he appointed two recently-hired lawyers to write a first draft of the immigration bill because he believed they were not contaminated by the institution's reigning culture. Similarly, he recommended consulting the treaties that Chile had signed and considering the most progressive foreign legislation, such as the Argentinian and Costa Rican immigration laws. He also wanted the drafters to review comments that the Piñera bill had received from international and human rights organizations (Researcher fieldnotes, March 2015).

As a result of this process, the immigration bill borrowed language used by the Convention on Migrant Workers in many sections. During drafting meetings, this treaty was read aloud and incorporated word for word. When drafting the due process clause, the drafters appropriated language from the Inter-American Convention on Human Rights. Similarly, for the children's right sections of the bill, they adopted language from the Convention on the Rights of the Child (Researcher fieldnotes, March-April 2015).

In conjunction with drafting the immigration law, the Immigration Department started to issue administrative decisions which based their justification upon the human rights treaties that Chile had signed. The emergency decree's lack of conformity with human rights treaties was described as a debt owed by the Chilean government in regard to the human rights of immigrants.⁴⁰ Also, the emergency decree had been widely criticized by research institutions and in reports issued by treaty bodies (UDP 2013, 2014; CMW, 2011; CCPR 2014; CESCR 2015). The lack of legislative power of these mid-level officials obliged them to utilize administrative measures to secure considerations of human rights in departmental practice.

After 2014, administrative decisions directly quoted human rights treaties. In February 2015, the Department of Immigration promulgated ordinances 6 and 7 which directly applied components of the Convention on Migrant Workers to create a new civil union⁴¹ and work visa. In other cases, the Immigration Department eliminated certain practices that clearly and directly violated human rights norms. For example, in 2015 it amended its 1984 regulations, simplifying many of its bureaucratic procedures. Following this logic, the Department reduced the authority of the Investigative Police to retain identity documents when checking immigrants' identity. Both the Committee on Migrant Workers and the UN Human Rights Council had urged Chile to eradicate such practices.

In a nutshell, for the Immigration Department head, human rights, "had a practical effect. Human rights were not only poetry. They were, in fact, orienting principles, and they provided structure for administrative action." (Hugo, 43 years old, government official, lawyer, May 2016)

⁴⁰ Interviews with Hugo, 43 years old, government official, lawyer, February 2015, and Felipe, 42 years old, government official, public administrator, September 2015.

⁴¹ Before this visa only married couples could apply for a dependent visa. With the "civil union visa" the Department of Immigration recognized any sort of legal partnerships.

It is important to mention that this understanding was not ubiquitous inside the mid-level of the government. Some officials from the Ministry of Social Development reacted negatively to this direct incorporation of human rights treaties and treaty language in administrative decisions, claiming that it would produce unintended consequences. A government document should not look like what some called a “shadow report.” Also, during the revision of the immigration bill, representatives of the Ministry of Finance asked to change the words and tone of the bill to align it with language in existing national laws (Researcher fieldnotes June and December 2015).

With the incorporation of human rights standards into its policies, the Immigration Department became widely recognized among pro-immigrant organizations and human rights institutions. All of my interviewees, i.e. immigrants’ activists, NGO leaders, public interests’ lawyers and academics, acknowledged how far the head of the Immigration Department had come. Although they were skeptical when he started his term, they soon realized that he wanted to make changes that would improve immigrants’ lives.

One way in which government agencies can achieve autonomy and a measure of independence from the Congress and the President is by building a strong relationship with their constitutive base (Carpenter 2001). For the head of the Immigration Department, striving for conformity to human rights principles was a way to signal his departure from previous administrations. If nothing else, this initiative was a mechanism to win the trust of pro-immigrant organizations which had initially been skeptical about his intentions.

In addition to securing his base, the head of the Immigration Department wanted to leave a mark regarding his passage through the government. He used the human rights frame as a way of achieving that goal.

Beyond Departmental Legitimacy: Gender

The head of the Immigration Department used human rights for two purposes. First, as explained above, it was a way to build trust and create a positive relationship with his base. Second, with human rights, the head attempted to leave a mark that would outlast his passage through the administration.

In a symbolic and discursive dimension, gender frames have permeated the Chilean government. In fact, the incorporation of “gender frames” during the discussions of the Technical Committee on Immigration (TCI) was not questioned. Similarly, during the drafting of the presidential instructive on immigration, TCI leaders did not dispute the inclusion of such frames in the text. The female representative of the Ministry of Labor and the male representative of the Ministry of Foreign Affairs wanted to make gender, like human rights, a “pivot” principle to orient the specific formulation of immigration policies.

The inclusion of gender frames was not the norm. Except for facilitating health care access for pregnant women, the Piñera bill did not explicitly mention women in any of its provisions. For instance, in article 9, the Piñera bill proclaimed the right of non-discrimination and equal access to rights and duties. The provision established that every person should be treated equally, “regardless of race, national or ethnic origin, and language.” There was no mention of gender or sex (House of Representatives, Immigration Act, Message 089-361, May 20, 2013).

With Bachelet's return to office, gender considerations came to the forefront. The President's previous position as the representative of the United Nations Entity for Gender Equality and the Empowerment of Women contributed to government officials' understanding that gender was a framework that accommodated the President. Nevertheless, in many cases its inclusion was more symbolic than real, as Sonia pointed out at the outset of this chapter. The example below highlights the progressive but still restrictive incorporation of these standards.

Bachelet political program instructed government officials to foster a culture of rights in regard to the subject of immigration. The head of the Department of Immigration interpreted this paragraph as a *carte blanche* to develop an immigration draft that recognized human rights treaties and, in particular, a gender principle in the immigration draft. Not only did he include the precepts of treaties that Chile had signed, but he also added normative standards that went beyond the minimal interpretation of the international instruments.

The Department of Immigration' draft included the general principle of non-discrimination but also added the principle of gender equality, which had been absent from previous drafts of this law (March 3, 2015 draft). After receiving suggestions from external advisors, the drafting committee even broadened the terms of gender norms to encompass other gender identities besides male and female. Additionally, the text included reference to the possibility of undertaking direct measures to reduce gender discrimination. These later addendums provoked heated discussion in the private drafting committee (May 8, 2015 draft).

Although the initial draft incorporated a progressive understanding of gender norms, its inclusion in the text remained controversial in the eyes of many mid-level government officials. The vigorous discussion that took place in the drafting committee bespoke the divisions that existed within the organizational structure. For the head of the Immigration Department, the inclusion of gender norms was the opportunity to transcend past limitations and to recruit new allies to the immigration cause. For one of the external advisors, it was the only way to include LGBT people. Conversely, the head of the research section argued against the incorporation of a gender principle. He believed that the drafting committee was dreaming to think that the Chilean Congress would ever go for a provision of that sort. For another advisor, such language was unnecessary since LGBT people could receive protection under the global non-discrimination clause, just as women would. The drafters claimed that inclusion of gender protection was a demand of civil society, which the agency was obliged to try to honor.

Time constraints and organizational dynamics benefited the inclusion of gender norms. Without resolving the debate over these special clauses, participants moved on to another topic. The final word was left to subsequent drafters who were responsible for incorporating these comments into the law (Researcher fieldnotes March 2015). In the final text, those drafters favored the head's position and retained the special non-discrimination provisions in their draft.

However, the desire to surpass a restrictive interpretation of gender norms did not extend beyond the Department of Immigration and the private committee meetings. Cabinet advisors at the Ministry of Interior resisted the addition of such special measures. They feared it would increase the cost of implementing this law and would also be challenged in Congress. A draft version from September 22, 2015 maintained the gender principle and non-discrimination clause but eliminated any reference to specific gender actions. Subsequent revisions continued to include these clauses in the exact same language (October 7, 2015; December 23, 2015; February 8, 2016).

Mid-level officials from other departmental offices argued for including gender in some low-level official documents, but refrained from incorporating it as an institutional position. Mid-level representatives of the Ministry of Foreign Affairs supported the inclusion of a gender principle in the presidential instructive. Nevertheless, on March 31, 2016, when the Ministry of Foreign Affairs sent an alternative draft for the immigration project to the Secretary of the President, it simply eliminated the gender provision.

The inclusion of gender frames provides a good example of the ways in which human rights are progressively incorporated into domestic policies. Although in this case, the more extreme position of the Immigration Department was rebuffed, these officials were able to convince the Interior Cabinet to at least incorporate a principle of gender besides the traditional non-discrimination clause. Although the norm did not include special measures, it was an improvement over previous drafts where only the non-discrimination clause was recognized. The above was achieved even over the opposition of representatives of the Ministry of Foreign Affairs who insisted on eliminating this principle and argued for keeping only the non-discrimination provision.

Commitment to human rights is not a straightforward process. Human rights frames have appeared incrementally in the state structure as mid-level government officials came to understand and incorporate in an ad hoc way such standards in the formulation and implementation of policies. However, progress can stagnate or be reversed. The isolated efforts of a few governmental officials can be stopped if these state officials are replaced or if political preferences shift.

The chapter also reveals that, in addition to social movements and international non-governmental organizations, actors within the mid-level of the state actively appropriate human rights frames. Mid-level officials struggle with the meaning of these principles as they try to implement and use them in their day-to-day practice. Some of these officials even take the human rights frame as their battle standard.

The Chilean case suggests that this process of frame localization is progressively incorporated among mid-level officials. However, it is less so among head and top officials of the executive. These officials tolerate human rights discussions and debates at the middle of the executive as a way of signaling international compliance, but in practice allow them only insofar as these frames do not alter the distribution of power or their ability to make autonomous decisions concerning immigration.

Analyzing the state-level mechanisms by which human rights are incorporated into policies has served to document the complex process of frame localization that occurs inside bureaucratic structures. Human rights not only help local governmental actors in setting priorities, defining meaning, and bargaining from a position of greater strength (Sommers 2009), but they also provide government officials with normative support to develop individual and collective agendas that can extend far beyond the treaty itself. Yet in the end, this incorporation of the human rights frame is done in a diffuse way that could either discourage larger reform efforts or conversely serve as the basis of future legal developments.

In the next chapter, I investigate another dimension of Chile's exceptionality. I explore how and why immigrant-run organizations and citizen-native pro-immigrant organizations have failed to push for comprehensive immigration legal reform. I will show how their limited influence with high-ranking officials as well as the nature of their ongoing relationships with mid-level government officials have combined to hold them back in their attempt to achieve extensive legal transformations.

CHAPTER SIX

The Participation of Immigrant Organizations at the Middle Level of the Bureaucratic Structure

This chapter investigates how immigrant organizations⁴² navigate the mid-level of the bureaucratic structure when the executive performs its policy and law-making functions. In a presidentially centered bureaucratic structure, the executive is responsible for the formulation of laws and for their implementation after they have been approved by Congress or administratively enacted. In the drafting of new laws, civil society participates to the degree that bureaucrats in the executive create opportunities for individuals to become involved in the discussion and drafting stages of these legal initiatives. Inversely, in the implementation phase, the executive can, and often does, work in tandem with civil society to execute administrative policies.

The chapter shows how the relationship that these organizations have established with mid-level officials has produced changes in the implementation of policies. But it also reveals that this relationship has ironically limited their ability to push for comprehensive immigration reform at the higher levels of the executive. Organizational focus on implementation has favored the development of collaborative politics over direct confrontation with the bureaucracy. As a result, the Department of Immigration has become the primary locus of immigrant organizations' attention. This pattern has de facto transformed the Department into a gatekeeper of immigrant claims, effectively shielding high ranking officials from immigrant organizations' demands regarding their most sought-after immigration reforms.

This chapter adds some additional explanations to the puzzle that motivates this dissertation. It suggests that besides the cultural arguments that were identified in chapters 4 and 5, there are organizational factors that explain why there has not been comprehensive immigration reform in Chile.

The nature of the particular relationship that immigrant organizations have consolidated with the Department of Immigration constitutes the central finding of this chapter. I start my analysis by providing a concrete example, extracted from my field work notes, that illustrates the ways in which mid-level bureaucrats and immigrant organizations interact during the policy making process. Next, I explore the distinct roles that these organizations have developed with the Department of Immigration, and with similarly situated governmental agencies. In the implementation of policies, organizations move from being first critical observers of, then challengers to, and finally collaborators with the government. Lastly, I investigate how this ongoing relationship impacted the way in which immigrant organization were granted access to the law-making process, most concretely in the formulation of the Department of Immigration legal draft.

Recent developments further confirm the findings of this chapter. By the end of 2016, the Vice Minister of Interior took over the formulation of the immigration law, excluding immigrant organizations' and mid-level officials from the formulation of the final draft. The appropriation

⁴² What constitutes an immigrant organization has been a controversial question in the literature (Moya 2005; Babis 2016). For this chapter, I used this term to refer to those organizations whose main purpose is to represent immigrants. With this understanding, I partially depart from the Babis definition, which required organizations of this kind to have a significant presence of immigrants on the board of directors. In the Chilean context, retaining this element of the definition would leave out several organizations that have significantly contributed to the amelioration of immigrants' lives. However, I have followed Babis in the remaining elements of the definition, and in particular, by distinguishing two relevant types of immigrant organizations: organizations that were run by the immigrants themselves (immigrant run organizations) and organizations that were run by Chilean citizens to protect immigrant rights (native-born citizen or Chilean-based immigrant organizations).

of the immigration draft by higher officials' (excluding even the Department of Immigration) shows how limited was the role of immigrant organizations in the law-making process.⁴³

Immigrant Participation in the Policy-Making Process

During my fieldwork, I was able to participate in a meeting that brought together immigrant-run and native citizen based pro-immigrant organizations to the Department of Immigration for an informational meeting about regulatory reform. I reproduce my notes below to illustrate how these two types of organizations interacted with the government in the general context of policy reform.

After approving a new type of visa, the Department of Immigration organized an informational meeting to communicate this action to its base: immigrants, immigrant run and native run immigrant organizations, law clinics, academics, and local governments. Although immigrant organizations did not directly participate in the design of the revised policy, it is through organizations' acceptance and usage that this administrative decision might endure after newer administrations are appointed. Except for laws, administrative actions can always be reversed. Immigrant organizations and public interest lawyers are well aware of this fact.⁴⁴ The following example illustrates how immigrant organizations participate in the policy-making process that takes place around the issue of immigration.

On March 10, 2015, the Immigration Department invited immigrant organizations to hear an explanation of the administrative change that it was implementing, and to resolve any questions regarding its operation. The meeting took place on the Department's second floor.

Every morning the second floor welcomed about three to four hundred immigrants requesting information about their visa applications. In the hours prior to the meeting, the floor was mopped, cleaned, and rearranged. At the long table, which on a regular workday would seat the two persons in charge of managing the queue, was now seated Noehmi, one of Hugo's personal advisors. She was checking the attendee names, and she was scribbling them down on a printed form. She handed out informational brochures and small rectangles of paper, which people took before proceeding to the main seating area.

Enrique, another of Hugo's advisors who served as the Departmental liaison with immigrant organizations, was walking back from the reception desk where Noehmi was seated to the presentation area. Although the room was not normally equipped for public presentations, it was rigged to function for exactly that. Besides a panel with a power point projector on it, there was a voice amplifier and a stand-alone microphone. Immigrant activists, both Chilean and immigrant, public interest lawyers, and local city officials were now occupying the same seats that ordinarily accommodated immigrants waiting for service.

I was surprised by the way in which the Department officers had arranged the space. The room was flat, narrow, with white walls and low ceilings, all of which gave me the impression of being in a cave with little air to breath. The few windows on one side were covered with blackout curtains. At the time, it seemed like a good idea because the sun was still beating down

⁴³ Thayer, Luis Eduardo, The president of the Immigration Civil Society Council criticized the government and the Vice Minister of Interior for excluding the Council (and thus immigrant organizations) of the drafting of the immigration law, *El Desconcierto*, available at <http://www.eldesconcierto.cl/2017/08/21/presidente-consejo-consultivo-nacional-de-migraciones-este-proyecto-es-menos-ambicioso-que-el-de-Piñera/> (accessed 08/22/2017)

⁴⁴ Interviews with immigrant organizations leaders and public interest lawyers, March-April 2015.

fiercely. Despite the addition of two ventilators, however, the air was becoming heavier as more people kept arriving for the meeting and filling the room.

I sat on the right side of the room, close to the back. After reading the brochure I started to use it as a fan. Other attendees were doing the same. While I was waiting, I looked around to identify those present. Even though I had been in the Department of Immigration for less than two months, it was easy to recognize some of the repeat players: CIM, RIM, the law clinic professors, the immigrant-run organization from Haiti, and a few academics. I did not recognize the people who were seated in front of me. I introduced myself and we exchanged business cards. They were from a local city governmental office.

It was 6:35 pm and we were awaiting Hugo, the head of Immigration Department. When Hugo arrived, he convened the meeting. He provided a brief overview and described what he called his “successes”: the creation of a work visa, of a civil union visa,⁴⁵ and the significant modifications to the regulatory decree of 1984. After his presentation, Dora, a recent law graduate and a drafter of the Department of Immigration law draft, described details of the legal practicalities resulting from these new types of visa. Then, Oscar, Hugo’s legal advisor, explained the amendments to the immigrant regulation. Each presentation lasted no more than thirty minutes. Oscar was the last to speak. He finished around 7:30 pm and they both stepped out of the presentation area. The head of the visa section and the head of the research section (Felipe) stepped up to respond to the questions from the public.

During the presentations, Enrique walked among the rows of seats collecting the squares of papers, which it turned out were for written questions. Hugo was moderating. He silently read the questions and passed them to the officials he had assigned to respond to the questions from the public. Despite his having delegated responsibility for answering, Hugo could not restrain himself from adding his own clarifications after the others had responded. After a few minutes, the microphone stopped working. People started to ask questions out loud, not following the paper system. With the microphone gone, it was really hard to hear in the back.

Attendees from immigrant-run organizations had many questions concerning the new work visas. Immigrants wanted to know the conditions under which these visas were going to be allocated and what would happen to individuals who had applied for other visas and were still awaiting a response. Immigrant attendees were concerned about those cases that could fall between the cracks. As answers were given people started to talk among themselves and it became impossible to hear.

In the middle of the room, I recognized a woman who worked for a law clinic specializing in immigrant rights. She raised her hand, raised her voice, and boldly asked about the immigration bill. Everyone became silent. Hugo responded, “I am surprised by your question; I thought that this was clear!” He started answering by reiterating the progress that the Department had made and improvements he had already mentioned in the meeting. “As I have said before,” he said, “we will have a new immigration project during the first semester. It is as yet unclear if it’s going to be completely new or an amendment to the Piñera bill. As I said at the

⁴⁵ Before this visa only married couples could apply for a dependent visa. With the “civil union visa” the Department of Immigration recognized any kind of legal partnership.

Conference we both participated in January of this year,⁴⁶ I promise that once we have a draft, we will share it with all of you.”

At 8 pm, the people who were sitting in the first row stood up and left the room. Hugo continued reading questions and he accelerated his pace. Some of the attendees left their chairs, some of them started to speak in groups, others walked up to speak directly with Hugo. The meeting ended when people started to applaud. Hugo concluded by informing the attendees that the Department was opening a new office at the airport to reduce discrimination during the entry of foreigners into the country. Also, he had hired his first Haitian employee, and was thinking about having both Chinese and Portuguese translators available.

I wanted to have a last word with Hugo before leaving, but I was unable to reach him because a group of immigrants’ activists had surrounded him. At 8:45 pm I intercepted Hugo walking up the stairs to the sixth floor, where his office was located, and which I had just left. He was carrying a large box that he wanted to leave at his office so I joined him heading back up. He looked happy and I asked him if he didn’t feel that the presentation had run on too long. He disagreed. He said it was professional and serious.

