

A Critical Thought about the Theoretical Approaches to Migration Policies and Argentine Experience

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Abstract

This paper presents a critical thought about the design of the most important components of the Argentine migration policies from 2004-2015, together with the main theoretical approaches which emerged from the different disciplines of the social sciences. This paper shows the growing diversity of data and processes related to the definition of migration policies and the need of analyzing the topics from the perspective of International Relations discipline.

Keywords

Argentina, Migration Policy, Theories of Migration Policies, International Relations

1. Introduction

International migrations are a phenomenon dating from the early years of independent life. During the period called: “mass immigration” (1880-1914), Argentina has become the major transatlantic host country in Latin America because in 1914 the 30% of the population was foreign-born. For that reason, this country “(…) has an early and wide experience with the formulation of migration policies” (Novick, 1997: 86) [1], which have been historically adapted to the most predominant national and ideological projects.

Nowadays, Argentina is still a host country, ranking twenty-ninth in the countries with the biggest number of foreign people (IOM, 2013) [2], according to a ranking published by the International Organization for Migration and, in absolute numbers, Argentina has 1,805,957 foreigners, the biggest foreign population in Latin America. The “regional migrants”, as people from South America are called, are the biggest group,

representing the 80% of the foreign population (INDEC [National Institute of Statistics of Argentina], 2011) [3].

Now, from the promulgation of Act 25,871/2004, there is a new migration policy which gathers diverse components including a human rights-based approach as guiding principle and it aims at migration regulation, technologization of borders and regionalization of radar systems. The objective of this paper is to contribute to the comprehension of the design, political conception of these ideas and the main theoretical approaches of the subject. Henceforth, emerging challenges are considered in terms of theoretical contributions to this area.

This article has the singularity of being within the scope of the “Old School” of the study of migration policy, focusing on the viewpoint of the host Country (Calderón, 2006) [4]. The critical thought intends to contribute to the debate of the processes and factors which have influenced the origin of the policies on the basis of the experience. The predominant viewpoint is far from the conceptions where the human movement is seen as a “threat” in the social and political order of industrialized nations, essentially. This paper shows that the complexity of the current migration processes needs multi-dimensional answers which cannot be analyzed from the perspective of only one discipline; and that the dynamics of the relationships arising from host, issuing, third Countries and other non-country factors have a significant role in the definition of migration policies. These aspects need the study International Relations in greater depth¹.

2. Introduction to Argentine Migration Policy

Nowadays, Argentina defines its migration policy on the basis of the Act 25,871, approved in 2003 and enacted in 2004. It is the cornerstone of the State in the field of migration. That legislation waived the decree Act 22,439/1981, enacted by the past de facto government, whose dispositions violated the National Constitution and international human rights treaties².

The text of the Act 25,871 highlights a conceptual turn in relation to the previous legal system, advancing towards the recognition of guarantee to foreigners which were previously neglected. Among the most important guarantees, we find the “right to migrate”; to have access to healthcare systems and public education—independently of the migration condition of the person; to have the appropriate process in detention and expulsion; free judicial assistance; family reunification; information and governmental

¹In this paper, migration policy is understood in the context of “(…) the norms, laws, practices and governmental instruments to regulate foreign sequential access to different circles of the host society and, as natural extension, the gradual access to right entitlement” (López Sala, 2005: 112). Also, “regulation and control” are considered, focusing on the measures taken with the objective to determine rules, conditions, entry requirements, selection or foreign temporary or definitive admission.

²The idea of the migrant underlying this decree-act consisted of considering the migrant threatening and risky for the security of the nation and public order. The norm established a system of persecution and expulsion, which, made public departments report migrants in irregular situation, who did not have any judicial guarantee in the context of prosecution and expulsion. Also, this instrument was combined with bureaucratic practices imposed by the National Direction of Migrations which made Access to residency an unachievable mission for South American migrants.

assistance with respect to residence and insertion in the host country; to have equal treatment in social services, public goods, healthcare, education, justice, work, employment and social security.

This line enhances the use of other instruments, such as the Act of General Recognition and Protection of the Refugee 26,165/2006 and the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Act No. 26,202/2007). The first one put an end to the norms regulating the topic, guaranteeing a sustainable treatment of international treaties of human rights and the Convention of 1951 on the Regulation of the Refugee. The second line represents the only international treaty dedicated to the protection of the migrants, in which the Countries are supervised by the Committee observing the application of the treaty. In effect, the Convention creates obligations and responsibilities which have not been followed by many host countries yet, particularly, the United States and Western Europe (but Portugal), which have not ratified that instrument.