The meeting-excerpt exemplifies one of the preferred ways in which the Immigration Department interacted with immigrant organizations. From a formal perspective, the setting and the organization of the room provide a few clues to understand this relationship. The preparation of the second floor shows the economic constraints of the Department but also the adaptability and willingness of immigrant organizations to convene in a less than ideal place. The head’s interest in providing a professional meeting with the participation of his head of research, visa unit, and his personal advisors, underscores how seriously this relationship was treated under his administration and conversely how precarious it had been in the past. The high rate of participation and the immigrants’ interest in speaking directly with the head, staying beyond 8:30 pm on a weekday, highlights the significance of this reunion for immigrant organizations.

In a substantive perspective, for mid-level government bureaucrats these informational meetings are the favorite mode of participation. After making a unilateral decision, the Department gathered all the interested parties and communicated its actions. The head’s intention was to share information, but also to ensure that immigrants’ organizations would know and use the new form of visa he had created, so as to gain their support and secure its perpetuation.

The narrative also provides insights about immigrant organizations’ stance towards the government. These organizations took on different roles during the meeting. In this concrete example, immigrant-run organizations were interested in learning the details about the administrative decisions in an attempt to anticipate application problems. Also, they maintained a less confrontational attitude, personally approaching the head after the meeting had ended. On the other hand, the law clinic professor typified the interaction of Chilean-based organizations. She interrupted the meeting by introducing an extraneous topic that had not been addressed during the presentation. She showed more confidence and was able to speak out loud in a room full of people. Also, she pushed the head into improvising an answer on the spot.

⁴⁶ On January 2015, the Department of Immigration organized a conference at the Economic Commission for Latin America and the Caribbean (CEPAL in Spanish) to close the consultation process regarding a new immigration law.

The relationship between immigrant organizations and the mid-level of the government goes beyond this particular encounter. It is important to note that Enrique had been an active member of a native-run immigrant organization before he joined the Department of Immigration. Also, the Haitian employee referenced by Hugo in his presentation was at that time the president of an immigrant-run organization. In both cases, these employees' current affiliation with the Department of Immigration demonstrates the close and synergic relationship that existed between the mid-level of the government and these organizations.

Altogether, the meeting was a controlled environment. For one thing, mid-level officials had sought out this relationship. The fact that the informational meeting was a government initiative and that it had taken place in a government building reveals one its main characteristics. It was a voluntary governmental initiative. At times, organizations have been ostracized from participating in the policymaking process. In fact, this had been the reality during the previous administration.⁴⁷ Furthermore, questions were written down on paper and attendees requested to speak in an orderly fashion. Also, attendees trusted the head's word, accepting without contestation his answer regarding the timing of the immigration law draft. Perhaps most tellingly, the meeting ended without any sign of protest.

The following section further develops the special nature of this relationship and provides clues to understanding why organizations decided to favor one approach over another when dealing with the government.

Immigrant Organization's Participation in Policy Implementation

In Chile, immigrant organizations participate in the implementation of immigration policies in three distinct primary roles: as critical observers, challengers, and as collaborators. I begin this explanation with the most obvious role, observer. Then I move to consider its corollary, challenger. Finally, I conclude with an analysis of the least expected but most significant of the modes of interactions: collaboration.

Critical Observers of the Government Policies

In Chile, immigrant organizations play an active role in the policymaking process. Despite the existence of few formalized channels for participation, these organizations pursue a wide variety of strategies to make their voices heard. As critical observers, the organizations' tactics range from writing press releases and reports, making policy recommendations and organizing meeting with authorities.

Writing reports and issuing press releases was a frequent strategy to raise awareness about the issue of immigration and the problems that the population of immigrants experienced. Because many native-citizen immigrant organizations provided direct assistance to immigrants, they often joined forces with other similarly situated organizations to share the workload and produce comprehensive reports. For example, in addition to submitting written suggestions for minimal components of a new immigration law under Piñera government, in 2011 native-citizen run immigrant organizations co-edited a document that was presented at the review process for the Committee on Migrant Workers.

⁴⁷ Pro-immigrant interviewees recognized that the previous head of the Department of Immigration did not welcome the participation of immigrant organizations. In fact, his openness to civil society involvement was recognized as one of the main positive attributes of Hugo, the Department's head from 2014-2017.

Immigrant organizations also promoted dialogue with the government by organizing collective activities or requesting personal audiences. A female leader in RIM told me that in 2015, their organization had worked in association with an international organization to schedule a series of meetings with congressional representatives and Cabinet ministers. For example, during March and early May 2015, immigrant-run organizations set up meetings with congressional representatives and members of the executive branch of government. In my interviews, organization leaders told me that they had met with house representatives of the Human Rights Commission, of the Citizenship Commission, and of the Interior Government Commission.

Encounters with public authorities were actively pursued to gain public exposure of the topic and of each organization's agenda. According to Ximena, an immigrant activist and political scientist from Guatemala who was also a member RIM,

With the Senate [besides our private meetings with congressional representatives] we have been participating in thematic workshops. And with the Academia, we were asked to join a panel on the subject of racism. It was really interesting because we were invited to participate in the final session. We sat at the same table with other public notables, such as the head of the Department of Immigration, a representative of the National Institution of Human Rights and a city mayor, whose name I don't recall now.

Despite Ximena's positive opinion about the Senate reception, organizing meetings with authorities was not always productive. For Helena, a Chilean citizen trained in psychology and who represented a University-lead initiative that provided psychological assistance for immigrants, meetings with public authorities were very disappointing. The majority of the attendees mouthed a pro-immigrant discourse, she felt, but which was completely disconnected from their day-to-day interactions with immigrants.

A different strategy to increase policy accountability was to invite authorities to speak at seminars and conferences organized around a concrete topic of interest. Since 1994, CMIIN, an immigrant run organization had organized an annual conference that brought together immigrants, refugees, academics, congressional representatives, top government officials, foreign diplomats and religious authorities (Luque Brazan 2009). For Juan, the former director of CMIIN, the seminar usually culminated in a report offering recommendations and suggestions for public policy. The conference was well attended and widely respected by pro-immigrant organizations. During the lead-up, top authorities were invited. However, generally it was mid-level and local government officials who ended up as the ones participating. This was the case when I conducted my fieldwork, during 2014, 2015 and 2016.

Limitations of the Critical Observer Role

Although these strategies have served to raise awareness and increase Chilean authorities' knowledge about immigration, many top-ranking authorities have declined meeting with these organizations or have not followed up on their promises. For example, during my fieldwork it came to my attention that, through the Lobby Act, RIM had requested an audience with the Minister of Interior. They wished to obtain information about the immigration draft. The Minister declined their petition. The Lobby Act did not establish a legal obligation to offer an audience or to provide reasons for the denial (Researcher fieldnotes, April 16, 2016).

Lack of response appears to be a common pattern. According to a recent newspaper article, the Immigration Civil Society Council has been asking for an audience with the Vice Minister of Interior. So far, the authorities have not responded to any of their petitions.⁴⁸

The frequent ministerial rebuffs offered to immigrant groups stands in marked contrast to the experience of many business federations. These meet constantly with high ranking officials to discuss current policies. In my interviews with the heads and lawyers of business federations, I was told that they had a direct relationship with Ministers. For example, during the week I interviewed Blas, the head of the main construction guild, he told me that he had met with two ministers, the Minister of Finance and the Minister of Public Works.

As a result of meetings that immigrant-run organizations held with congressional representatives, these officials have issued “congressional accords” to pressure the executive into altering its priorities. Nevertheless, as of August 2017, the President had not yet introduced any immigration bill into Congress. On August 3, 2017, the House of Representatives called upon the government demanding explanations for this executive inaction. The Minister of Interior replied that the Vice Minister was working on a draft and that he would get it ready before the interpellation deadline. On August 21, 2017, in a public ceremony where the Minister of Interior, Foreign Relations and Finance were present, the President signed the project.⁴⁹ Interestingly, the head of the Department of Immigration was not seated behind the Ministers. The project was not sent to Congress immediately. Informants told me it was to be introduced into Congress by the end of the week and before the deadline set by the House (September 5, 2017).

Given their several previous unsuccessful attempts to talk to public authorities, I asked the former president of RIM back in December 2015 about the ways in which they were dealing with the government denials. She explained to me that they try, whenever they can, to take advantage of every available opportunity. This involves participating in all the events that the government organizes. For example, during November 2015, they approached the Minister of Social Development at an official gathering, when he was discussing his role in the amendment of the Child Rights Guarantees Act. At that moment, they asked for an audience. The Minister did not receive them personally, but they did meet with one of the Minister’s prosecutors. The former president of RIM concluded by suggesting to me that they had to use every opportunity that the government offered: either through the Lobby Act, the Participation Act, or any other instance when government representatives were participating (informal talk with the former president of RIM, Researcher field notes, December 7, 2015).

Chilean-based immigrants’ organizations have used similar institutional mechanisms. Just like the immigrant-run organizations, they have requested audiences with public authorities and they participated in the Immigration Civil Society Council. Under Bachelet’s government, for example, and especially under Hugo’s administration of the Immigration Department, Chilean-based immigrant organizations have gained a special place in the policy-making process. In his interview, Claudio, the Director of CIM, confided to me that it was not unusual to receive personal phone calls from Hugo or one of his close advisors. In his opinion, their privileged access stemmed from the organization’s religious nature. In his words,

⁴⁸ El Mercurio, “the Ministry of Interior receives criticism for postponing the Immigration Law and for its refusal to create an immigration service,” February 6, 2017. 10 representatives of immigrants compose the Immigration Civil Society Council run organizations, 4 representatives of Universities, and 4 Chilean-based immigrants’ organizations.

⁴⁹ La Tercera, “Bachelet signs the Immigration Law Project, We Are Taking an Important Step in Favor of Social Coexistence in Chile” August 21, 2017 (accessed August 21, 2017).

First, being a religious person helps in Chile. For example, the Minister of Interior and his Vice Minister were both educated by our congregation. Most of the Ministry advisors also attended our congregation's schools, and I know them personally. Second, our congregation operates major social initiatives, so it has a history of social work and commitment which is widely recognized. For example, the other day I went to visit the President of the Senate, and he confided to me that in the last month I was the third representative of our congregation to come and visit. That helps. It sounds like competition but there is another congregation that has been working for immigrants almost as much as we have (CMIIN), but they are not as widely recognized in Chile. Hence, they do not share our degree of influence.

In March 2015, Juan, the former head of CMIIN, told me that he could help me gain access to congressional representatives because one of the priests inside Congress was from his congregation. The priest's presence had helped CMIIN to approach and schedule meetings with house and senate representatives. I was not able to check whether Juan's offer was true. Nevertheless, his offer echoes what Claudio told me about his religious influence, making it more credible. However, in this case, as Claudio points out, not everyone in Congress knows about the work of this congregation, limiting its overall effects.

Both immigrant-run and native-citizen run organizations observe and critically watch mid-level officials' behavior, and report back to them through press releases, reports, and during private meetings when they are able to participate. The lack of institutional mechanisms to secure responses from public authorities highlights the main problem associated with this approach. When personal connections are lacking, such as shared religious background or personal connections, immigrant-run organizations have decided to take the matters into their own hand and directly confront the government. I explore this tactic below.

Challenging Government Policies

Amongst immigrant organizations there are divisions about the strategy of resorting to confrontational tactics against the government. For immigrant-run organizations, taking protest into the streets becomes necessary when dialogue fails. For citizen-run immigrant organizations, confrontation is usually pursued through institutional mechanisms, such as lawsuits.

Chilean-based immigrant organizations generally do not engage in public demonstrations against the government. Even though this is not a common tactic, some immigrant-run organizations do use this strategy to gain visibility and express their concerns publicly. Each year, RIM invites immigrants to participate in the Labor Day public manifestation. According to Isabel, an immigrant leader who is also member of RIM,

We cannot rely exclusively on congressional representatives to defend our position. We are actively looking to expand our actions. For example, for Labor Day we joined the National Central Union to manifest our support for the rights of male and female workers.

Eduardo also joined the Labor Day protest. 2015 was the first year his organization, Immigrants Together (IT) walked together with other Chilean workers. "Through our social networks, we

contacted the organizers of the demonstration and agreed on the terms of our participation. We participated in these events in Santiago, Arica and Iquique.”

Eduardo strongly believed in the power of the streets. For this 50 years-old lawyer it was not unusual for him to hear people say that the political conditions to move forward with the immigration agenda did not exist. He however rejected this argument. In his opinion,

His organization is responsible for creating the political conditions for action. And the only way to spawn action is by going out to the streets, demanding their rights. We are capable of organizing people; we have done so in the past. Now, we even have the capacity to mobilize immigrants who live in different cities.

Olga, an immigrant leader, recognized IT’s mobilizing power. She relied on their action to pressure the Department of Immigration. She believed that their geographical proximity to Chilean authorities increased their chances of success. For example, during the 2007 second general migrant amnesty, IT fought hard to influence the terms of the amnesty. Eduardo explained to me that when the government refused to open the process of defining the terms of the amnesty to include the participation of immigrant organizations, they decided to take the matter to the streets, denouncing and fighting the government. Despite their efforts, the Immigration Department remained unresponsive.

Unlike immigrant-run organizations, native-citizen immigrant organizations eschewed such public strategies as ways to raise awareness about immigration or to pressure the government into agreeing to their demands. According to Cristián, the former director of CWB,

There is a big difference between someone who works and someone who is only an activist. For those of us who come from an institution, we have to realize that we have responsibilities, which means that we have to privilege institutional mechanisms. For example, when we negotiate, we use formal strategies. Personally, I have always had problems with the institutional framework. However, because I work in an institution, I have to follow it. We are not a social movement like many immigrants are, because we are an institution. Therefore, it is not the same. And this difference becomes patent in how we approach the subject and the role we fulfill in the immigrant discussion.

For Cristián taking matters to the streets is hardly even a valid possibility. In his opinion, their organizations have a duty to favor institutional mechanisms. Taking the government to court is the only way they believe they can pressure the government within the available institutional boundaries.

By filing legal suits Chilean-based immigrant organizations have forced the government to revise some of its policies. In interviews with Chilean lawyers who worked for citizen-run immigrant organizations, I was informed that the Immigration Department had been compelled to modify its criteria regarding deportation and birthright citizenship cases.⁵⁰

The absence of a law that can systematically redress situations where immigrants’ rights have been breached has encouraged native-citizen immigrant organizations and law clinics to

⁵⁰ Interviews with Josefina, 45 years old, lawyer, Chilean, March 2015 and Andres, 32 years old, Ministry of Justice and Human Rights, lawyer, June 2015.

find victims whom they can then represent. With international grants, the two law clinics and CIM have put together a project aiming at finding children who despite being born in Chile were denied of citizenship.

Despite deciding to confront the government, as a sign of their respect, the organization leaders informed the head of the Department of Immigration about their planned course of action before taking him to court. On November 3, 2015, these organizations met with Hugo to inform him that they were going to file a Nationality Claim representing about 200 children from the north of Chile who had not been registered as Chilean citizens.

During the meeting, Hugo tried to convince the organizations leaders, Leonor, Josefina and Claudio, not to take this matter to the courts. He argued that he had changed the criteria and that this was only an administrative error. He could not dissuade them. For the immigrant organizations' leaders, this case represented an opportunity to set a legal precedent. Also, they saw it as an opportunity to formally push the government to take action beyond the particular cases that it could resolve via administrative adjustments.

Hugo expressed his disappointment about this strategy to me, but there was nothing he could do to avoid the lawsuit. In a way, the lawsuit made him look bad in front of his superiors because it showed he could not control his base. Nevertheless, the decision of the organizations' leaders to inform him of their strategy before presenting the lawsuit underscored how much they valued the relationship with the head of the Department and how exceptional this action was.

As a consequence of the judicial action, Leonor, Josefina and Claudio were summoned to a mediation meeting. Present at the meeting was the President of the Supreme Court, a representative of the Registrars' Office and the head of the Immigration Department. Not only were the 200 children granted their Chilean nationality, but the Immigration Department and the Registrars' Office soon after started an informational campaign to expand the registration program beyond the particular cases subject to the lawsuit. Through the implementation phase of the agreement, with the collaboration of CIM, many more children gained their Chilean citizenship.

Although native-citizen immigrant organization can file legal claims to force the government into expanding immigrant rights, this strategy is seldom used. The deference that these organizations have shown to the head of the Immigration Department demonstrates the exceptionality of this mechanism and their tendency to privilege a collaborative relationship. The reasons underlying this deference become patent in the following section.

Collaborating with Mid-Level Government Officials

Relationships between immigrant organizations and mid-level bureaucrats are based on mutual collaboration, which presumes the existence of trust and common understandings concerning the fate of immigrant populations. The exceptionality of confrontation further highlights the underlying premise of the relationship, which originates from the reciprocal benefits that each side gets from this common interaction.

Collaboration takes several forms. The most prevalent of them is through the provision of services. For mid-level government officials, immigrant organizations help them make contact with the beneficiaries of ongoing policies and increase the effectiveness of their actions.

Inversely, for immigrant organizations, it is a way to reach out to authorities and gain a special status which might be translated into concrete benefits when the opportunity arises.

This partnership with the government stemmed from a time-tested gradually growing relationship that emerged out of a common need. An immigrant leader from Ecuador explained to me that they had built a working relationship with the government. For example, they had recently established an “operation” with the Ministry of Health. While immigrants are waiting to be vaccinated, activists from his organization use that time to speak to the immigrants about their problems.

Interacting with the government is also a way to secure privileged access when serious and exceptional case arises. For example, in her interview, Olga recalled the case of a Colombian immigrant who was injured after stepping on a personnel mine when he was (illegally) crossing the border. As soon as this Colombian attorney learned about the case, her organization tried to help this unlucky person. Because he had bypassed border control, he did not have any papers to prove his migratory status. Also, during his time in Chile he had fathered a child. His son did not have Chilean citizenship. With the assistance of the Immigration Department, Olga’s organization was able to obtain citizenship for his child and a humanitarian visa for him. For Olga, this case illustrated that it was possible to achieve meaningful results. By cooperating with the Immigration Department, her organizations had been able to clear up and expedite the positive resolution of this case.

From the government’s perspective, immigrant-run organizations are a good source of information about immigrant populations. Eduardo recalled that when the Immigration Department implemented the first general amnesty, back in 1998, immigration officials needed to reach out to immigrants. His organization was central to accomplishing the dissemination of this vital information. This 50-year old attorney described the process in great detail. In his words, “we went out to the streets, participated in social gatherings, and talked to people. A lot of individuals, twelve thousand, and twenty thousand individuals applied. We were responsible for the initiative’s success.”

Public officials have used organizational expertise to design and implement public policies as well. Most often, the process of sharing information occurs with the convening of a “working table” or “working group” including participants from both the government and immigrant organizations. For example, Olga, a Colombian immigrant leader whose organization operated in the north of the country, they had had discussions with the Investigation Police, the Department of Immigration, and the local government in these working groups. As the relationships between organizations and authorities got stronger, public officials started to increase immigrants’ roles. Olga complemented her previous response,

Now, we are also working on a health protocol within a pilot program that is being run by the Ministry of Health. We consider this result to be a sign of progress. It is the first time that we are participating in a working group, and we are not only listening but also creating the content of the protocol. Further, we are discussing discrimination cases directly with the regional authorities.

Cristián, the former director of CWB, shared an experience of his that was similar to Olga’s with me. In his words,

After a whole year of work, collecting information, listening to peoples' concerns, and running surveys, we put together a local diagnosis about the situation of migrant children. [In 2005] we organized a seminar at the House of Representatives here in Santiago. We obtained the support of some deputies and Church representatives. A few months later the Ministry of Education invited us to be a part of their legal working group. We were asked to prepare a proposal for regulating immigrant children's access to the educational system. We [the working group] initiated our work with the proposal that we, the CWB, had drafted.

Given mid-level officials lack of general expertise about immigration, access to immigrant organizations becomes key to the success of their initiatives. Awareness that the government was relying upon them to accomplish positive things for immigrants has also fueled these immigrant organizations' outreach efforts. Both immigrant-run organizations and Chilean-based associations have made central to all their work educating fellow immigrants, public servants, and the general public more broadly about the topic.

Immigrant-run organizations are concerned about preparing immigrants for the job market and for their new life in Chile. The president of AOICH, the American Organization of Immigrants, in 2014, signed an agreement with the Catholic University to educate recently arrived immigrant children. Vicente explained to me that his community had little knowledge of Chilean laws. They do not know their rights as immigrant workers. One of the main task of Vicente's organization is to orient and assist them in this process.

Native-citizen immigrant organizations educate as part of their services and outreach programs. Education has been one of the main goals for CIM. For the regional director of this organization, "as an institution, we have a responsibility to educate and to ensure that the law gives effective answers to the problems that immigrants have. Also, our purpose is to assist people seeking information, i.e. immigrants, politicians, government entities, and Chilean nationals." (Susana, 40 years old, regional director immigrant organization, political scientist, Chilean, April 2015)

By including both social and governmental actors, these training programs have promoted awareness about the topic beyond the Immigration Department. For example, in 2005, the organization Children Without Borders was able to push for an agreement between the Ministry of Education and the Ministry of Interior. To one of its leaders, it was clear that it is very common for first line officials to ignore national resolutions. Because they know this is the reality in which they participate, CWB pressured the government for the appointment of a person who could become a focal point for schools' administrators. Cristián, a former organizational leader of CWB, was happy after they succeeded in having this position created. They could then begin to train school and educational officials so they would know how to implement the regulations.

Collaboration is the cornerstone of the relationship between immigrant organizations and mid-level bureaucrats. The benefits that both sides obtain from this interaction explain its persistence over time. Nevertheless, different access to resources explains why immigrant-run and native-run immigrant organizations have a more extended, or restricted, relationship with mid-level authorities.

Limitations of the Collaboration Role

Collaboration is a common strategy between immigrant-run and native-run immigrant organizations. However, the disparity of resources between the two types of immigrant organizations explains why some organizations have been able to secure a direct and permanent channel with mid-level bureaucrats, while others are only consulted on an ad hoc basis. I explore the organizational disparity of resources below.

The lack of experience with the Chilean legal system of immigrant organizations forces them to team up with Chilean-based immigrant organizations. According to Ramiro, the president of one immigrant-run organization from Ecuador,

When we started our work, we joined a Chilean foundation that helped us to legally establish our organization. This foundation assigned a volunteer lawyer to help us through all the legal steps we had to follow, from writing our constitution to designing our external image.

Vicente shared a similar story. This 36-years old activist stated that his organization had received legal training sponsored by CIM about the emergency decree and the rights that immigrants have in Chile. Likewise, when the resources of the organization are exhausted, leaders such as Olga, a Colombian leader from an organization of the north of the country, seek the help of CIM, CMIIN, and immigrant-friendly churches. Usually, this help consists on favors. For this 53-years old Colombian attorney, there is a big difference when you call the local authorities if you can say that you represent one of these established organizations.

Absence of a permanent staff of employees and the time constraints of members also limits organizational effectiveness. Ramiro's organization meets every two months to discuss the organization's activities. In his interview, he described to me that even if they tried to meet more frequently, it was impossible. Most of their members work six days a week and they have social commitments to attend on Saturdays. He illustrated his answer by telling me that his members from Haiti had church obligations until 3 pm, individuals from Bolivia had to work in their restaurants, and people from Peru had family responsibilities. During the rest of the time, organizational members stayed connected through email. For RIM, it was the same. According to Ximena, they got together twice a month.

Succeeding in expressing their opinion was a common concern among immigrant-run organizations. For a long time, the government had reached out only to citizen-run immigrant organizations. Immigrant-run organizations have formed coalitions to consolidate and strengthen their power with the bureaucracy. As these organizations started to mature, they began clamoring for a distinct voice in the political process. According to Isabel, educated as a social psychologist and an active member of an immigrant coalition:

Immigrants were tired of seeing how many academics and other types of organizations spoke in their name. They talked about the problems of immigrants, their reality, and provided information about their socio-demographic characteristics, things like that. We felt abused. We knew better what was happening to us, but it turned out that these guys were speaking more than we did about what it was to be an immigrant in Chile. So, we decided to form our own organizations.

Immigrant-run organizations had to develop a voice of their own before starting to be considered and called upon by state bureaucrats. As the previous quotes illustrate, native-run immigrant organizations were representing the voices of immigrants. The process of constructing a unique voice shows how novel these organizations were and how much they struggled to become an independent actor in the public sphere.

Conversely, immigrant-native run organizations have more experience interacting with the government. These organizations have been operating in Chile since the 2000s. They are run by permanent staff members and assisted by interns. During the initial years of operation, most of these organizations formed a network to increase their effectiveness. According to Eliana, a 43-years old academic who has specialized in the study of immigration and who actively participated in the “immigration” network,

When we created the network, many years ago, ten years, seven years, I don't have the exact date in my mind, there were not many immigrant-run organizations. And when they started to appear, they did not have a very extensive participation. Many citizen-run immigrant organizations within the network have continued to fight and participate in the political arena, not in the name of the network, but in their own name.

Eliana points out that initially immigrant-run organizations did not exist. The government only interacted with native-run immigrant organizations. Initially many of these organizations were dedicated to fighting human rights abuses. However, they turned to immigration as a reaction to the civil and social rights violations they started to observe in the immigration process and because of the unfortunate lack of governmental action to remedy the situation.

Despite the recent decline of the “immigration” network, Josefina, a 45 years old lawyer, believed that the organizations which had participated in it had achieved important results. In her interview, she explained to me that the organizations that comprised the network went from a state of absolute ignorance and indifference to becoming a relevant actor for the Department of Immigration. Unlike in the past, as this Chilean attorney described to me, these organizations are being called upon: their opinion matters and their proposals are taken into account.

Organizational differences between immigrant-run and native-run immigrant organizations partially explain why these organization have different degrees of influence with the government. Nevertheless, resources are not the only factor that explains the differential access to the government between the two types of organizations. The following section shows how organizational reluctance to challenge the terms of their interaction has forced them to accept what the government offers, increasing their participation during the implementation of immigration policies but limiting their ability to question those policies and the government beyond this clearly limited space.

The Department of Immigration operates as a de facto gatekeeper of immigrant organizations interactions with the government. Mid-level bureaucrats have taken advantage of the organizations' favorable disposition towards collaboration, manipulating their interaction at will by providing organizations with differing and limited points of access to the law-making process. The complete reliance of immigrant organizations upon the Department of Immigration has prevented these organizations from reaching out to the higher levels of the executive.

Differing Immigrant Organization Participation in the Law-making Process

In a presidentially-centered bureaucracy, the executive governs both the legislative priorities and the administrative discussion. Concerning legislative priorities, executive officials participate in the drafting process that take place in the executive before introducing a statute into Congress. Although immigrant organizations have secured a role in the implementation of policies, their participation in the law-making process inside the executive remains limited.

In the section below, I set up the general rule regarding access to the law-making process to then go on to explore how immigrant organizations' participation unfolded during the drafting of the immigration draft at the Department of Immigration. Personal contacts within the bureaucracy are one of the main factors that explain organizations' divergent ease of access to the law-making process.

Front stage Access to the Law-making Process

Civil society is excluded from participating in the drafting stages of a statute. This is often a secret and private process that occurs without the participation of civil society. According to Humberto, a former government official who was charged with administering the executive's legislative priorities, even when the executive performs its rulemaking prerogatives, civil society is restricted in its participation. The situation can be understood in the following terms:

The Participation Act established certain procedures, like communal councils, accountability reports and information-based decision making. It is very hard to follow these procedures when the government is acting in its rulemaking capacity. There is a hierarchical impediment. Let me give you an example. With the exception of environmental and urban planning policies, the government does not need to consult people when exercising its rulemaking function. During President Lagos' presidential term, the executive issued an environmental regulation in which everyone was able to participate. When the regulation finally reached the President, he refused to sign it. Although the advisors explained that it was the result of a joint effort with civil society, the President said that he did not agree with it. He said 'I am the one responsible for signing it. Are any of the persons who participate in the discussion signing this regulation? No, so, I have the last word.' This example illustrates that the whole participatory mechanism is limited by who is the person ultimately responsible for making the decision and not the citizens who pushed for the initiative. When the Executive is making laws, the hierarchical impediment is even more drastic.

As Humberto stresses at the end of this quote, access to rulemaking is limited, but access to law-making is even more restricted. In this process, government officials work on legal statutes without the direct participation of its immediate beneficiaries, in this case, immigrants and immigrant organizations.

Personal relationships with the authorities in charge of the drafting of these legal statutes becomes the only available mechanism to get information, and hopefully influence the drafter on the "best" terms for it. For example, during Bachelet's presidential term (2014-2018), Chilean-based immigrant- organizations developed direct relationships with government officials. This situation contrasted markedly with the position that they had during the previous administration. For Leonor, a female attorney at one of the University run immigrant's law clinic,

Participation [in the drafting of the law] depended on your proximity to the Department of Immigration, or to the person who was in charge of coordinating his agenda. For example, the Piñera bill was run by a person hired specifically for this task, responding directly to the second in command at the Ministry of Interior. He was responsible for organizing meetings with civil society. Every meeting he held was bilateral, meaning it was done behind closed doors during which he asked the organization's opinion about the law in force and then dismissed you afterward. Unfortunately, you never knew the extent to which your opinion had influenced his thoughts at all.

Access to the immigration bill was an exceptional occurrence. When Alfredo was writing the Piñera bill, he did not share it with anyone. According to this 34-years old engineer,

Civil society widely criticized our decision. At the beginning, I wanted to share it, but I became convinced not to do so. There is an institutional moment, called the Congress, where civil society is allowed to participate. It does not make sense to create a previous stage of discussion. And in the event, you do decide to share it, you have to be very clear about the proper moment. The document can change significantly after the Minister's signature. Therefore, if you made public a previous draft, organizations can feel betrayed when a new document is introduced into Congress.

A current government official shares a similar understanding. In Urbano's opinion, although the pre-legislative process was not regulated, it was very unusual for a citizen to be given access to the provisions of a draft, more so when it had not yet been introduced into Congress. Similarly, for Humberto, this 55-year-old lawyer, access to a draft in advance was privileged information. Even for Congress the provisions had to remain private. He could not understand how an individual could take precedence over Congress. He concluded by saying that there were never good reasons to make it available beforehand.

In spite of clear rules regarding the participation of civil society in the drafting of legal statutes, the example below shows how immigrant organizations were granted access to the text of the immigration draft, even before other ministerial units of the government. Personal contacts and a mutually trusted relationship with the head of the Department explain this outcome.

Backstage Access to the Department of Immigration Draft

The Department of Immigration's close relationships with Chilean-based organizations allowed them to get an early copy of the immigration bill. On June 9, 2015, Hugo had lunch with two of the Law Clinic lawyers. On August 25, 2015, fifteen law students from that same law clinic visited the Department of Immigration offices. They had a two-hour meeting with Hugo, and then they took a tour of the second and third floor of the Department. According to Noehmi, Hugo's chief of staff, the head was trying to stay in the good graces of Leonor, in the hope of making her his ally.

On May 6, 2015, Hugo, Enrique and I had lunch with Claudio, the director of CIM, to discuss pre-legislative strategies. Both Hugo and Enrique were trying to convince Claudio that they had the congressional support, but they needed to agree on a common strategy to gain even more supporters. At that lunch, Hugo revealed to CIM's director that they had appointed a small

committee of people to work on a draft of the immigration bill. They wanted to ask his advice regarding the due process section of the bill.

Hugo promised, and later gave him, a printed copy of the relevant section of the bill. Before handing him the draft, Claudio had to promise not to leak it to the press or anyone else. He could share it with his partner's legal clinic, but for her eyes only. He was told that he should not share it by email. It was a very early draft that none of the other organizations or other governmental officials had yet seen.

CIM and Leonor's Law Clinic got a copy of the immigration law draft around May 2015. Inside the government, the Ministry of Foreign Affairs (MFA), the Ministry of Justice and Human Rights (MJHR) and the Ministry of Social Development (MSD) were also interested in reading the draft. However, it was not until October 2015 that the MFA received a copy. The MJHR and the MSD received their copy by mid-November 2015.

Despite the demand of immigrant-run organizations to have access to the bill, they received a copy only in November 2015. On the afternoon of November 5, 2015, after the MCI had met, Hugo summoned me to his office. He explained to me that the Ministerial Committee on Immigration has met and decided to form an executive commission to study the immigration bill. He instructed me, "Now that we have ministerial consensus, I want the draft to be available to every pro-immigrant organization. It is good for us to circulate the draft because this is the most progressive draft that is going to exist, and I want every organization interested in the subject to publicly support it. But due to the fact that comments are still pending from other ministerial cabinets and from the Presidency itself, we still must make sure that people know that this is a preliminary draft." (Researcher field notes, November 2015)

Immigrant-run organizations got ahold of the project only after the Ministers had met but before the project was sent to Congress. Nevertheless, instead of having access to the most recent versions of the draft, they received the October 7 version. This access was made possible only because the head of the Immigration Department wanted to muster support for his project. Since that date, the version has evolved considerably. The work on the immigration law has continued inside the government, but it has not yet been released to the public.⁵¹

Given the theoretically democratic nature of the Chilean government, there should be no difference in terms of access to the law-making process amongst immigrant organizations, whether they be run by Chileans or by immigrants. The evidence contradicts this conclusion. In a context where the formulation of laws depends on the executive, personal contacts with the relevant governmental official makes a significant difference in the amount of influence each organization has.

The above became more palpable after high ranking officials took control over the immigration agenda. After the Vice Minister assumed the drafting and direction of the immigration draft, immigrant organizations were excluded from accessing the text of the immigration draft. In August 21, 2017, the President signed an immigration project, which was introduced into Congress. Neither immigrant organizations nor indeed Head of the Department of Immigration were consulted before it was introduced.

⁵¹ On August 21, 2017, the President signed the immigration draft into bill. The bill was made public on August 23, 2017.

Immigrant organizations have established an enduring relationship with mid-level bureaucrats. In the implementation of policies, these organizations critically observe, challenge, but most importantly, collaborate with the government to secure the success of governmental initiatives.

However, by showing the relative extent (or lack) of access and influence of immigrant-run and native-citizen immigrant organizations in the drafting of the Department Immigration draft and especially in later stages of the discussion at the higher level of the executive, the chapter has demonstrated that in the nitty-gritty, organizations' participation relies significantly on personal relationships and one-on-one interaction.

In this context, organizations seem to benefit from personal and direct relationships with the executive. But this apparent advantage in fact encourages them to shun conflictual politics, perhaps ultimately undermining the possibility of successfully pushing for truly comprehensive immigration reform. In fact, organizations' close relationship with mid-level bureaucrats creates opportunities to influence the implementation of policies, but restricted their ability to participate in setting policy and in the drafting of the immigration law once the text left the control of the Department of Immigration.

Organizations' focus on implementation diverted attention from the law-making process. The organizations' decision to focus their energy on the Department of Immigration backfired when that institution lost control over the immigration draft. Limited access to higher ranking officials resulted in the organizations' lack of access to the last version of the immigration draft.

In the next chapter, I investigate how the institutional structure of the government has impacted the reformist efforts of middle level bureaucrats. In this chapter, the discretionary powers of the administrative have served the policy agenda of middle level bureaucrats and the law-making agenda of high ranking officials who remained in absolute control over the immigration draft. Within the broader bureaucratic complex this clearly demarcated structure has constrained mid-level officials' efforts to achieve any comprehensive legal change.

CHAPTER SEVEN

Immigration Reform In A Presidential-Centric Governmental Structure

This chapter investigates an instance of bureaucratic power within a particular kind of presidential state. In Chile, the president continues to hold significant legislative powers. The President and her cabinet of ministers actively govern; they define policy, set the legislative agenda, and monitor the progress of legislation.

Rejecting the prevalent unitary perspective about the state, this chapter shows that a variety of positions exist inside the executive when different sub-units and government officials participate in the making of laws and policies. By looking at how a middle level government official promoted a legislative agenda inside the executive, I demonstrate how far his power extended, but also demarcate the limitations of his endeavor.

Explaining the scope and limits of bureaucratic power provides the final explanation to the puzzle that animates this dissertation. I have argued in previous chapters that the lack of comprehensive immigration reform was due to cultural and organizational factors, i.e. high-ranking officials' continued dependence on security frames (chapter 4), the lack of resonance of human rights frames beyond individual and collective projects (chapter 5) and the limited participation of immigrant organizations at the higher levels of the executive (chapter 6). In this chapter, I show how a middle level official attempted to change the status quo by exercising his power within and outside his unit, but also how he was eventually shut down when his actions began to threaten the primacy of high-ranking officials in determining immigration law and policy.

The extent and limits of mid-level bureaucratic creativity constitutes the central finding of this chapter. I start by exploring the ways in which the head of the Department of Immigration navigated the institutional structure in which his department was embedded, with the intention of overcoming it and modifying the public perception that existed regarding the department. I then describe the tactics that this mid-level bureaucrat used, outlining how he was able to direct and move his immigration law draft forward. I conclude this chapter by surveying the obstacles that this bureaucrat faced, both among fellow mid-level bureaucrats at the Ministries of Foreign Affairs and Social Development, and with his superiors, notably the Minister of Interior and the President.

Even though the head of the Department of Immigration was not able to deliver on his promise of introducing his immigration law into Congress, his actions created a reservoir of organizational practices and social expectations that might well frustrate future reformist efforts. Of course, his behavior could alternatively be construed as laying the foundation for the emergence of a similarly positioned bureaucrat who could build upon his practice, and enable a department head to someday successfully influence the priorities and decisions of top executives.

Exercising Bureaucratic Power

From 2014 to the beginning of 2016, a young middle level reformer who knew his way around the bureaucracy captured the political opportunity that arose out of Bachelet's political program. He succeeded in transforming a low-ranking department into a publicly watched institution,

raising awareness about the subject, and inducing all the department heads and top representatives of the government to discuss immigration reform. I explore each one of these dimensions below.

Overcoming the Institutional Structure

This section analyzes how immigration has gained a presence inside the Chilean bureaucratic structure. By briefly reviewing the past and present of the Immigration Department, I review the place that immigration has occupied in the government since the advent of democracy and before the head of the Department arrived in March 2014. This section depicts the background for the head's reformist actions.

The Backwater Depository for Unwanted Government Officials

Before 2014, the Department of Immigration did not exist on the public radar. Neither the press nor politicians paid attention to it. Melanie had worked for the Department since she finished her legal education. During her time in the Department, she had worked in different positions and under different chiefs. She explained to me how much the institution had changed since the early days. Not only had it had been moved three times, but over the years it had grown considerably. At the beginning, the Department was located around the corner from the Presidential Palace. However, as the number of immigrants began to grow, it outgrew that small space. The office was relocated to the south of the Presidential Palace. Eventually, it was moved to its current offices, ten blocks away from the Interior Ministry and the President's central office.

Despite the initial geographical proximity, Melanie explained to me that for a long time the Department of Immigration worked as an island inside the Ministry of the Interior. They were never invited to the Presidential Palace. Indeed, they never even saw the interior of the offices of the Ministry under which they operated. For this 43-years old lawyer, only in rare instances and "if we were lucky" did the Interior cabinet call the head of the Department.