The Argentine migration policy has been recognized by international institutions such as the International Organization for Migrations (IOM) and the United Nations due to its anchorage in human rights, in an international context where controls and restrictions are imposed above the recognition of rights. Moreover, it has been questioned internally because of previous difficulties in effective guarantee of rights, related to a weak articulation between the different States' agenda and jurisdiction; lack of training of public representatives, monitoring and weak mechanisms in the application of certain law dispositions. Now, taking Act 25,871 as a basis, there are three components defining migration policy in 2004-2015:

2.1. Migration Regularization

The regularization of migration was identified as one of the main objectives of the migration policy of this period. It was assumed that the restrictive criteria coming from the previous legislation and the discriminatory administrative practices applied to procedures (especially to regional migrants) had turned the State into a "factory of illegal immigrants"³, being the population in a situation of extreme vulnerability.

Therefore, the section 17 of the Act 25,871 says that the State has to provide the means to regulate the migration situation of foreigners and the section 61 says that the administrative authority, when they identify any irregular permanence, instead of ordering automatic expulsion, have to facilitate the means to start the procedures of residence under penalty of expulsion. Furthermore, when the procedure is over and expulsion is ordered, the process will be carried out suspensively, with possibilities of revision. Furthermore, section 9 states that information about the procedure has to be given to the migrants in question and to their families, as established in admission and registration (even contemplating their mother tongue and cultural interpreters⁴).

Also, the law does not criminalize the irregular migration as if it was a misconduct,

³Expression used by the authorities of the National Direction of Migration.

⁴These dispositions are included in the section 9° of the act (Decree 616/2010).

which is evident in the principle of “no detention” (retention, in law terms) during the procedure of expulsion⁵, which can only be ordered by the Judicial Power, with proper judicial guarantees (section 70).

The most important actions that the National Direction of Migrations has developed in this field have been in the form of the programs of regularization of migration. First, there was a program for the citizens born outside MERCOSUR (Decree 1169/2004) who had lived in the national territory until June 30th, 2004, which could set 12,456 residencies, mainly, of Asians, Africans, Latin Americans (not from MERCOSUR) and Eastern Europeans (Pacceca and Courtis, 2008: 46) [5]. Secondly, the most important program, in terms of regularization of migration documents for the citizens of the countries and partners of MERCOSUR (known as Big Nation Plan), through decrees 836/2004 and 578/2005, was made to simplify the registration procedure, since migrants were only required to have the registration card and an ID to have a valid, residence certificate⁵. Then, the procedure involved a temporary residence (for two years and it was renewable). After that period, it was valid as a permanent visa.

The Big Nation Plan finished in 2010. Since the proclamation of the act (decree 616), the citizens of the aforementioned origin had the same right within the ordinary procedure. 423,697 people were enrolled in the program and 126,385 of those people obtained temporary residence, 98,539 obtained permanent residence and 187,759 did not have the requested documentation (NDM, 2014) [6].

Moreover, in 2013, there was a Special Plan for the Regularization of Senegalese and Dominicans (Disposition NDM No. 1 and 2), valid for 180 days, to facilitate access to residency with the possibility of renewing it for those who had been registered before 2012.

The programs for regularization were made together with programs of modernization and restructuring of governmental management. Since the declaration of “Administrative Emergency and Restructuring of NDM” (Decree No. 836/2004), different measures were implemented to eliminate administrative practices in the procedures that did not belong to the new migration policy. A special area for assistance and information was created. The procedures involved complete documentation and the resolution had to last no more than 30 working days; there were new departments of the NDM in the country.

Thus, during the migration regularization stage, for those who lived irregularly in the national territory, represented an absolute priority to such a point that during 2004-2014, the NDM issued 880,916 permanent residencies, 993,369 temporary residences and 133,551 residences of other categories, which are, in total, 2,007,836 registrations (NDM 2014), including the implementation of regularization programs and procedures protected by law. Now, during traditional “amnesty”⁶ for the regularization of migrants

⁵According to section 70^o, only exceptionally and when the characteristics of the case require it, the National Direction of Migration or the Interior Ministry can request the retention of the foreigner to the judicial authority even when the expulsion is not dictated.

⁶The amnesties are valid for a short time and they are destined for migrants who are living effectively in the territory, fact which is not applied to those who come in the future.

outside MERCOSUR, a permanent criteria was implemented for those who belonged to that region (regional criterion), which continued after Big Nation Plan finished.

2.2. Technologization of Migration Control

Migration control, mainly in borders and, secondarily, in permanence, has been the objective of the DNM in the analyzed period, achieving great advances in technologization of the procedures.

As regards border control, during the past years, new operational mechanisms were implemented in order to make transit more dynamic and secure-entry and leave approved accesses; supported by the recognition of the “excessive time people had to wait in migration control points” and the lack of confidential data, which made “technological innovation” necessary, especially in relation to facilities, training and staff (NDM, 2010) [7].