Inside the executive, the Department of Immigration was considered the "backyard of the cabinet, the boneyard for government officials who did not perform well in other offices, the least relevant budgetary allocation." (Hugo, 43 years old, Ministry of Interior, Lawyer, Chilean, February 2015)

Furthermore, administratively, the Department was located at the lowest level of the executive structure. It was at the same level as the IT Department. For the current head of the Department, the location of his office and its routinized, limited tasks and functions, made it the least desirable place within the Ministry of Interior.

In addition to bureaucratic insignificance and ultimately geographic isolation, the Department lacked policy and litigation expertise. According to Melanie, "the first immigration bill was entrusted to an external expert. Also, it was a small office that could not handle litigation. We hired an outside lawyer to deal with the few cases that were filed against the Department. Besides representing us in court, that same person was responsible for drafting legal and legislative memos." Felipe reaffirmed Melanie's point. In his opinion, this lack of expertise was underlined by the fact that nobody knew about immigration law before starting working in the Department.

This lack of expertise resulted in the Department's strict conformity with the emergency decree. For a long time, immigration policy was relegated to the interpretation of this statute. According to the former head of the research division, Felipe, only rarely did the various heads manage to have their decisions validated beyond the purview of their office. Only seldom could they secure the attention of officials outside the Department when considering policy measures. Lack of expertise limited the impact that the organization had.

Besides the above circumstances, immigration was a topic that received low attention in the government. For a long time, immigration had been a secondary, even a tertiary level concern within the Chilean governmental bureaucracy. Historically, Chile had not been a primary destination for immigrants and only recently had this situation begun to change (Rojas and Silva 2016).

Immigration was the Government's Last Priority

For almost twenty years, immigration was the government's lowest priority. The government's initial outlook was readily apparent in Felipe's opinions about the subject. Felipe is a career official, one of the first public officials who joined the Department of Immigration back in the days when almost nobody knew about the Department's existence. He started working as an intern. After graduating from college, he got a permanent position. When I interviewed him, he was the head of the research division, a position that he had held for the past twenty years. In his interview, he explained the trajectory of the Department to me. He started by saying that immigration "has never been of public concern and has never been included in the governmental agenda."

Paquito, a 60 year- old governmental official working at the Ministry of Foreign Affairs shared a similar perspective. This career official was one of the first persons to pay attention to the topic. His experiences in exile and his subsequent role in running the International Organization of Migration in Chile gave him ample experience with the topic. In the nineties, he had started working at the Ministry of Foreign Affairs. He explained to me that since his first days on the job he had tried to push the government into considering the issue. But his efforts remained in the domain of individual initiatives. To this trained political scientist, this lack of concern about immigration was due to the exigencies of more urgent social issues. He confided to me that every time his superior changed, he had to start convincing the new one about the significance of the topic. The problem has continued to grow, and in his opinion, the country has missed the opportunity to deal with it in timely fashion.

Political parties and presidential candidates did not incorporate this topic in their programmatic agenda. In 2014, the word immigration appeared for the first time in Bachelet's political program (2014-2018). This 102-page long document dedicated one paragraph to the topic. Paquito, Jaime, and Samuel and others similarly situated individuals had participated in the team that drafted that section of the program. For Felipe, an office administrator with more than 20 years' experience in the matter, "the incorporation of this issue in Bachelet's program was fundamental because it was never mentioned before. More importantly, she explicitly said that the government would try to change the law in force."

With Bachelet's explicit political commitment, government officials, international and pro-immigrants organizations all saw an opportunity to re-introduce the subject and push for

reform. However, over time, as Pedro, a former representative of an international organization, described to me, once again political priorities started to shift away from immigration.

Despite initial political receptivity toward the topic, the government's legislative agenda had been diverted by more pressing subjects, including tax reform, education, labor, and abortion rights, as well as the question of modification of the constitution. For Gabriela, a female immigration scholar, "we never reach the point where immigration becomes a priority. It is certainly a relevant topic, but not as significant as other issues in the governmental agenda."

By the end of 2016, with the presidential campaign under way, the topic resurfaced in the media. However, as I explained in chapter 4, the debate only touched upon the problems and benefits that immigrants were bringing to the country. One of the consequences that emerged from this heated discussion was that the president committed to sending a new immigration proposal by the end of 2016.⁵² Nevertheless, Congress adjourned and the project was never introduced. In early February 2017, the media reported that the immigration project was among the forty-eight bills that were going to be presented before March 11, 2018.⁵³ In March 2018, the government spokeswoman indefinitely postponed the proposal.⁵⁴ Finally, in August 21, 2017, and mostly as a result of the head of the Department's actual resignation and a call to the Minister of Interior by members of the House of Representatives, the President signed the Ministry of Interior immigration draft, sending the text to Congress two days later.⁵⁵

Notwithstanding current events, immigration is not a topic that is structurally important to the executive, nor is it among the top priorities of the government. With the arrival of the now-former Head of the Department of Immigration the circumstances described above started to shift. I analyze the tactics and strategies this mid-level bureaucrat pursued to change the status of immigration for the Chilean government.

Fighting Against the Odds: Making Immigration a Governmental Priority

As a young career official in 2014, Hugo accepted the direction of the Immigration Department. The newly appointed head had previous experience working in the government as an advisor in the Ministry of Interior (2006-2010), and as a lawyer at the Ministry of Public Works (2004-2006), at the Ministry of Health (2002-2003) and at the Ministry of Labor (2001). Nevertheless, running the Department of Immigration was a completely new challenge for him. It was a topic that he knew little about and it was a Department that, as we have seen, lacked prestige within the administration. As he told me in our first interview, he wanted to leave a mark, make a meaningful contribution. He saw potential in this institution.

After Bachelet had been elected as President for 2014-2018, replacing Piñera (2010-2014), the current head of the Immigration Department, Hugo, was asked to make a choice among three bureaus that were administered within the Ministry of Interior, i.e. the Civil Police, the Investigative Police, and the Department of Immigration. He selected the Immigration

⁵² Bachelet, Michelle, Bachelet announces the introduction of the immigration bill and condemns the resurgence of xenophobic discourses, *El Mostrador*, December 12, 2016 (accessed on December 12, 2016)

⁵³ *El Mercurio*, Memo of the Government Sets the 48 Legislative Priorities for March 2018, February 1, 2017 (accessed on February 2, 2017).

⁵⁴ *El Mostrador*, Legislative Priorities for March: SENAME, Constitutional Reform, Conflict of Interests and the Financing of the Educational Reform, February 28, 2017 (accessed on March 3, 2017). House of Representatives News, Deputy Hernandez Hopes that the Government Would Introduce the Immigration Bill during March, March 2, 2017 (accessed on March 3, 2017). House of Representatives News, Deputy Hernandez, Again the Government Has Failed Us in Terms of the Immigration Reform, March 7, 2017 (accessed on March 7, 2017).

⁵⁵ La Tercera, Bachelet signs the Immigration Law: "We Are Taking an Important Step Towards Social Coexistence" August 21, 2017 (accessed August 23, 2017). House of Representatives News, The Immigration Law Project is Introduced, *Boletín* 11395, August 23, 2017.

Department because he believed it was an area of the government that was “underused and undervalued.” Once in office, he saw his first tasks to be building the organization’s reputation and positioning the Department at the center of the immigration debate. I explore each aspect below.

Becoming a Reference Point in the National Discussion of Immigration

Hugo’s main practical goal in office was to create the necessary institutional autonomy to pursue his political agenda inside the executive. According to Carpenter (2001), mid-level bureaucrats have a strong incentive to build organizational reputations and to strengthen their political affiliations. The head pursued each of these dimensions.

He started by sending a clear message that he was running a renewed institution. During 2014 and 2015 the Department made broad use of its regulatory powers. Hugo used the emergency decree’s broad prerogatives to extend his jurisdiction beyond the boundaries of his organization. In less than a year, the Department issued more than 25 administrative orders aimed at instructing regional authorities on how to interpret the Emergency decree. He created new visas (i.e. work and civil union), and simplified administrative procedures to reduce visa resolution times and coordinate the sequence of administrative hurdles (Rojas and Silva 2016).

In addition to his policy role, the Head improved his department’s practical effectiveness. In its 2015 annual report of activities, the office’s head stated that compared to 2014, his organization was directly serving 4.9 more persons per day and had increased its response rate by 16%. Regarding visa applications, the office had issued more than 14,225 visas applications and reduced its resolution time by 26 days on average (Annual Report 2015).

Changing the public image of the institution and the way in which it was referenced in public discussions was the head’s second strategy. In April 2014, Hugo hired a journalist to manage the organizations’ communications strategies. The Ministry of Interior had previously handled all such matters. However, except during a few national emergencies, the Department of Immigration did not receive any media coverage. One of Hugo’s main goals in office was to become the “authoritative voice in the field,” a reference point for public discussion and the official source of data and information on immigration.

From the beginning, the journalist’s main focus was on publicizing the work done by the Department. Not surprisingly, Tere had come from a private consulting agency which worked on public images. She had met Hugo by chance at one of her firm’s events. She did not know anything about immigration before accepting the position. Given the novelty of the subject for the media, her role was to promulgate news, present timely topics, and suggest new perspectives.

As part of the media campaign, Hugo committed a high percentage of his day to giving interviews, participating in press conferences and talking on radio programs. In June 2015, the head hired a new journalist to replace Tere in an effort to stimulate public attention and media interest. At the same time that he was increasing media coverage he also hired a graphic designer to craft a new organizational image. With the help of this young designer, the Immigration Department launched a new logo “*Migraciones Chile*” (In English “Immigration Chile”) that became the official image of the organization. After 2015, common organizational branding was emphasized through repetitive representation of this same icon.

Finally, to increase the public visibility of the Immigration Department, Hugo hired Raquel, an event planner, to organize publicity campaigns to promote the enactment of a new immigration bill (May and August 2015). Furthermore, with the designer's help, he created a specific slogan "*Para el Chile que Viene*" (In English "For the Future Chile") to talk about the immigration bill. Incrementally, Hugo started to link the anticipated new law with this frame, stressing the future possibilities that such legal reform would bring to the country.

The head's vision for the new role that the Immigration Department should play in the public sphere significantly modified the way in which he interacted with external constituencies. As part of his strategy of becoming a reference point in the debate about immigration, the Department had to be recognized by every interested party.

Constructing Bridges with External Constituencies

Parallel to these communication and media strategies, Hugo devoted his time to building strong support among interest groups. Before 2014, the Immigration Department did not maintain close relationships with immigrant organizations. This circumstance changed with the arrival of Hugo. By the end of November 2014 and the beginning of 2015, the Department had organized consultative processes in eight cities covering six regions of the country so as to gather their input about a new immigration law. According to an immigration activist from Peru, "civil society had never been invited to participate in the policy discussion. The process of consultation was a good move by the institution. The Department gave us the opportunity to speak and explain our position." (Eduardo, 50 years old, Immigrant Activist, Lawyer, Peruvian, May 2015)

All my interviewees recognized the efforts that the head had done to increase civil society's participation. Jazmín, a local government official who had done pioneering work with immigrant communities, noted that the Department was making positive changes to its image. Besides creating the consultative process, it was hiring immigrants to work as staff. Cristián, a Chilean historian, who used to be the director of CWB and who was now running the immigrant office of a local municipality, believed that the Department's new attitude was a good starting point. He truly thought that the organization's actions demonstrated a willingness to do things differently.

In addition to restoring relationships with pro-immigrant organizations, Hugo had several meetings with congressional representatives from both right and left-wing parties, which I witnessed during my fieldwork. I was able to participate in the meetings that took place inside the Department. In February 2015, Hugo met with a representative from a center-left party. For about an hour, he explained to him all the recent progress that his office had made, and why he was trying to push for a new immigration bill that would replace the Piñera bill.

In October 2015, Hugo organized a meeting to discuss the immigration bill with a deputy and a senator who represented the northern regions of the country. The heads of the legal and research divisions attended, along with the two lawyers who were drafting the immigration bill. I was also allowed to be present as part of the head's policy advisory team. Although I was unable to participate in other meetings that occurred outside departmental offices, I overheard in hallway conversations that Hugo and Felipe had discussed the law with a center-left deputy from Santiago and with a right-wing coalition.

Since 2015, the Department has been trying to formalize a permanent structure within which to interact with national and international researchers. In September 2015, the head invited a group of academics to organize an initiative for holding collaborative discussions. As a result, throughout October and November 2015, Hugo sponsored, publicized, and participated in a series of conferences in Magallanes, Iquique, and Santiago. This initiative was re-launched in January 2017 under the name of International Network of Migration and Public Policy Researchers (RIMP). For Felipe, the purpose of these networks was to broaden the number of perspectives brought to bear upon discussions of immigration reform. For the new head of the research division, it was a way to improve oversight of the policies that were being implemented (informal conversation with key informants, January 2017).

By the end of 2015, interactions between immigrant organizations, academics and members of Congress were frequent. Slowly, the Department head started to reach out to business federations. In June 2016, when I was interviewing the representatives of the major Chilean business federations, many of my respondents said that they had been in contact with the Department head. However, this contact was informal, since the first official meeting with the federation of business guilds was not scheduled to occur until July 2016. During my fieldwork, I did not myself witness meetings between business groups and the head of the Department. However, it is possible that some informal encounters could have taken place in seminars and conferences that I did not participate in. I know from my fieldwork that throughout 2015, the head was invited to give talks at numerous public and private events.

In my field observations and interviews, I was able to confirm the efforts that the head of the Department had put into reaching out to external constituents. The Department's new wider role inside and outside the government had been one of the primary outcomes of Hugo's administration. This newer role laid the groundwork for developing Hugo's political agenda concerning the next immigration law.

Developing a Political Agenda: Drafting the Department's Immigration Law

For Hugo, the primary goal of his administration was to put together a new immigration bill. As a prerequisite for reaching this goal, he had to create an opportunity for a quiet discussion about the topic inside the executive, and he had to lay the foundation for this. Hugo believed that controlling the flow of information was key for this strategy to succeed in this scenario. From his predecessor's exhausting experience in developing an immigration draft, Hugo learned that the strategy involved recognizing the composition of an audience, adjusting the timing and amount of information and data that could be safely shared if he wished to retain control over the immigration bill. In his own words,

When I speak about the law, I have to know and understand the audience, which means identifying the key actors, reading their interests, and generating the information they will find useful. The cornerstone is information. You have to know who are the central players and with whom they speak. Once you know that, you have to make yourself available. You have to transform yourself and make these players see the reality that you see. For example, if you know that the minister is talking about immigration, you have to make sure that the person whom he is talking with -who would probably have only a partial perspective on the matter- has developed a full picture.

The formulation of a new immigration bill started as Hugo's personal project. In November 2014, he entrusted the task of reviewing the Piñera bill and drafting an alternative proposal to a team of three young female lawyers, recently graduated from law school. Only one of the three had previous experience with immigration law and with drafting legislation.

The lawyers took one week off from their regular schedules to read and revise the Piñera Project. During this time, they also compiled information about immigration laws in South America (i.e. Argentina, Costa Rica, Uruguay, and Ecuador) and read the observations made to Chile by human rights bodies, in particular those referring to the Convention on the Rights of Migrant Workers and Their Families, the American Convention on Human Rights, and the Convention on the Rights of the Child.

After submitting their "first analysis," the recently graduated lawyers and a team of Department officials participated in a consultative process that brought together immigrant organizations, NGOs, local governments, and local academics to discuss the minimum requirements of a new immigration law (November to January 2015). The consultative process produced a final document containing the main conclusions of their collaboration. These conclusions were indirectly incorporated into a second draft that was submitted to Hugo in the middle of February 2015.

The second draft served as the basis for the discussions that followed. From March to the end of April 2015, Hugo organized a sub-committee composed of top Department advisors, the heads of the legal and research divisions, i.e. Melanie and Felipe, two of the aforementioned junior lawyers (one of the junior lawyers was put to work on a different topic), Samuel, who was a top official from the office of the President and former Department of Immigration head, and two representatives of international organizations. I acted as recording secretary for these closed sub-committee meetings. We met three times a week for two months to go over and improve the second draft.

After that sub-committee had finished its revision, an internal review committee was constituted. It was composed of the heads of the legal and research division, the two junior lawyers, one senior lawyer, and two Department advisors. I was also invited to participate in these discussions. The internal committee operated from May to the end of August 2015.

Opening the discussion of the Department Immigration draft to government officials outside the department was described as problematic. From the experience with the Piñera law, Hugo believed that giving access to the project to other ministerial offices would create undesirable buzz which would not benefit the overall project. Therefore, from May to September 2015, the project remained under strict secrecy.

The secrecy of the endeavor was considered central to the success of the project. According to Pedro, one of the members of the first closed committee, "we have a project, but we cannot speak of it. We have to say that we don't have anything." Another member of the same committee offered, "We can only say that we are working on some ideas, no more" (Informal lunch with Enrique, March 3, 2015). As a consequence, the text of the project was not publicly available, not even for the participants in the closed drafting committees.

From informal conversations that I held during my fieldwork at the Immigration Department I got the sense that the previous drafting procedure was perceived as being highly

inefficient. One of the main rationales invoked to explain why the law had changed so considerably from its original form to what had been eventually presented in Congress was the fact that it had undergone extensive revisions from “too many” ministerial offices. If an immigration law were to survive and conform to higher technical standards, the Immigration Department had to avoid passing it from ministry to ministry. According to Felipe, the senior official working at the Department of Immigration, collecting, reviewing, and responding to ministerial comments and notes delayed the Piñera immigration project over seventeen months.

The tight secrecy around the immigration bill was part of Hugo’s strategy to ensure his Department’s control over the text and future of the bill. However, managing who got access became a more challenging task once the project left the Immigration Department building. Opposition to the Department’s draft arose from mid-level bureaucrats who represented other offices within the executive and with high ranking officials at the Ministries of Interior, Foreign Affairs and Finance. I examine these conflicts below.

Limits of Bureaucratic Creativity

By the end of October 2015, the head of the Department of Immigration had successfully produced a draft of a new immigration law and convinced his Minister to follow his lead. This process was not bereft of conflict. During the ten months while drafting of the law was proceeding the Head was able to deflect the interest of other mid-level bureaucrats in the ongoing process. However, once higher-ranking officials became progressively involved, he gradually started to lose control over his project.

The actions that resulted in the production of a draft and its extended life inside the executive are clear indications of the significant degree of power that the head accumulated and was able to exercise during this period. However, the eventual demise of the project underscores the limits of this power. By describing the conflicts that the head experienced with his peers (other mid-level bureaucrats) and with his superiors and other high-ranking officials, I show the limits of his effectiveness despite his bureaucratic creativity.

Obstacles with Middle-Level Bureaucrats

In Chile, primary responsibility for the issuance of visas is vested in the Department of Immigration, working through the Ministry of Interior within Chile and the Ministry of Foreign Affairs abroad. Aside from these two institutions, the emergency decree did not confer visa granting authority (or other authority in this matter) upon any other government agency. Notwithstanding this legal fact, in practice the growing presence of foreign nationals in Chile had increased the involvement of other ministerial offices, especially those whose purpose was to provide social services to “all” the inhabitants of the country. This meant, in particular, the Ministry of Social Development, the Ministry of Health, the Ministry of Education and the Ministry of Justice and Human Rights.

Conflict between ministries emerged out of personal interest in gaining both more power and economic resources for the institutions involved. For mid-level officials working on this topic, the law was seen as an opportunity to gain institutional recognition for work they had been doing on an ad hoc basis. Even though the Department of Immigration and the Ministry of Foreign Affairs had a legal mandate to work on the issue, inside the executive working on immigration-related topics was not recognized. For the other social ministries, the lack of

institutional recognition implied that the topic depended on personal commitments and informal decisions, a function which they were effectively performing and which these officials hoped to legitimize in a statute.

In a weak institutional context, inter-ministerial coordination was a challenge. For Leonor, a female public interest lawyer who had worked with immigrants and refugees for the past ten years, the difficulty in reaching consensus concerning the next immigration law became apparent as soon as an effort was made to establish a common position among the different ministries. There were clear conflicts among the Ministries of Interior, Foreign Affairs, and Finance. In the next section, I investigate how the drafting of the immigration law created conflicts between the Department of Immigration and other government offices between 2014, 2015 and the beginning of 2016, the period that my fieldwork covered.

Concerns over preservation of institutional prerogatives and over personal recognition fueled the conflicts and tensions that arose during the drafting of the immigration bill that the Department of Immigration was leading. There was conflict, although to a lesser degree, in regard to the presidential instructive that the Department was championing. I review these conflicts below.

The Migration Unit at Ministry of Foreign Affairs

For mid-level bureaucrats at the Ministry of Foreign Affairs, access to the text of the draft gave them leeway to negotiate a better position before other government officials could become involved. Given the legal mandate of the Ministry of Foreign Affairs on the topic, it was only natural that they be invited to be part of the discussion that would redefine their authority.

On March 31, 2015, Paquito, the representative of the Ministry of Foreign Affairs asked Hugo directly about the immigration law draft. Despite confidentiality during proceedings of the closed drafting committee (May to August 2015), he had heard rumors about the existence of a secret team working on an immigration bill. Hugo dodged the question.

Mid-level bureaucrats' persistent inquiries about the veracity of the rumors forced Hugo's hand. At the first Technical Committee on Immigration (TCI) meeting on March April 7, 2015, the head of the Immigration Department recognized that the pre-legislative process had started. However, he said, they were unable to divulge the current state of the draft. He deferred responsibility for officially convening a group of experts to work on it to the Minister of Interior's Cabinet.

Behind the scenes, the Immigration Department was deeply involved in the drafting of the immigration bill. Not only had the Department drafted the ministerial proposal, but it was also leading the discussion inside the Ministry of Interior. However, the message that was delivered outside the Department and especially in front of other governmental offices was that the project was under the exclusive purview of the Interior Cabinet. It was important for the Immigration Department to limit exposure of the proceedings until the Minister of Interior had sanctioned a final draft.

Nonetheless, as the year progressed and pressure started to increase, the head of the Immigration Department started to speak generally about the project, as a way of gathering support before its public release. This relative openness contrasted with the opacity he had

assumed in his interactions with other mid-level officials within the executive. This created conflict and distrust.

From the end of August until the last days of September 2015, representatives at the Ministry of Foreign Affairs actively claimed a role in the drafting of the bill. In their view, their ministry shared a similar responsibility with the Ministry of Interior, and as such, they had to participate in the formulation of the proposal (Immigration bill, institutions and obligations memo, 11/29/2015; Researcher fieldnotes December 2015).

Given the lack of participation afforded to representatives of the Ministry of Foreign Affairs during the drafting stages of the bill, they took advantage of any opportunity to show that they could control the immigration agenda of the government. For example, officials at the MFA excluded the Department of Immigration from activities in which they both shared similar interests.

On August 18, 2015, Hugo and I were discussing how to organize the future work of the Department when Felipe entered the room. He interrupted our discussion, and informed Hugo that a unit inside the Ministry of Foreign Affairs would be handling the South American Conference on Immigration that would take place in Chile in September 2015 without the participation of the Department. For Felipe, what happened in regard to the conference was not necessarily under the jurisdiction of the Department of Immigration. Nevertheless, in this case, the conference was taking place in Chile. This circumstance justified that the Ministry of Foreign Affairs had to work in tandem with the institution in charge of administering immigration inside the country, the Department of Immigration.

Conflict over jurisdiction was common between representatives at the Ministry of Foreign Affairs and at the Department of Immigration. According to Felipe, although there was an implicit understanding that they would work collaboratively, this agreement was being violated. This breach gave officials at the Immigration Department the opportunity to discredit the work done by the Migration Unit in front of others. For Hugo and Felipe this was the “long awaited opportunity” to demonstrate that these mid-level officials did not deserve to be involved in more serious matters, like participating in the drafting of the immigration bill.

Hugo and Felipe waited for the perfect moment to underline how the aforementioned Unit was acting on its own on a power quest, forgoing collaboration with other institutional actors. On August 27, 2015, at a meeting between the Human Rights Division of the MFA and the Department of Immigration, Hugo and Felipe “casually” dropped the news about how the Migration Unit was acting in regard to the South American Conference and the Committee on Migrant Workers. I was present at that moment. It was the first time that the Human Rights Division had heard this information. They immediately started to make excuses, saying that they needed more time to learn the exact intentions of the questioned Unit. They could not believe that another division was making decisions on a subject that was their actual responsibility, and even worse, without them even knowing about it! At the end of the meeting, Hugo and Felipe confided to me that they had been waiting for the perfect moment to disclose this information and discredit the Migration Unit’s work. They believed that from then on, the unit would be much more circumscribed in its actions.

The impasse that originated with the South American Conference alerted high ranking officials at the Ministry of Foreign Affairs. On August 28, 2015, Felipe showed me an email

from the MFA chief of staff that had summoned him (the chief) to a meeting to discuss these recent events. The Migration Unit was not invited to this extraordinary meeting (Researcher fieldnotes, August 2015).

Surprisingly, during the meeting, the presumed subject of the disagreement was set aside to speak instead about the immigration bill that the Department was preparing. This turned out to be the main concern of the MFA chief of staff.

The meeting with the MFA chief of staff exemplifies the MFA interest in the bill. On September 8, 2015, Felipe and I rode to the top floor of the MFA building. It was my first time in this part of the building. The chief of staff personally received us and walked us to the meeting room. On our way, we passed through many offices until we finally arrived at a room which held a big wooden table that could comfortably seat 12 individuals. The room was already packed. After we had been seated, a waiter came to serve us coffee and sparkling water. The chief of staff led the discussion. I was surprised by the formality and by the impressive number of attendees. I was further impressed that the chief knew the first names of each guest. Unsettlingly, he also knew of my background as a human rights researcher!

Felipe and I had been ostensibly invited to speak about the Department's problems with the Migration Unit. However, when it was the Department of Immigration's turn to speak, he instead asked Felipe about the immigration draft law. Several times during the meeting he pointedly repeated that the Department had to collaborate and share the draft with the MFA. In his words, "we cannot focus exclusively on what is ours, we have to think and act collaboratively." He even pressed for convening a special meeting in October where he could finally have access to the draft. Felipe insisted on saying that his Department did not have the bill, but rather that the Interior cabinet was drafting it. As for the other topics on the meeting agenda, the chief of staff quickly informed us that they had decided to drop these subjects altogether (Researcher fieldnotes, September 2015).

After the meeting with the chief of staff, I organized a special gathering with the assistant to the chief of staff. We set a date to meet and discuss the immigration draft. Since the immigration team had finally gotten the consent of the Minister of Interior to the text, the department head started to share the draft with other officers. As a sign of deference, Hugo, the head of the Department of Immigration, printed a few paper copies of the draft, which he handed to a number of key players in person. Among these players was Paquito's division chief, along with other officials and pro-immigrant organizations.

The immigration team had two meetings with representatives of the MFA. On October 14, 2015, the team met with the assistant's chief of staff and with a lawyer of the Consular Division at MFA. Although the members of the immigration team were nervous about the outcome of the gathering, in particular about their reaction to some of the provisions included in the immigration draft, the discussion progressed on good terms. Representatives of the MFA were more concerned about the cost of the law rather than the new attributes handed to the Immigration Service at the expense of the Ministry of Foreign Affairs. Melanie, the head of the legal division at the Department of Immigration, perceived the result of the meeting as a success.

Nevertheless, a second meeting took place with Paquito, the former lawyer of the Consular Division, Paquito's division head, and a lawyer from the Legal Division at the Ministry of Foreign Affairs. I did not understand why we were meeting a second time to speak about the

same thing. Nevertheless, it was clear from the results of the meeting that there was some resistance to the Department of Immigration's proposal. At the insistence of MFA officials, by the end of the meeting we agreed to set up a regular series of meetings to work out a consensus.

Despite the declared intention to work out the differences between these two institutions, the provisions of the immigration draft were divided between those aspects that required a technical opinion versus those norms that demanded a political decision. It was agreed that the second ones could not be resolved at that moment. Only a discussion between the Ministers of Foreign Affairs and Interior could settle such political questions. Not surprisingly, however, all the highlighted provisions ended up requiring political discussion. Although the MFA representatives participated during the extended meetings with other mid-level officials, no consensus was achieved.

After several iterations, on April 5, 2016, the Ministry of Foreign Affairs sent its own version of the immigration draft to the Minister of Interior. Although this version was later withdrawn, it showed the extent to which the conflict had escalated. The immigration team met twice more with representatives at the MFA to try to hammer out a new consensus. Nevertheless, in April 11, 2016, *El Mercurio*, the leading newspaper, announced that the Minister of Interior had decided to postpone the drafting of the immigration draft indefinitely.⁵⁶ The Minister of Interior believed that several postulates of the draft had to be revisited because they were too generous for immigrants. Subsequent reporting indicated that the delay was due to the disagreements with the Ministry of Foreign Affairs and the economic strains that the country was enduring. Both circumstances required revisiting legislative priorities.⁵⁷ Interestingly, when the Minister of Interior was explaining to members of the House of Representatives the delay of his office in sending the bill, his expressed rationale was that the topic required additional considerations given the complexity that the phenomenon was acquiring.⁵⁸

The intervention of representatives of the MFA stalled the progress of the Department of Immigration draft. At the middle level of the executive, consensus was not reached, despite attempts to solve the differences on the draft "technically." I do not know if resolution was accomplished at the higher level of the executive. In my fieldwork, I could only perceive how determined the head of the Department of Immigration was in stressing the need to limit MFA representatives' participation. He described the actions of MFA as self-interested efforts to gain control rather than representing institutional concern over the quality of the product.

Conflicts with one particular representative at the Ministry of Social Development further highlight the Immigration Department Head's attempt to control access to the drafting of the law and his determination to lead the government agenda on immigration.

The Immigration Unit at the Ministry of Social Development

Lack of immigration expertise was a widespread problem inside the executive. Excepting a few mid-level officials at the Ministry of Interior and at the Ministry of Foreign Affairs, the topic was new among mid-level bureaucrats. However, one representative at the Ministry of

⁵⁶ *El Mercurio*, The Minister of Interior is Going to Announce in the Following Days the Postponement of the Immigration Law Project, Without Setting Deadlines for its Revision, April 11, 2016 (accessed April 11, 2016)

⁵⁷ *El Mercurio*, Permanent Residency of Foreigners Grows by 36% and Temporal Residence Increases by 21%, April 23, 2016 (accessed April 24, 2016)

⁵⁸ *El Mercurio*, the Minister of Interior stressed the uncertain costs of immigration during the House of Representative's questioning, September 4, 2017 (accessed September 6, 2017)

Social Development had extensive experience on the issue. His knowledge and understanding transformed him into a challenger of the Department of Immigration's decisions and of the process that that office was undertaking.

In November 2014, Jaime had joined the recently created Immigration Unit inside the Ministry of Social Development (MDS). Jaime had extensive experience on immigration issues. He had studied the topic and written about it during his two Masters and his PhD studies. During 2010-2011 he served as head of an NGO that worked with refugees, and between 2006-2010, he had coordinated the Immigrant and Refugee health group at the Ministry of Health. Although the MDS unit was closed at the end of 2015, Jaime continued his involvement with the issue by lecturing at several private and public universities and writing opinion pieces about immigration policy in influential newspapers.

Within the executive, Jaime's opinions generated debate and conflict. Many mid-level officials and pro-immigrant organizations described him as opinionated and conservative. In his interview, Jaime explained to me that his intentions were to raise the voices and bring out sides that were missing from the discussion. He saw his behavior as a duty toward establishing a "responsible system of immigration." He challenged prevailing opinions among the mid-level bureaucrats and pro-immigrant organizations who wanted to liberalize immigration flows.

Jaime's position inside the executive did not help him to get early access to the Department of Immigration draft. On the contrary, he ended up being excluded from the deliberations of the Immigration Department. The following examples from my fieldwork show how despite his opposition, he did not have enough power to manipulate either the timing or the terms of the immigration debate.

At the beginning of 2015, the Department of Immigration invited mid-level bureaucrats from the 9 ministries that constituted the Ministerial Committee on Immigration (MCI) to meet at the Presidential Palace.⁵⁹ The purpose was to form a technical committee on immigration (TCI) that could advise and supply information to the MCI. The Immigration Department broke down the organization of the TCI into 7 theme groups. These were 1) international affairs & human rights, 2) cultural & educational inclusion, 3) participation, 4) innovation & labor, 5) social inclusion, 6) information, and 7) Chileans abroad. Depending on the subject, one or two ministerial representatives were selected as leaders. For example, officials from the Ministry of Foreign Affairs and from the Ministry of Justice and Human Rights ran the international affairs & human rights group. Appropriately, the Ministry of Social Development was solely responsible for the social inclusion group. Non-leading ministerial representatives were encouraged to participate in more than one group, if their interests matched and time permitted.

Lacking a clear government goal for the TCI, the Immigration Department decided to update the Presidential Instructive N° 9. For Hugo and Felipe, this task would keep mid-level officials busy while the Department was working on an immigration law draft.

At the first two TCI group meetings, which focused on international affairs and human rights (April 30, 2015) and social inclusion (May 6, 2015) respectively, Jaime, the representative and leader of the Ministry of Social Development expressed his concern over the functions and goals that were being imposed upon the Technical Committee on Immigration. In particular, he

⁵⁹ Bachelet's Presidential Program and the Presidential Instructed N° 9 (2008) created this advisory committee to increase information sharing and coordination among governmental offices (Decree 1.393 of 2014).

could not understand why the TCI was putting so much energy into a presidential instructive when it was not even in Bachelet's political program. He called on the Department's representatives to clarify the origin and reasons for this new assignment. During the April and early May meetings, he did not receive any clear answer.

At the third TCI leaders' meeting (May 19, 2015), Jaime reiterated his concern. In particular, he was confused by the lack of reference to the immigration bill, an undertaking that had been clearly stated in Bachelet's Political Program. Felipe, who was representing the Department's official position, responded by stressing his rationale for updating the presidential instructive. In his words, "the presidential instructive is part of constructing the foundations of the new institution we want to build. This document would operate as a binding tool between Bachelet's first and second presidential term and would help to update the immigration policy. We shared the same perception that all of you have, which is that presidential instructive N° 9 has guided the action of public authorities in this matter. However, we think it is important to update it to create continuity, and we believe this has to be done under the larger aegis of a national immigration plan." (Researcher fieldnotes, May 19, 2015)

Concerning the immigration bill, Felipe insisted that the team of advisors at the Interior Cabinet was working on it. While the Ministerial Committee on Immigration was waiting to be constituted, the Minister of Interior, as the President of the MCI determined the procedure to follow. So far, the Minister had authorized the Department neither to give out information nor to open discussion about the immigration bill. Once the heads of all ministerial offices had met and decided to hold an open forum, the Department would call the other ministries. This notification would happen if the MCI decided that this task lay within the purview of the TCI. Today, the Ministry of Interior was leading this process, and for the time being, it had not yet authorized the Department of Immigration to encourage such discussion here at the meeting (TCI records, May 19, 2015).

Jaime ended up accepting this explanation and worked on the presidential instructive. On June 11, 2015, TCI leaders made their last comments on the document. After presenting the draft to every TCI group, the Department collected all the comments. It continued to negotiate the presidential instructive with advisors at the Interior Cabinet and with the Secretary of the President (Researcher fieldnotes, September 11, 2015).

After the TCI finished drafting the presidential instructive (July 3, 2015), Jaime's unit did not enter into direct conflict with the Immigration Department. Nevertheless, this officer continued to express his concern over the fate of the immigration draft. For example, on June 9, 2015, during the seventh meeting of the TCI leaders, Jaime commented that two immigrant organizations had requested an audience with the Minister of Social Development to discuss the immigration bill. The Vice-Minister immediately called him to get more information and prepare for the meeting. Jaime met with him and asserted that he did not know anything about the immigration bill. The Vice-Minister stated, "I am amazed at your lack of knowledge! What are we going to say to these immigrants' organizations?"

For Jaime, the lack of information regarding the immigration bill was confusing. He was thrown by the fact that he could see movement around the law. For example, some Deputies had commented about it, and the head of the Department was busy announcing the immigration bill with a media campaign depicting public figures speaking favorably about the law (June 16, 2015). For Jaime, there was "noise on the streets but silence here." He kept demanding more

information. He explained that he looked like a fool when he met with the Vice-Minister, and he complained about his lack of knowledge, especially because everyone knew that he had been participating in TCI meetings (Researcher fieldnotes June 9, 2015).

After the Minister of Interior had given its sanction to the Department of Immigration draft (September 30, 2015), Hugo asked the head of the research division, Felipe, to contact representatives of each of the 9 ministries that constituted the MCI and which would participate in a committee intended to revise the Interior immigration draft. The question about which MDS representative would join this ministerial committee remained unresolved.

Despite Jaime's experience and expertise, there were doubts concerning his participation in this ministerial committee. Officials at the Department of Immigration thought that he could negatively impact the progress of the committee. On October 23, 2015, I received a call from Felipe. He informed me that Jaime, the representative of MDS, was not going to participate on the ministerial committee. From what Felipe could gather Jaime had been sidestepped. Jaime had had an argument with the Social Development Ministry's chief of staff and she had decided to appoint in his stead a ministerial prosecutor to oversee discussion of the draft.

Discussions about Jaime's involvement in the ministerial committee highlight the importance of interpersonal skills. In this case, Jaime's forceful expression of his strong opinions both inside and outside his unit restricted his ability to participate in the immigration discussion. Debates over jurisdiction, as we have seen, also fueled conflicts in the definition of the immigration agenda.

The emergency decree does not explicitly regulate the functions of the different social ministries in the integration of immigrants. Given this loophole, mid-level officials tend to act until conflicts over their actions arise. For example, during the South American Conference, Jaime was excluded and prohibited from speaking. In his opinion, this circumstance exemplified the challenges he faced from other governmental offices. He believed that the MFA and the Ministry of Interior were afraid of the "social expression of immigration and of losing control of the agenda." In his opinion, instead of allowing any official to speak, they preferred to shut them out. During Jaime's interview, he confided to me that other governmental officers had called his superiors complaining about his work. His predecessor had warned him about this, but he did not believe it until it had happened to him. For this official, it was clear that these phone calls were intended at restricting his actions because his office was perceived as threatening the jurisdiction that other governmental units were exercising.

The situations described above with the representative at the MDS underscore the way in which conflict flows not only from differences from styles of interactions but also from a lack of definition concerning the scope of action that each Ministry exercised in regard to immigration. In this terrain of institutional uncertainty, the political strength of institutions ends up carrying weight. In the previous examples, the legal mandate bestowed on the Ministry of Interior and Ministry of Foreign Affairs gives its officials enough legitimacy to claim a bigger role in the debate over immigration. The same principal applied when it comes to financing a new institutional structure. In such a context, the Ministry of Finance has the last word, despite its lack of knowledge about immigration issues.

Middle level Officials at the Ministry of Finance

Inside the executive, the Ministry of Finance holds significant political powers. According to Humberto, a former official with more than twenty years of experience working for the Office of the President, the Ministry of Finance does not consult with any Ministry when it wants to promote a law. The Minister goes directly to the President. This special status radiates to every official working in this institution, who believe that their ministry has control over legislative priorities.