Among other lines, the updated version of the System of Platinum Migration Capture (in Spanish, SICAM), was implemented. It consisted of a modern system to interconnect all the valid accesses, improving registration, communicating information with other departments, implementing the possibility of using biometric data, achieving prevention and detection of migration crimes. Hence, nowadays, all migration control in the country is run online with SICAM and under the Federal System of Biometric Identification for Security (in Spanish, Sibios).

Also, the NDM started to promote bilateral cooperation with neighbor countries in integrated border control areas, facilitating transit in borders, regularizing entry and leave of minors and free circulation. For the integrated controls of MERCOSUR, the NDM has acquired, according to the Resolution of the Interior Ministry N° 008/2005, the faculty of establishing a registration system through bilateral agreements.

Migration control and permanence have been the main objective at institutional level, in order to “avoid foreign worker exploitation, human trafficking and other crimes or irregularities”, “sanction the responsible parties” and “promote and assess the affected migrants in order to regulate their situation” (NDM, 2010). However, border control and procedures have not caught the same attention as economic investment, material and human resources.

From the migration authorities perspective, there have been diverse opportunities in which the “problem of migration has not been a problem of security”. Still, migration rights are the objectives of migration control. However, some civil organizations have reported situations of denied entries and deportation of human trafficking victims, without taking measures for their protection and care. Moreover, the act 25,871 has been unequally applied, approving deportations without notice and judicial approval to validate the administrative decision (CELS-FIDH, 2011) [8].

Hence, the NDM, as regards migration control, cannot be evaluated fully without the exhaustive revision of institutional practices, including the performance of border patrol agents, auxiliary migration policies, and migrants’ treatment during the controls among other aspects. The previous situation reveals the diverse challenges in the elimi-

nation of practices which are not in the act 25.871.

2.3. Regionalization

The third distinctive component of the migration policy is its regional orientation, in the context of MERCOSUR for the adoption of migration dispositions and programs.

The act 25,871 is the first migration norm in the history of the country. It cites an integration process and incorporates dispositions for regional integration. In the section 28, it states that: “(…) the principle of equality of treatment will not be affected by the possibility of the Country (…) establishing different schemes for treatment among the countries with regional agreements with Argentina, prioritizing the necessary measures for the final objective of free circulation of people in MERCOSUR”.

Because of that, the Country can give a different treatment for migrants who are from MERCOSUR, as stated in the part “I” of the same act, which introduces the “criterion of nationality” as a new category of temporary residence. That criterion, which comes from the Residence Agreement of MERCOSUR⁷ and Big Nation Plan, states that people have access to residency for two years, with possibilities of renovating it. This regulation was valid for MERCOSUR, Bolivian and Chilean citizens (found in the regulations for “Extended MERCOSUR”⁸).

The aforementioned represents an inflection point in the history of migration policies of Argentina. It is the first time that regional migration, historically excluded from the “desired migration pattern”, is considered a norm with special treatment.

The criterion of nationality of MERCOSUR was the beginning of a “regionalization” of the registration system, which started to build a regulation that differentiates the migrants who are intra-block and extra-block, dividing administrative procedures and specific requirements for procedure management⁹.

Adding to the “regional approach”, it is worth mentioning that the actions that break the strict unilateralism of the treatment of migration phenomena incorporate strategies of bilateral or regional cooperation. One of the indicators is the number of bilateral agreements that the Argentine government negotiated and subscribed to regulate different migration issues with other countries, especially, with neighboring countries. Between 2000 and 2012, the government signed 36 agreements of transit, integrated border control, residency and migration regularization (Nicolao, 2015) [9].

In turn, this country has achieved an active performance in forum and regional participation about policy approaches, such as the South American Conference of Migra-

⁷The Agreement of Residency among the States of MERCOSUR, Bolivia and Chile in 2002 (CMC decision 28/02), establishes that, for the first time, there are common residency rules for the member States, simplifying and harmonizing the requirements for the citizens of the region; and it introduces a “criterion of MERCOSUR nationality”, which complies with temporary residency (for two years), with possibility to become permanent.

⁸The expression: “Extended MERCOSUR” makes reference to the space created among countries which are full members and associate members.

⁹A concrete example is Disposition DNM 1488/2010, which complies with the “Requirements for procedures of MERCOSUR”, instrument which has no precedents in Argentine Migration policy.

tion (CSM¹⁰) and Specialized Forum (FEM¹¹). The Forum has adopted a protagonist role in the creation and dynamics of its performance, suggesting projects and commitments which 90% were fulfilled (Margheritis, 2012; Nicolao, 2015) [10]. Among the most important agreements, we can mention the “Residency Agreement “ (Decision CMC 28/02) and the adoption of the “Plan of Action of the Statue of Citizenship from MERCOSUR” (Decision CMC 64/10).