The participation of representatives of the Ministry of Finance commenced only after the Ministerial Committee on Immigration convened (November 6, 2015), eleven months after the Department of Immigration had started drafting the immigration project. The Minister of Interior closed the MCI first session by inviting the attendees to nominate one or two persons to join the review committee to work on the immigration draft that had been prepared by his Cabinet. Likewise, he mandated the Technical Committee on Immigration to begin working on a National Immigration Plan to be presented to the MCI no later than eight months later (Summary of Resolutions, November 5, 2015).

The nine ministries plus the Ministry of Finance designated two to three representatives to work on the immigration review committee. This committee met for the first time on November 17, 2015. From that date through December 8, the committee met twice a week. At the first meeting, the representatives of the Ministry of Finance clarified that they were attending only to hear the discussion, but were not going to offer any official opinion until the end. After the third meeting, they stopped attending. Only after I personally met with their top representatives and insisted via email on the importance of their presence did they agree to meet with the legal immigration team in person.

The first reunion took place on the Department of Immigration's premises on December 22, 2015. The three representatives of the Ministry of Finance criticized the Interior project by saying that it did not have a distinct, defined focus. In their opinion, "it was not close to a first draft!" This comment came after the immigration team had been working on their draft for more than 11 months, and had formed three working committees which had improved the content of the draft.

Representatives at the Ministry of Finance saw their role as central to the success of the draft. They asserted that their purpose was to help the Department bridge the gap between what was already on paper and what the Office of Budget would require, but they did not offer any specific criticism. Before leaving the meeting, however, they promised to send comments via email. It was only after several nagging follow-up emails could they finally be induced to respond and supply the pledged comments.

The second meeting occurred in the offices of the Minister of Finance on January 7, 2016. The meeting ended abruptly when the top representative from the Minister of Finance told the Department of Immigration's officers that they had made internal inquiries to learn about the status of the project. According to the top official, "the budget office of the Ministry of Finance did not have the immigration project on its agenda." Because the project was not on the docket, the finance official recommended that the Department officials take this troubling news to their own superiors and see if the head could do something about it. However, for the time being, the Ministry of Finance was not treating this project as a priority, nor was the President's office. He

continued, “if Department of Immigration wants to move forward, it has to refocus its strategies: either present a broad law with zero cost or eliminate some aspects of the emergency decree. If you decide to continue with the project as it is, it is going to require you to have every Minister on your side, and that will take much longer.” (Researcher fieldnotes, January 2016)

The representatives of the Ministry of Finance felt empowered to set the terms and timing of the discussion. They did not recognize the collective efforts to reach a consensus draft and their analysis only started after this committee had finished. Furthermore, their comments extended beyond an analysis of costs to question the focus of the project and suggest a redefinition of strategies.

After these two meetings, the immigration team incorporated all the comments from the rest of the Ministries and shared the final version of the draft with the head of the Department of Immigration. The head after reviewing it, he sent it to his Minister, to the Minister Secretary of the President, and to the Minister of Finance. It was February 22, 2016. In a follow-up trip that I made in November 2016, I interviewed Hugo and asked him about his strategies regarding the fate of the immigration draft. He told me that he was in conversation with officials inside the Ministry of Finance. Despite informal conversations, the head did not succeed in gaining the endorsement of officials at the Ministry of Finance. This condition worsened when the Minister of Interior left and a new one was appointed.

Navigating the bureaucracy proved insurmountable for the head of the Department of Immigration. Although he managed to circumvent the attempts of fellow mid-level officials to limit his actions, high ranking officials ended up taking control over the Department draft and excluding his office from participating in the re-drafting of the law. In the next section, I describe how the power of Hugo was constrained by high ranking officials’ own political agenda.

Obstacles with High Ranking Officials

When Hugo initiated his quest of formulating a new immigration law, he knew he had to convince the President and his superiors of the need to reform the law in force and, beyond that, on the terms of such comprehensive reform. He succeeded in persuading them about considering the opportunity for reform. However, as I will show below, over time he lost control over the immigration agenda and was excluded from the final draft of the immigration bill.

The President’s Symbolic Commitment to Immigration

Immigration was not a governmental priority for the President. Contrary to Piñera who had met with the drafter of the previous bill (Alfredo), Bachelet never summoned the head of the Immigration Department to speak about the law. In spite of the apparent lack of presidential interest, Hugo convinced the President’s team to involve her in three immigrant-related public events. On June 22, 2015, the President granted citizenship papers to Palestinian refugees. On May 18, 2016, she inaugurated the new Departmental branch in Santiago. And on June 20, 2016, she awarded more citizenship papers to Palestinians, this time to children.

Having the President on site was a sign of public commitment to the subject of immigration. For Hugo, the President’s involvement in the Department branch inauguration was the result of a year-long effort with the President’s policy advisors. He had been systematically “sending information, delivering data, and updating them.” Hugo believed that his proximity to the President was based on the Department’s organizational reputation. He affirmed:

Everything comes from a personal conviction; we are certain about the quality of our product. I am fairly sure that the President does not have a clue about what is in the immigration bill, but if we have time to talk to her, she would probably find that all of it makes sense because when we were working on the bill, we had her best interests in mind. So, we have to create favorable circumstances, so that the President will confirm our work.

Even though the President did not have any detailed knowledge about the bill, Hugo saw her appearance at these events as a sign of approval. In the head's opinion, the immigration draft reflected her wishes, as this mid-level bureaucrat interpreted them. He was convinced that his only task was to create the formal conditions for a debate, but that the terms of his proposal represented Bachelet's understanding of immigration.

The President's public engagement in the Department of Immigration activities increased the visibility of the Department's work. However, it did not result in her giving sanction to the bill. Despite the President's talk about sending an immigration draft to Congress, she did not follow up with the Department's project. Instead, on August 21, 2017, she signed an immigration draft that was worked out by a group of advisors to the Vice Minister of Interior, without the participation of the Department of Immigration's head.

While he tried convincing the President and gaining her approval, Hugo also approached his superiors to persuade them to approve his draft and through them reach the Presidential ear. Unfortunately, the resignation of the head's closest ally among these higher officials stalled his progress. He lost his one friendly ear and had to start all over again.

Convincing the Minister and Vice Minister of Interior

Controlling the amount of information made available was a central aspect of Hugo's strategy to persuade the government about the need to change the law in force. In order to ensure a clear and consistent message, Hugo strove to succeed in the two prerequisites he believed must be fulfilled to achieve success. In his words, "First, we were good and efficient at making sure whoever needed to be kept informed about the immigration draft project knew about our product and its quality. Second, we had to work to create a favorable disposition towards the topic."

Working out of these fundamental axioms, Hugo strategically selected the information he transmitted to his Minister of Interior. During 2014 and through May 2015, Hugo attempted to make approaches to Bachelet's first Minister of Interior, Rodrigo Penalillo. I did not participate in those meetings. But from what I could gather from other interviewees and documents, Hugo informed about them of his Department's progress, stressing the need to reform the existing law. According to Felipe, "Penalillo listened and let the Department act. However, the ground was still politically shaky. Any political emergency could threaten the existence of the law."

In contrast, the succeeding Minister of Interior, Jorge Burgos,⁶⁰ proved to be more committed to the topic. According to Hugo, "he had Burgos surrounded. He did not have a choice other than to support the Department's position. Hugo had made sure that everywhere the Minister would seek advice, he would have it covered. All of his direct advisors knew the terms

⁶⁰ Penalillo acted as the Ministry of Interior from March 2014 until May 2015. Burgos replaced Penalillo on May 11, 2015 until June 8, 2016. Mario Fernandez was appointed after June 8, 2016, and continues to hold office.

of the immigration bill. I was not manipulating them, but I was making sure that each advisor was able to develop an informed opinion about our work.”

Burgos’s commitment translated into official recognition of Hugo’s work. On September 15, 2014, the Ministry of Interior approved the creation of the Ministerial Committee on Immigration (MCI).⁶¹ It comes as no surprise to learn that the MCI was part of Hugo’s strategy to force the government into taking a position on the subject of immigration. In his interview and at other working meetings discussions, Hugo recounted that he had created the MCI by securing the signatures of all the head ministers, bypassing the legal units of each Ministerial Cabinet. He made sure to collect the signatures at a moment when all the heads of the ministries were together. Once he had them, he handed the document to the President who immediately signed it (Researcher fieldnotes, March and November 2015).

Despite the legal existence of the MCI and the obligation to meet every other month, the MCI did not meet for the first time until a long 14 months after its formal creation. On November 5, 2015, at the Presidential Palace, the Minister and Vice Minister of Interior welcomed the Minister of Foreign Affairs, the Minister of Health, the Minister of Social Development, and the Minister of Women. The Vice-Ministers of National Defense, Presidency, Finance, Labor, and Justice also participated representing their portfolios. At this gathering, the Minister of Interior, talking directly to the Vice Minister of Finance, insisted on the need to adopt “modern legislation,” and to formally review the draft on which the Department of Immigration and his cabinet had been working (Researcher fieldnotes, November 2015). After this constitutive meeting, the MCI has never assembled again.

After Burgos left and Fernandez was appointed head of the Ministry of Interior, meetings between the Department of Immigration and the Minister to discuss the immigration draft became scarce. Given the Minister’s silence regarding the fate of the draft, Hugo told the press that it was unlikely that an immigration law would be sanctioned under the current administration.⁶² Hugo’s words were echoed by presidential candidates and fueled a heated debate, which resulted in the President’s readjustment of priorities. Nevertheless, despite new declarations (as I explained in chapter 4), the immigration draft was not presented. In fact, relationships between the head of the Department of Immigration and the Interior Cabinet grew worse.

After the Head of Immigration’s public declaration in the media, the Vice-Minister of Interior took control of the immigration draft. The Immigration Department was left out of the political negotiations. Hugo ended up renouncing his leadership role and distancing himself from the political discussion (Informal conversations with key informants, January 2017).

In a presentation that the Vice Minister gave to the House of Representatives on December 14, 2016, he expressed his doubts about the draft then circulating. He said that it had two important deficiencies that they were trying to solve. Indirectly, he criticized Hugo’s rationale for justifying the creation of a new institutional structure. With his words, he removed from under him the political ground upon which Hugo had been standing.

⁶¹ Bachelet’s Presidential Program and the Presidential Instructed N° 9 (2008) created this advisory committee to increase information sharing and coordination among governmental offices (Decree 1.393 of 2014).

⁶² El Mercurio, Head of the Immigration Department recognizes that there is not going to be a new project under the current administration, November 11, 2016 (accessed November 12, 2016)

The disconnection that existed between the head of the Immigration Department and the Vice Minister of Interior reached its visible culmination with the resignation of the Department Head. On July 26, 2017, the Vice Minister unilaterally announced the creation of a new visa for facilitating access to health and education benefitting immigrant children. The Head's exclusion from the drafting of the new immigration draft and from enactment of the children's visa precipitated his resignation. In a letter sent to the President, he explained that he had encountered ethical problems with the way in which recent decisions had been made, which had confirmed to him that his opinion was not valued inside the government. The "delays and changes" made to his Department's draft and the decision to create a visa without informing him beforehand demonstrated that the trust he needed so that he could function in his position no longer remained. Under current circumstances, he had decided to step down from the Department of Immigration (Resignation letter, July 26, 2017).

The former Head's resignation provoked multiple reactions. Pro-immigrant organizations, academics and members of Congress publicly backed his work and the progress he had made with the Department. The government's silence concerning the immigration law prompted the House of Representative to call the Minister of Interior to publicly explain the actions the government had taken to deal with immigration policies (August 8, 2017). On August 21, 2017, well before the public audience which had previously been scheduled for September 5, 2017, the President appeared to sign into law the immigration draft that had been prepared by the Vice-Minister, referenced above.

Even though the Immigration Department was able to put together an advanced draft of an immigration law and bring together the heads and top representatives of some key Chilean ministries at the Ministerial Committee on Immigration, the Head's disagreements with his superiors, ended up with his exclusion from key decisions on the immigration agenda, most significantly from participating in the drafting of the new immigration draft that the Vice Minister succeeded in enacting into law. The final failure of the Head's initiative resulted in his eventual resignation.

For more than forty years, Chile has operated with one of the oldest and most anachronistic immigration laws in the South American region. Neither the country's free trade policy nor its increasing human rights commitments have altered that fact. Only in the last four years have executive officials been trying to push for immigration reform. They worked on this first during the Piñera administration (2013), and then during Bachelet's presidential term (2014-2018).

Inside the bureaucracy, the possibilities of mobilizing legal reform in a presidentially centered bureaucratic structure are limited. Reform efforts are constrained by the wishes of the President, and the continuing influence of top level officials. The singular skills of a lone middle level bureaucrat can take you only so far in creating awareness and gaining approval for a few administrative reforms.

By controlling who had access to the immigration draft and by using his personal connections in the bureaucracy, the head of the Immigration Department managed to move his project from his small office to the attention of the top heads of the Chilean government. However, as these higher officials started to increase their engagement with the draft, they began

pushing back against Hugo's reformist initiatives, contesting the type of reform he was undertaking.

This chapter has investigated how the head of the Immigration Department attempted to manipulate the bureaucracy to introduce a new immigration bill. Despite succeeding in moving the topic from invisibility to dawning awareness, in the end, Hugo only achieved a few minor results. Nevertheless, the actions of this reformist mid-level official created a reservoir of expectations and practices that have secured action by high ranking officials. They were forced to incorporate some of his ideas in the immigration draft which they introduced into Congress.

CONCLUDING CHAPTER

Bureaucratic Creativity in the Middle Ranks of the Executive

This dissertation has examined the cultural and organizational factors that explain why Chile, unlike other South American countries, has not yet sanctioned a comprehensive immigration reform. Among the many conditions that have been identified to explain legal change in Chile, the indifference of top governmental officials has played a significant role. As my study demonstrates, mid-level officials have encountered intransigence from higher-ranking officials, who have resisted their reformist attempts in favor of maintaining the status quo.

In chapters 4 and 5, I analyzed the cultural factors that explained high-ranking officials' resistance to change. First, in chapter 4, I showed that despite being subject to widespread criticism, including characterization as conceptually opaque, the security frame continues to dominate discussion about immigration reform. Underlying the endurance of this frame is the fact that it is widely supported by high-ranking officials, who remain primarily responsible for the formulation of laws and policies inside the executive. The power of these bureaucrats becomes even more manifest when one considers their indifference towards human rights frames. In chapter 5, I explored how mid-level government officials have drawn from that frame to develop and justify individual and collective projects at organizational levels below the executive, distinct from broad immigration legal reform efforts. Indeed, the diffuse use of human rights frames by mid-level bureaucrats signals the state's commitment towards these standards at the same time that it allows high-ranking officials to keep the security frame in place and maintain the status quo.

The operation of organizational dynamics inside the executive complements the cultural factors that serve to explain why Chile continues to regulate immigration under a 1975 statute. In chapter 6, I explored how and why pro-immigrant organizations have been unsuccessful in promoting a reformist agenda. I argued that organizations' focus on implementation has favored the development of collaborative politics over direct confrontation with the bureaucracy. As a result, the Department of Immigration (a mid-level office) has become the primary locus of immigrant organizations' attention. This pattern has transformed the Department into a *de facto* gatekeeper of immigrant claims, effectively shielding high ranking officials from immigrant organizations' demands regarding their most sought-after immigration reforms. I concluded the empirical chapters by showing how reformist attempts that have taken place within the middle ranks of the bureaucracy have failed to push for comprehensive immigration reform. Chapter 7 revealed the limits of bureaucratic creativity. It illustrated how a middle level official who attempted to change the status quo by exercising his power within and outside his unit was eventually shut down when his actions began to threaten the primacy of high-ranking officials in determining immigration law and policy.

In sum, by looking into how different sub-units inside the executive participate in the making of immigration laws and policies, and on the role of cultural factors and organizational dynamics in this process, this dissertation contributes both to the literature on the politics of immigration and on bureaucratic change.

Immigration scholars in North America, Europe, Oceania and South America have not paid enough attention to the role of organizational dynamics in the production of immigration

laws and policies. In the North, exclusive focus on outcomes and on Congressional immigration laws has overshadowed the role that mid-level bureaucratic actors play in the production of these statutes (Hampshire 2013, Hollifield, Martin and Orrenius 2014).

Furthermore, with the exceptions of Boswell (2007) and Tichenor (2002), these theories have largely ignored how power relations play out as different governmental actors within states pursue their interests, make sense of different immigration statutes, and attempt to implement change. The weight of previous policies, bureaucratic constraints, domestic political contestation, and international human rights commitments make for truly treacherous conditions for bureaucratic navigation.

In the South, scholars have only begun to look into immigration laws and policies. But they do show that there is sometimes a gap between favorable policies on the books and restrictive day-to-day interpretations (Cantor, Freier and Gauci 2015). Nevertheless, scholars have yet to look into the process of law-making that is taking place inside these countries. By looking at how mid-level bureaucrats participate in this process, this dissertation has attempted to shed some light onto how laws are being made in countries where the President and the executive continue to control the law-making process. I have pursued such an endeavor by developing an organizational framing approach to the study of legal reform.

Contrary to many sociological approaches that point to exogenous shocks that bring about institutional change, my organizational framing approach assumes that change is the result of endogenous processes. According to Mahoney and Thelen (2010), actors pursue the creation of different kinds of institutions through their interpretation of, debate about, and questioning of organizational rules and practices. The ambiguities which generally characterize organizational rules create critical openings for creativity and agency. Nevertheless, the lack of clarity about organizational goals and the diversity of interests that exist within the governmental structure makes it difficult to approach legal change without simultaneously looking at how governmental actors behave and frame their actions. This is why using framing and organizational theories provide the best results for studying legal change in a bureaucratic governmental structure.

My focus on middle level bureaucrats forces us to think about a different way to conceive of the relationships among law, politics, and immigration. The findings of this dissertation have shown that immigration laws do not result exclusively from the interaction of political parties, governmental organizations, and national institutions (Hampshire 2013). In a presidentially-centric governmental structure, laws emerge from the actions and understandings of differently positioned government bureaucrats. In this case, the conflicts between high and mid-level officials help explain why Chile has failed to reform its immigration law.

In this concluding chapter, I sum up the cultural and organizational conditions that have rendered possible the maintenance of the emergency decree 1094 of 1975 and which constitute the core of this organizational framing approach to legal reform. I then investigate the conditions under which a different outcome could emerge, mainly the conditions for mid-level government actors to genuinely matter in the formulation of laws and policies in a president-centric bureaucracy.

Conditions for Legal Inertia in the Formulation of Laws and Policies

Immigration has become a politically salient topic in the North. Not only is it a subject that incites hostile popular reaction (Sides and Citrin 2007), but it has come to represent a central concern in electoral politics (Howard 2008; Schain 2008; Hampshire 2013). Conversely, in Chile, immigration is not part of the governmental agenda. Although the number of immigrants has been steadily increasing since the 1990s, its absolute impact remains low (2.3% in 2014), representing less than the world average of immigrants per country (Rojas and Silva 2016).

Immigration's lack of resonance in governmental policy becomes manifest in Paquito's account of the efforts he made to keep it afloat since the advent of democracy. Since the 1990s, this middle level official who works at the Ministry of Foreign Affairs has been trying to convince his superiors of the significance of the topic. With each new ministerial appointment, however, he has had to start explaining immigration's relevance all over again. Immigrant activists and members of international organizations share similar frustrations. To them, governmental politics are never at the point where immigration becomes a relevant topic. Competing social issues, such as education, social security, tax reform or other emerging subjects, always overshadow it.

As this dissertation shows, the maintenance of the emergency decree responds to cultural and organizational factors. In a context where immigration reform lacks political resonance, the law in force emerges as a functional tool that allows for the exercise of state power and supports the nation's developmental strategies. Also, the 1975-old statute conforms to the strong prerogatives that are granted to the President and to the Minister of Interior who, despite criticism, continue to keep absolute control over the migratory agenda. I analyze these arguments below.

The Emergency Decree is Functional for the Exercise of State Power and for the Accumulation of Wealth

The wide discretionary prerogatives that emergency decree 1094 bestows upon the authorities, and the decree's opacity, facilitate the exercise of state power. Without much oversight, the government can secure borders and ensure the integrity of its territory. Once an individual immigrant is inside Chile, the authorities retain ample power to revoke visas and deport individuals who have failed to comply with the law in force. Although over the last two decades the Supreme Court has started limiting some of these discretionary powers, in a civil law country like Chile, these decisions do not challenge the essence of the law in force but only redress the particular cases that have been brought to the Court's attention.

Additionally, the emergency decree provides ideal conditions for the accumulation of wealth. The easy access to tourist visas and the almost effortless possibility of changing one's immigration status once one is inside the country function in harmony with the demands of capitalism. It is an arrangement that insures the steady presence of a cheap labor force. In 2014, 65% of the individuals who received a permanent legal permit were between 20 to 50 years old, underlining the predominantly economic motivation of their migration project (Rojas and Silva 2016).

The emergency decree operates well in a context where top Chilean authorities share a deep esteem for a strong sovereign state and a commitment to enabling economic freedom. The

above outcome becomes even more entrenched when the benefits of regulating immigration in this manner offer advantages which radiate throughout the Chilean economy.

Top-Ranking Officials De Facto Dominance over the Discussion of Immigration Reform

The authoritarian legacy of the Chilean presidential system has limited the possibilities for public debate and internal reform. In representative democracies, the main mechanism for the mobilization of public opinion is through political parties (Hampshire 2013). Due to the divisive nature of the immigration issue, mainstream political parties often try to evade the topic altogether. This strategy worked in postwar Germany and postwar Britain (Messina 1989). In Chile, the low volume of immigrants and lack of clarity concerning the actual electoral advantages that might accrue as a result of pursuing an immigration agenda have likely discouraged political parties from pursuing this topic more aggressively.

In advanced capitalist economies, organized interest groups, either pro-immigrant organizations or business interests, can often effectively secure their political demands in favor of liberalized immigration policies (Hampshire 2013). Although in Chile the economic and social benefits that would flow from immigration law reform would almost certainly profit these very actors, the lack of available channels for effective participation blunts the efforts of these groups to realize their political demands. The strong legislative powers of the executive and civil society's limited formal access to the policy decision-making process have severely hampered the chances of reform.

Under current institutional conditions, internal reform is unlikely. The hierarchical nature of the executive bestows strong decision-making power upon high-ranking officials. This facilitates the stalling of reformist efforts. At little political cost, top-ranking officials at the Ministry of Interior, Foreign Affairs and Finance can easily frustrate the attempts of mid-level officials to change the status quo. During my fieldwork, I observed how top officials inside the Ministry of Interior and Foreign Affairs resisted progressive frames supported by mid-level bureaucrats. Instead, they favored frames that maintained the power that the emergency decree had bestowed upon them.

High officials were not held accountable for their actions, or lack thereof. The internal organization of the executive protected these officials from having to account for their decisions. In fact, for more than a year the Minister of Interior kept the Department of Immigration draft inside his drawer. The head of the Department of Immigration could not force a position nor move the draft forward without the consent of the Minister. As I explained in chapter 7, it was only after the head resigned and representatives from the House called out the Minister that he introduced his project in Congress.

Despite the grim scenario the above represents, there are a few instances where mid-level officials have been able to push for reform from within. Unlike high-ranking officials, mezzo-level bureaucrats tend to remain in office for long periods of time. This allows them to develop expertise about their positions. This circumstance has facilitated experimentation and a quest for autonomy from the President and the Congress, leading to the implementation of some innovative reforms (Carpenter 2001). This kind of reform has been noted in other contexts. The example of organizational renewal and policy innovation at the US Postal Service in the 1890-1910 period attests to the fact that this sort of change can work within a system like that of the

United States. In a presidentially-centered bureaucracy, such as Chile, however, we must ask what are the conditions for middle-level innovation?

Conditions for Promoting Legal Reform from the Mezzo Level of the Bureaucratic Structure

Rich ethnographic projects have documented how innovation occurs in the front line of governmental agencies (Lipsky 1980; Maynard-Moody and Musheno 2003; Watkins-Hayes 2009; Ellis 2011). Less common has been the examination of how reform can be pushed forward in the middle level of government offices. In a president-centric bureaucratic structure, mid-level officials hold considerable powers. Not only are they able to craft policy initiatives that are later implemented by front-line officials, but also, due to their technical expertise, they are often invited to participate in the law-making process that takes place within the executive.

Conditions for Bureaucratic Creativity at the Middle Ranks of the Executive Government

Innovation in the middle ranks of the bureaucracy can flourish when skillful mid-level bureaucrats are able to seize-or create-a political opening, and then garner sufficient resources to put their initiative into action. In the process, they may be able to convince high-ranking officials of the benefits of following their lead. I explain each of these conditions below.

Examples of mid-level innovation abound. However, many of these projects are not documented because they die before becoming an official regulation or an institutionalized practice. For example, top-ranking officials at the Immigration Department joined the drafters of the Piñera bill in 2012. Together, they worked on an immigration bill that served as the basis of the text that was introduced into Congress in June 2013. From the end of 2014 through 2015, the head, the sub-unit heads, and the policy advisors of the Department of Immigration worked with the Interior Cabinet to put together a new immigration bill. Although this bill was not itself introduced into Congress, a number of its provisions were reproduced in the Interior Cabinet's most recent immigration draft.

The level of influence that each mid-level official has on the policy making process depends on two specific conditions: the existence of a political opportunity and the timely mobilization of the bureaucrat's resources.

Mid-level officials can create a legislative opportunity or they can seize a political opening. In both cases, they depend on an external fact, which in the case of immigration was the opening created by the President herself. Michelle Bachelet was the first president in office to include (2014-2018) a clear instruction about making changes to the immigration law (Bachelet: 155) in her political program. During my field observations, I could see how the officials of the Department of Immigration and the legal teams of different ministries were encouraged by this to become engaged in the immigration law-making process. For example, the head of the Department of Immigration justified his work on the immigration draft as being an interpretation of those presidential wishes. During the meetings of the Technical Committee, similarly-situated government officials recognized the political momentum that the President had created and took the opportunity that they had been offered to attempt to make improvements to existing policy.

In addition to the political opportunity, mezzo-level officials need to mobilize resources inside and outside of the bureaucracy to achieve their goals (Fligstein 2001). For example, the head of the Department of Immigration convened all the heads and departmental chiefs under the

Ministerial Committee on Immigration (MCI) and convinced them to produce an official declaration about the necessity of reforming the current law.

The discretionary powers under which the head of the Immigration Department operated gave him ample space to set the parameters of the discussion. Nevertheless, because he was acting within a hierarchical bureaucratic structure, he lost control of the agenda when higher-ranking officials started to dictate the terms of the debate. He also began losing control of the drafting process with the resignation of the former Minister of Interior. He never regained the same influence with the new Minister of Interior. Further, his position was undermined after the Vice-Minister of Finance proclaimed, right in the middle of the MCI's constitutive meeting, that the executive did not have the fiscal resources to finance the creation of an immigration agency.

Due to the absence of a clear institutional structure, mid-level officials can use their time on the job to try to convince higher officials of the necessity of their initiatives. For example, inside his ministry, Ulises succeeded in constituting an Intra-Ministerial Committee on Migration and International Affairs. This was because for a whole year he devoted all his available time to the effort to persuade his Minister of the indispensability of creating a committee that could oversee immigration and international affairs within the Ministry of Labor. The head of the Immigration Department was less successful. Given the complexity involved in gaining approval for a law, he was unable to justify the economic feasibility of his project, win the favor of the recently appointed Minister of Interior, and deal with the complex ongoing negotiations with the Ministry of Foreign Affairs.

Building alliances inside the bureaucracy and with external constituencies can help middle-level bureaucrats to push for reform. Unfortunately, in the last year, the head of the Department of Immigration lost the support of middle-level bureaucrats. At the very moment that the drafting process was underway, the Technical Committee on Immigration (TCI) lost its cohesiveness. Unlike in 2015, when this committee had met extensively (i.e. seven leader meetings and more than forty group meetings), the TCI met less than five times in 2016. This lack of consistency diminished the Department head's ability to control the immigration agenda and his capacity to broker a deal among the different interests that existed within the executive.

Similarly, alliances with external constituencies have not successfully supported the head's reformist actions. Although he tried to create institutional platforms to facilitate communication between the executive and pro-immigrant organizations, top officials remain indifferent. Since March 2016, immigrant organizations have been actively denouncing the executive for its failure to comply with its promise of sending an immigration bill to Congress. Despite this persistent agitation, the Vice-Minister of Interior still remained silent about the future of the immigration draft through August 2017.

Congressional representatives have tried to push the executive as well. However, beyond a few official declarations and a bipartisan agreement to request action from the President, these efforts have all proved fruitless. From the end of 2016 through the opening months of 2017, the Executive's focus has been entirely on ensuring passage of the President's central legislative promises rather than immigration.

In sum, middle level bureaucratic innovation relies on mezzo-level officials' ability to seize a political opportunity and to mobilize the proper resources to achieve the expected

outcome. Success will depend on an agile balancing act, requiring understanding the opportunity and employing the right resources for the completion of the task.

Despite the lack of conditions for comprehensive immigration reform, change inside the bureaucracy has nevertheless taken place. The actions of these mid-level bureaucrats have constituted a repository of administrative practices that can limit the actions of top-ranking officials. I examined this effect below.

Constraints from Below: Reservoir of Administrative Practices and of Social Expectations

Although the head of the Department of Immigration did not succeed in producing an overhaul of the 1975-old statute, his actions between 2014 and 2016 have created a set of administrative practices that immigrants and pro-immigrant organizations have started to use on a daily basis.

The ambiguities present in organizational rules create openings for bureaucratic creativity and agency (Mahoney and Thelen 2010). For example, the head of the Department incorporated same sex partners and civil union partnerships in the categories that were accepted when someone files a visa petition based on significant personal ties with the original applicant. Similarly, he changed the 1984 regulation that requested the Investigative Police to retain personal documents. In the new regulation, he instructed the Police, at the moment when they were conducting document checks, to keep only those documents that were not valid. With this modification, he eliminated a prerogative that had generated squawks and condemnation from human rights organizations.

Mid-ranking officials at the Ministry of Health manifested similar behavior. Without changing the law that regulated the provision of public health care, they signed an agreement with the Vice-Ministry of Interior, formalizing it in the Exempt Decree N° 512 of 2008. This provided access to health care to undocumented pregnant women and children. The benefits of this decree evaporated when the unit in charge of implementing it was terminated, which ended all actual service provision between 2010 and 2014. However, when Bachelet came into office in 2014 the Ministry of Health hired a person to recommence work on immigration with the Ministry. On June 9, 2015, this person, with the consent of its legal department, issued an instruction in which she granted access to health care to undocumented pregnant women and children. It also provided free access to health care in cases requiring life-saving intervention, as well as providing access to contraceptives, vaccines, and HIV treatment (Instruction A15/06, June 2016).

Although invisible to the public eye, these innovative administrative practices, and other key organizational changes, significantly modified the way in which the emergency decree is being implemented. Despite legal vulnerability (subsequent decisions could reverse them), the continued application of these new understandings is generating a new set of practices that would be difficult to suppress.

In this context, if change eventually is initiated from the top, it would have to preserve, or at least take into consideration, the accretive weight of these practices, as they come to be taken as rights by the immigrant community. Ignoring them would generate conflict and lead to unrest from below.

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Appendix 1. Historical Timeline

Date Laws, Regulations and Administrative Policies About Immigration

1824 Immigration Act that granted land, tax and military benefits in favor of agricultural and industrial immigrants

1838 Inauguration of the National Society of Agriculture

1845 Colonization Act

1851 Act that authorized the President to allocate vacant property for colonizers

1856 Act that mandated colonizers to naturalize before acquiring property rights

1872 Inauguration of the General Immigration Office by executive decree of the Ministry of Foreign Affairs

1883 Appointment of the General Inspector of Colonization

1889 Executive decrees that regulated the operation of the Office of Colonization and Lands

1886-1915 Promulgation of laws and decrees to encourage the population of territory previously occupied by Indigenous groups

1895-1905 Executive decrees that regulated spontaneous immigration to the South of Chile

1906 Act number 1884 which authorized the President to spend a portion of the fiscal budget to promote spontaneous and industrial immigration

1907 Approval of the new spontaneous immigration regulations, which established the General Agency of Immigration in Italy

1918 Act 3446 that restricted the entry and residency of individuals who were considered undesirable

1925 Executive Decree 198 that created the Vice Secretary of Land and Colonization

1931-1951 Executive decrees aiming at promoting selective immigration

1953 Executive Legal Decree 69 which created the Department of Immigration in the MFA and the General Agent of Immigration

1959 Act 13353 that complemented Executive Decree 69, establishing measures to detain a person who infringed upon the law and regulating procedures for revoking immigration permits

1960 Executive decree 5142 that grouped together the Naturalization Act 13955 of 1960 and the emergency decree 747 of 1925 about naturalization

1971 Chile ratified the International Convention on the Elimination of All Forms of Racial Discrimination

1972 Chile ratified the International Covenant on Civil and Political Rights

1972 Chile ratified the International Covenant on Economic, Social and Cultural Rights

1975 Emergency Decree 1094 (current immigration law)

- 1976 Executive decree that regulated the Emergency Decree 1094
- 1976 Emergency Decree 1432 that modified the 1960 Naturalization Act
- 1975-1983 Executives decrees that amended sections of the Emergency Decree 1094
- 1984 Executive decree that regulated the emergency decree 1094
- 1988 Chile ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
- 1989 Chile ratified the Convention on the Elimination of All Forms of Discrimination against Women
- 1990 Chile ratified the Convention on the Rights of the Child
- 1990 Chile ratified the American Convention on Human Rights "the San Jose Pact"
- 1993 Act 19273 that eliminated the need to hold a permit to leave the country
- 1996 Act 19476 that incorporated a new definition of Refugee and established the principle of non-refoulment
- 1998 Enactment of Law 19581 that facilitated the migration of individuals who lived in territories located near the national border
- 1998 First General Amnesty Procedure
- 1994-2000 Executive decrees aiming at facilitating the conditions for migration, simplifying the immigration procedure and establishing a procedure for the recognition of foreign studies
- 2000 Executive decree 2910 of the Ministry of Interior aiming at protecting immigrant women and children
- 2003 Instructions issued by the head of the Department of Immigration to ensure that immigrant children have access to educational facilities and to create a new type of visa for pregnant women
- 2004 Ratification of the United Nations Convention against Transnational Organized Crime
- 2005 Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- 2005 Executive decree 1254 of the Ministry of Interior reducing the cost of the permanent visa permit
- 2005 Instruction 7/1008 of the Ministry of Education directed at educational authorities about the entry, stay and the right of education
- 2007 Agreement between National Health Fund and the Department of Immigration to facilitate access to the identification card for refugee applicants
- 2007 Agreement between the Ministry of Interior and the National Preschool Institution
- 2008 Agreement between the Ministry of Interior and the Ministry of Health

2008 Presidential Instructive 9 about Immigration Policy

2007-2008 Second General Amnesty procedure

2009 Agreement between the Ministry of Interior and the National Service for Women

2009 Agreement between the Ministry of Interior and the National Service for Minors

2010 Refugee Act (Law 20430)

2011 Act 20507 that established the criminality of human trafficking

2012 Act 20603 that modified law 18216 establishing alternative sanctions in lieu of prison sentences

2012 Act 20568 that modified the electoral procedure and established automatic inscription

2013 Piñera introduced his immigration bill to Congress

2014 Executive Decree 1393 that created the Ministerial Committee on Migration

2014 Decree 6410 that approved the agreement between the Ministry of Interior and the National Health Fund

2014 Agreement between the Vice Minister of Interior and the Municipality of Santiago

2014 Instructions about the correct application of the emergency decree, creation of a regional office, instruction 27601 status of children born from undocumented parents, instruction 57 unified the criteria for the application of administrative sanctions, and several other instructions for regional authorities

2014 Act 20786 that modified the working conditions of domestic workers

2015 Instructions for the creation of a new visa for civil unions (instruction 6) and for a new labor visa (instruction 7)

2015 Executive Decree that amended the Immigration Regulation of 1984

2015 Executive Decree 1147 that regulated the Technical Committee on Immigration

2015 The Ministry of Housing amended its regulations to facilitate access to subsidies, in particular the Solidarity Fund for Household Selection, the integrated system for accessing subsidies and the subsidy program for renters

2015 Instruction A15-6 from the Ministry of Health that granted access to emergency services, children and pregnant women regardless of their immigration status

2015 Instruction 46 of the Ministry of Labor that oriented the Labor Direction for the application of the employment code without distinctions

2015 Presidential Instructive 5 that established guidelines for the formulation and implementation of immigration policy

2016 Constitution of the Intra-Ministerial Committee on Migration and International Affairs at the Ministry of Labor

2016 Instruction 894 of the Ministry of Education that regulated the right of entry, stay and exercise of immigrant rights to education

Appendix 2. Law-making Timeline (2014-2016)

	Date	Actions
Immigration Draft	Sep-11	Vice-Minister Ubilla hired Alfredo to run the immigration drafting team
	September- March 2011	Alfredo conducted interviews with key stakeholders/ get background information and study about immigration
	August- May 2013	Creation of a subcommittee, revision process
	4-Jun-13	Introduction of the bill into Congress
	June 6, 2013- September 25, 2014	Congress revisions
	25-Sep-14	No more activity
	August-Sept 2014	Revision of the Pinera bill
	Oct- January 2015	Consultation process with civil society
	Mar-15	Conclusions of the consultation process
	March- April 2015	First private committee with external advisors (May 8, 2015 draft)
	March-June 2015	Reorganization of the Interior Cabinet, appointment of a new Ministry of Interior
	May-August 2015	Second internal committee (August 28, 2015 draft)
	August-Sept 2015	Revision of the "ideas matrices" Department of Immigration draft (September 29, 2015 draft)
	Oct-15	Informal sharing of the October 7, 2015 draft
	Oct-15	Presentation of the October 7, 2015 draft in a conference with members of the TCI
	Nov-15	Constitution of the Ministerial Committee on Immigration
	November- December 2015	Formation of an interministerial committee to comment and amend October 7, 2015 draft
	December-February 2016	Incorporation of comments and amendments, February 8, 2016 draft
	April-May 2016	Additional amendments
	Apr-16	Alternative draft presented by the Ministry of Foreign Affairs (document 003933)
	May-16	Additional negotiations
	Jun-16	Department of Immigration and Interior Cabinet last immigration draft (June 6, 2016)
	Jun-16	Resignation of former Minister Burgos and appointment of current Minister Fernandez
	Nov-16	Public declarations head of the Department of Immigration: immigration law postponed indefinitely
	Dec-16	The President decided to put the immigration project back into the legislative agenda before the end of the Congressional year
	Mar-17	The spokesperson of the Executive reorganized the legislative priorities, leaving out the immigration bill
Technical Committee on Immigration (TCI)	Jan-15	Informal constitution of the TCI
	Mar-15	First meetings of TCI groups
	Apr-15	First meeting with TCI leaders to discuss the modification of the Presidential Instructive 9 of 2008
	April-June 2015	TCI leaders meet to produce a consensus version of the new presidential instructive (9 meetings)
	Jun-15	Series of presentations to explain the agreed version of the new presidential instructive
	June-July 2015	Reception of comments from the extended members of the TCI about the new presidential instructive
	Jul-15	Incorporation of the last comments and issuance of an agreed version of the new presidential instructive (July 3, draft)
	April- July 2015	TCI groups meet once a month (29 meetings)
	Aug-15	Formal constitution of the TCI
	July- September 2015	The July 3, 2015 draft revised and modified in the Interior Cabinet (September 30, 2015 draft)
	October- November 2015	The September 30, 2015 version is revised and modified in the Secretary of the President (November 5, 2015 draft)
	16-Oct-15	General meeting with all TCI members
	Nov-15	The President signed the new presidential instructive number 5
	August- December 2015	TCI groups continued to meet (9 meetings)

Appendix 3. The Interviewees: Who They Are?

Date of the first interview	Name	Institution	Age	Profession	City/ country of Birth	Education	Marital Status	Political Affiliation	Citizenship
Mar-15	Natalia	Autonomous	41	Political Scientist	Buenos Aires	Graduate	Single	No	Argentinian
Jul-16	Humberto	Autonomous	55	Lawyer	Ovalle	College	Married	No	Chilean
May-15	Olga	Immigrant run organization	53	Lawyer	Barranquilla	Graduate	Single	No	Colombian
May-15	Aldo	Immigrant run organization	37	Journalist	Cali	Technical	Married	No	Colombian
May-15	Ivana	Immigrant run organization	34	Policy Analyst	Jacksonville, Florida	Graduate	Married	No	US and Spanish
May-15	Vicente	Immigrant run organization	36	Social Worker	Haiti	High School	Married	No	Haiti
May-15	Isabel	Immigrant run organization	32	Psychologist	Mexico City	Graduate	Single	No	Mexican
May-15	Ramiro	Immigrant run organization	46	Accountant	Ecuador	Technical	Married	No	Ecuadorian
Apr-15	Ximena	Immigrant run organization	32	Political Scientist	Guatemala	Graduate	Single	No	Guatemala
May-15	Eduardo	Immigrant run organization	50	Lawyer	Lima	College	Married	No	Peruvian
Jun-15	Julio	Citizen-native run immigrant organizations	28	Lawyer	Puerto Montt	College	Single	No	Chilean
Mar-15	Josefina	Law Clinic	45	Lawyer	Santiago	Graduate	Married	No	Chilean
Mar-15	Leonor	Law Clinic	35	Lawyer	Buenos Aires	College	Single	No	Argentinian
Mar-15	Carlos	Law Clinic	33	Lawyer	Chile	College	Single	No	Chilean
Dec-15	Claudio	Citizen-native run immigrant organizations	39	Priest	Santiago	Graduate	Single	No	Chilean
Apr-15	Susana	Citizen-native run immigrant organizations	40	Political Scientist	Santiago	Graduate	Single	No	Chilean
Apr-15	Juan	Immigrant run organization	43	Priest	Brazil	Graduate	Single	No	Brazil
Mar-15	Irina	Citizen-native run immigrant organizations	62	Teacher	Santiago	Colleges	Married	No	Chilean
Mar-15	Eliana	Citizen-native run immigrant organizations	43	Sociologist	Santiago	Graduate	Married	No	Chilean
Mar-15	Javier	International Organization	27	Political Scientist	Santiago	College	Single	No	Chilean

Apr-15	Gabriela	Academia	47	Social Worker	Santiago	Graduate	Married	No	Chilean
Mar-15	Helena	Academia	44	Psychologist	Santiago	Graduate	Single	No	Chilean
May-15	Pedro	International Organization	44	Lawyer	Santiago	Graduate	Married	No	Chilean
Apr-15	Pablo	International Organization	47	Lawyer	Santiago	College	Married	No	Chilean
Jun-15	Jesus	Local government	46	Psychologist	Santiago	College	Married	No	Chilean
Jun-15	Valentin	Local government	60	Political Scientist	Viña del Mar	College	Separated	Yes	Chilean and French
Jun-15	Antonio	Local government	41	Social Worker	Santiago	College	Married	Yes	Chilean
May-15	Elizabeth	Local government	57	Historian	Lima	College	Single	No	Peruvian
Jun-15	Jazmín	Local government	51	Priest	Ovalle	Religious	Single	No	Chilean
May-15	Cristián	Local government	43	Historian	Temuco	College	Single	No	Chilean
May-15	Esteban	Local government	29	Social Worker	Santiago	College	Single	No	Chilean
Jun-15	Javiera	Local government	34	Sociologist	Santiago	Graduate	Single	No	Chilean and Spanish
Nov-15	Modesto	Congressional representative	63	Sociologist	La Serena	College	Married	Yes	Chilean
Dec-15	Matilde	Congressional representative	34	Lawyer	Antofagasta	College	Single	Yes	Chilean
Dec-15	Mateo	Congressional representative	34	Industrial Engineer	Viña del Mar	College	Single	Yes	Chilean
Nov-15	Martín	Congressional representative	51	Lawyer	Viña del Mar	Graduate	Married	Yes	Chilean
Sep-15	Edmundo	Congressional representative	36	Commercial Engineer	Santiago	Graduate	Married	Yes	Chilean
Sep-15	Gregorio	Congressional representative	55	Lawyer	Iquique	College	Single	Yes	Chilean
Jun-15	Andrés	Executive	32	Lawyer	Coquimbo	Graduate	Single	No	Chilean
Sep-15	Alfredo	Executive	34	Electrical Engineer	Santiago	College	Single	No	Chilean
Sep-15	Felipe	Executive	42	Public Administrator	Santiago	College	Single	No	Chilean
Sep-15	Juan Cristobal	Executive	33	Anthropologist	Santiago	College	Married	No	Chilean
Sep-15	Cecilia	Executive	47	Commercial Engineer	Unión	Graduate	Divorced	No	Chilean and French
Sep-15	Jaime	Executive	62	Sociologist	Santiago	Graduate	Married	No	Chilean

Sep-15	Paquito	Executive	60	Political Scientist	Santiago	Graduate	Married	Yes	Chilean
Aug-15	Julián	Executive	35	Lawyer	Salvador	Graduate	Single	No	Salvador
Sep-15	Sonia	Executive	35	Public Administrator	Pirque	Graduate	Married	No	Chilean
Sep-15	Gustavo	Executive	32	Economist	Independencia	Graduate	Married	Yes	Chilean
Aug-15	Roberto	Executive	72	Lawyer	Santiago	Graduate	Married	Yes	Chilean and Canadian
Aug-15	José Pedro	Executive	49	Psychologist	Viña del Mar	College	Married	No	Chilean
Aug-15	Alma	Executive	32	Social Worker	Santiago	College	Single	Yes	Chilean
Sep-15	Fernando	Executive	34	Sociologist	Santiago	College	Single	No	Chilean
Jan-16	Melanie	Executive	43	Lawyer	Santiago	College	Married	No	Chilean
Apr-15	Samuel	Executive	49	Lawyer	Santiago	College	Married	Yes	Chilean
Mar-15	Anita	Executive	66	Journalist	Santiago	Graduate	Single	No	Chilean y Canadian
Mar-15	Joaquina	Executive	31	Lawyer	Punta Arenas	Graduate	Single	No	Chilean
Feb-15	Hugo	Executive	43	Lawyer	Talcahuano	Colleges	Married	Yes	Chilean
Feb-15	Enrique	Executive	54	Journalist	Santiago	Graduate	Married	No	Chilean and Spanish
Feb-15	Noehmi	Executive	32	Sociologist	US	Graduate	Married	No	US
Feb-15	Tere	Executive	42	Journalist	Santiago	College	Married	No	Chilean
Feb-15	Dora	Executive	28	Lawyer	Viña del Mar	College	Single	No	Chilean
Feb-15	Kim	Executive	29	Lawyer	Santiago	College	Single	No	Chilean
Feb-15	Marina	Executive	56	Sociologist	Valparaiso	College	Single	No	Chilean
Jul-16	Ulises	Executive	40	Lawyer	Rancagua	College	Single	No	Chilean
Jul-16	Urbano	Executive	33	Lawyer	Santiago	Graduate	Married	Yes	Chilean
May-16	Bastian	Business federation	46	Lawyer	Chile	Graduate	Married	No	Chilean and Venezuelan
May-16	Belén	Business federation	37	Public Administrator	Santiago	Graduate	Married	No	Chilean
May-16	Blas	Business federation	68	Civil Engineer	La Serena	College	Married	Yes	Chilean
May-16	Benicio	Business federation	63	Electrical Engineer	Santiago	College	Married	No	Chilean
May-16	Britania	Business federation	47	Lawyer	Osorno	Graduate	Married	No	Chilean
May-16	Bernardo	Business federation	75	Agricultural Engineer	Santiago	College	Single	No	Chilean

May-16	Bernie	Business federation	62	Comercial Engineer	La Serena	Graduate	Married	No	Chilean
May-16	Benjamin	Business federation	80	Lawyer	Santiago	College	Married	No	Chilean
May-16	Bartolo	Business federation	37	Lawyer	Santiago	College	Married	Yes	Chilean

Appendix 4. Interview Guide

“Immigration Legal Reform in Contemporary Chile” Interview Guide for policymakers (February 5, 2015)

I. Opening

A. (Establish Rapport) My name is Mayra Feddersen. I am a doctoral student at UC Berkeley and I am working with Professor Calvin Morrill on a study about how immigration reform is occurring in contemporary Chile. Thanks so much for taking the time to talk to me.

B. (Purpose) I would like to ask you some questions about your participation and experience in the discussion of the future immigration law in Chile. There are no right or wrong answers; I am just interested in hearing what you have to say.

C. (Motivation) I plan to use this information to write a book or articles about the dynamics of immigration law-making in countries that are experiencing increases in immigration. [Senior] government experts [or NGO leaders] are particularly important in these processes. Your perspective will be very important for me to understand these dynamics better.

D. (Length of Interview, Confidentiality, and Taping)

The interview will take about sixty minutes.

Everything you tell me is strictly confidential. Confidentiality will be ensured through the deletion of any identifying information in all write-ups from the interview.

Rules in American universities are very strict about protecting the identities of people who participate in research like mine. Therefore, I have taken precautions to ensure confidentiality. No one else will be given this information. I will not disclose what you tell me to anyone, especially not to other governmental agency or the press. If at any time you do not want to participate any more, or if you want me not to use the interview, just let me know.

This consent form explains in writing what I just told you. This paper is for you to keep. I'll give you a moment to look it over, or I'd be happy to read it with you.

If you ever need to contact me or my professor or anyone at the University of California, Berkeley about this study, I've included contact information on this sheet.

Do you have any questions?

I usually record an interview so that I can have an accurate record of it. Only I have access to these recordings. May I record this interview?

Would you like to begin?

II. Body

1. Background

I would like to begin with some background information.

1. Can you tell me a little more about yourself and your position in _____? [ASK Qs A-C if not already mentioned in this open-ended question]

A. How long have you been involved in this position, and how did you first get involved in _____?

B. Can you tell me a little bit more about your work prior to your position here? Where did you work before you worked at _____? Can you tell me a little bit about your educational background? Where do you see yourself in the future?

C. Can you tell me a little bit more about how you got involved in the issue of immigration? When and how did you started to work on immigration? Did you start working on immigration as part of your position? Where you involved before? If so, in what capacity?

2. Interest politics

I am interested in learning about how your organization and you are involved in the discussion about the new immigration law.

1. You have been very active in the drafting [discussion] of the new immigration bill. Can you tell me a little bit more about your organization's position towards the new immigration bill?

a. How was this position reached?

b. Was there a process of some kind?

c. What are your [official and personal] beliefs about your organization's position?

2. In the process of producing your organization's position for the new immigration law, did you seek external advice?

a. Why did you decide to contact an external advisor?

b. Was there a process of some kind?

c. Did you obtained what you were expecting?

3. Did anyone from the public ever contact you regarding immigration reform?

a. If so, how did it occur?

b. If not, how does your organization channel public petitions?

4. Does your organization have a position in regard to for example?

a. Allow permanent migration with path to citizenship?

- b. Select immigrants based on whether they have/ will have jobs?
- c. Role of international human rights law?
- d. Privileging certain migrants (country, age, family ties, etc.) over others?

3. Foreign Policy

1. Immigration is about domestic issues as well as foreign relations with other countries. How do you/ your organization think Chile should balance domestic and international pressures? Do you think that immigration affects foreign relations? How so?

2. Chile is an associate member of MERCOSUR, CAN, and a full member of the Pacific Alliance and UNASUR. How do these memberships impact your daily work? [make the acronyms explicit]

- a. If R agrees: Which agreements are most important for your organization?
- b. How are these agreements important for your organization?

3. Some people say that human rights need to be part of Chilean immigration law. How do you/ your organization think about this? Do concerns about human rights impact your work?

- a. If HR are important: When did you start paying attention to HRs?
- b. How do you incorporate HR standards in your daily work?

4. Sometimes in drafting legislation, we look to how other countries do things. Do immigration policies in other countries influence your work? How so?

- a. Which countries have you looked at? Why?
- b. What advantages have you find from of using foreign models in your work?
- c. What disadvantages have you find from of using foreign models in your work?

4. Representative Politics

I am interested in knowing your experience as an expert [leader] figure in the debate about the new the immigration law.

1. What roles have you played in public discussions about immigration?

- a. Do you write op-eds or letters in Chilean newspapers?
- b. Do you give public lectures?
- c. Do you consent to interviews with journalists?
- d. Do you meet with civil society/ interest groups?
 - a. If R has played a role: what goals were you pursuing?
 - b. Where you able to get something out of your participation in these discussions?
 - c. Would you do it again?

2. What importance have discussions about immigration played in your political party meetings? [If R DOES NOT PARTICIPATE IN ANY POLITICAL PARTY GO TO THE NEXT QUESTION]

- a. If R think is important. Why?

- b. Do you remember what was discussed?
 - c. In what roles were you involved in these discussions?
 - d. Were you able to get something out of your participation in these discussions?
 - e. Would you do it again?
- 3. What roles, if any, have you played in activities organized by immigrant groups?
 - a. How would you characterize your contact with immigrants?
 - b. In what contexts have you had contact with immigrants?
 - c. How often are those contacts?

5. Constitutionalism

I am interested in knowing about your experience with courts.

- 1. How do judicial decisions influence your work? [Officially and personally]
 - a. What is it that interests you about those decisions?
 - b. Do you discuss those decisions with others?
- 2. In a recent case, the Constitutional court said that because the Constitution did not distinguish between Chileans and non-Chileans, immigrants- like any Chileans- are entitled to all the rights set in the Constitution. How would you characterize your [your organization's?] reactions to this decision?
 - a. The press reports that immigrants are being discriminated in Chile. What do you think about that statement?
 - b. Do you think the state has a right to protect its borders? Where do you ground that right?

6. Nationhood

I am also interested in knowing a little bit more about your opinion regarding immigration.

- 1. How do you think that immigration to Chile has changed over the last decade?
- 2. The head of DEM said in El Mercurio (11-29-2014) that, "serious countries understand immigration as an opportunity." What do you think?
 - a. If R agree, probe: In what sense do you think that immigrants are an opportunity for the country?
 - b. If R disagree: What challenges does immigration pose for the country?
- 3. Newspapers have associated Colombian and Peruvian immigrants with illegal activities and crime. What do you think?
 - a. If R agree: Do you think that all immigrants are at risk of committing crimes?
 - b. If R disagree: Do you think that immigrants are a problem for the Chilean society?

7. Demographics (SKIP SOME QUESTIONS THAT WERE ANSWERED IN THE PREVIOUS SECTION. ALSO, THE QUESTIONS THAT YOU CAN INFER YOURSELF I.E. GENDER).

1. Where were you born?
2. In which year were you born?
3. What is your gender?
4. What is your nationality?
5. Where were your parents born?
6. What is your mother and father's nationality?
7. If 6 affirmative, what is your opinion about your immigrant past? Has this opinion changed over time?
8. Do you have double citizenship?
9. Where do you currently live?
10. What is the highest level of education you have completed?
11. Where did you go to high school?
12. Where did you obtain your college degree?
13. What is your current marital status?
14. Do you identify yourself with a particular ethnicity?
15. Do you identify yourself with a particular religion?
16. Have you ever participated in a non-profit organization?
17. Have you ever participated in a for-profit organization?

III. Closing

[Transition] The purpose of this project is to understand how immigration law is been generated in a non-traditional immigration country. Is there anything I haven't asked you about that you can tell me that would help me understand this better?

A. (Maintain Rapport) Thanks for taking the time to talk with me.

B. (Action to be taken) I should have everything I need.

But would it be all right to contact you again if I have any more questions? Thanks again.

Remember that if for any reason you want to contact me or someone at the university about this research to just call [cell 9 75831209].

THANK YOU SO MUCH FOR YOUR TIME; THIS HAS BEEN REALLY HELPFUL.

Appendix 5. Data Sources and Procedures

Data Sources and Procedures	Research Activity	Data Produced
Preliminary field study over 3 months (20 May 2014 to 10 August 2014)	352 hours of field observations meetings, talks, conferences, trips, and few social gatherings.	Description of physical layouts, official meetings, and of interactions between immigration authorities and immigrants
	15 hours of informal conversations (4 interviews government officials and 3 interviews immigrants: 7 hours, discussions in trips and at the office)	Narratives about encounters with immigration authorities and government officials; interpretations of the law in force and government officials' role in its enforcement
	Revision and analysis of legal documents (laws, regulations and case law)	Background information about the immigration law and its implementation
	25 hours of transcription and 55 hours of coding (period of 8 weeks)	Preliminary memos about the participation of government officials in the formulation of immigration policies
Primary field study over 12 months (1 February 2015 to 26 February 2016)	2340 hours of field observations meetings, talks, conferences, trips, and few social gatherings.	Description of meetings, conferences and informal discussions concerning the formulation of a new immigration bill and other policy documents. Description of interactions among government officials
	47 hours of semi-structured, in depth interviews with 58 actors (Immigrant organizations, academics, public interest lawyers, local and national government officials and congressional representatives)	Discourses about immigration: representative politics, nationhood, constitutionalism, and capitalism
	Revision and analysis of governmental documents and news media	Organizational characteristics, policies and regulations, public discourses, official presentations and public declarations
	120 hours of focus coding	Initial coding categories and reflection memos about emerging topics: organizational processes involved in drafting a new bill; process of building organizational reputation; interactions and participation of non-governmental organizations in the policy making process; mechanisms of human rights appropriation; dominant discourses to describe immigration; relationships among governmental offices and their involvement in the drafting of a new immigration bill and in other policy initiatives

Follow up Trips (May, June and November 2016) and Intense Analysis (March to December 2016)	10 hours of semi-structured, in depth follow up interviews with 13 actors (business guilds and government officials)	Discourses about the relationship between capitalism and immigration; supplementary data about recent developments and government's official interpretation of events
	35 hours of field observations (participating in meetings, conferences, and informal conversations)	Description of interactions between immigrant organizations and government officials, and description of organizational practices
	Revision and analysis of governmental documents and news media	Organizational characteristics, policies and regulations, public discourses, official presentations, and public declarations
	612 hours of coding	Refinement of coding categories and analytic memos around four themes: framing, law and development, human rights, social skills, and participation. New analytical memos regarding the operation of bureaucracies, social movements and unorthodox law-making. Integrative memos merging analytical memos and empirical findings around dissertation chapter: immigration frames, appropriation of human rights, non-governmental participation in the policy-making process, and bureaucratic interactions during the policy-making process