Up to here, we have briefly presented three of the main components of migration policy in Argentina during 2004-2015. Although there are other dimensions for the integrity of public policy, we have prioritized the most significant lines. Next, we will revise the determinants, influencing factors and the main theoretical contributions developed in the field of migration policies.

3. Theories Explaining Migration Policies

Different specialists highlight the lack of attention that the policy has had. Countries try to explain the international migration processes, though the theoretical development of the end of the XIX century (Zolberg, 1989; Massey, 1999; Arango, 2000) [11]-[13].

In 1970, there was a context that started to see the South-North migration as a “threat”, especially in industrialized countries, which started to face the most restrictive aspects of migration policy and the few results they got to stop migration. The academic world started to focus attention on the policy dimension of international migrations (Zolberg, 1981, 1989) [14].

So, that was the beginning of the analytic models, used to interpret how migration policies are defined and how certain theories are applied. In order to understand these contributions, it is important to identify the three dimensions that migration policy involve: a) “regularization and control”, which include rules, requirements, procedures for selection and temporary or definitive admission of foreigners; b) “socioeconomic and cultural integration of the immigrant in the host society”, oriented towards the services derived from the access to social and economic rights; and c) “national sphere”, depending on the transformation of migrants and their descendants into citizens (López Sala, 2005) [15].

In the context of these dimensions, there have been theories about how migration policies are born and transformed. Most of the publications, written in industrialized countries, seek to explain the generalization of restrictive admission systems among the main host countries and the generalized failure of control strategies (Cornelius, Martin and Hollifield, 1994; Castles, 2004) [16] [17]. The main contributions come from the field of sociology, which have been systematized by Eytan Meyers (2000) [18] very well:

¹⁰In 2000, the MSC formalized the sub-regional dialogue in migration issues to maintain “regular requests dialogue and experience Exchange in the subject” among countries. Its first edition was held in Argentina and it was organized every year since then.

¹¹The FEM is in the orbit of the Meeting of the Interior Ministry of (IMR) of MERCOSUR; there are ten countries including Full Members and Associate Members and it adopts resolutions by consensus, which is evaluated by IMR, which are binding decisions and then they are seen by the Common Market Council to become a norm of MERCOSUR.

One of the theoretical resources early used to analyze the definition of migration policies were stated by *Marxists/Neo Marxism* who abandoned the interpretation of the relationship between economic cycles and promotion/restriction of external workers' entry into advanced capitalist countries (Castells, 1975; Castles and Kosack, 1985) [19] [20].

The work done from this perspective say that the State, at the service of the dominant capitalist class, promotes international immigration of workers in periods of economic expansion, which helps prevent unexpected fluctuation in the activity, has lower salaries and divides workers, and it stops and limits immigration during recession, to avoid having a capitalist crisis¹².

The authors who support that vision say that workers migrations from developing countries to developed countries will grow in the long term as a structural part of capitalism and international division of work, whereas capitalist countries will limit migration temporarily during periods of economic decline (Castells, 1975).

In second place, *the model of the groups of interest* has been applied to different studies of migration policies in industrialized countries, focusing on the behavior and pressure of the different domestic groups, policymakers, to define the courses of policy action (Hollifield, 1992; Joppke, 1999; Money, 1999; others) [21]-[23]. They base their interpretation on the State as a neutral area where the interests of the different social actors are negotiated, even imposed over the others.

These studies, in their most diverse variations, have focused on the experience of the countries of Western Europe or North America and have enabled the identification of certain sectors that have traditionally projected their interests and power on political parties, parliament or public administration designing migration policies. Among the actors favoring pro-migration policies, there are business groups (benefited by the possibility of hiring cheap foreign workers) and ethnic organizations/associations of migrants who defend the rights of their members. On the contrary, among the aspects that are less prone to migration, there are national groups, anti-immigration political parties, workers unions and professional associations, which see migration as a competence in the working field (De Wenden, 1994; Haus, 1995; Money, 1999) [24] [25].

The major weakness of this model is the one associated to its domestic core, since it does not take into account any consideration related with the international sphere; so, some specialists show the necessity of having a combination between the analysis of the interaction of the groups with domestic interest and considerations of foreign policy in a theoretical synthesis.

Then, from the *institutional approach*, specialists have focused on the role of the State and especially, on the influence of certain administrative instances in the definition of the direction of migration policies. This theoretical perspective, originally applied to countries such as the United States, Australia and Canada, varies depending on the degree of autonomy of the state administration, which has historically shaped in-

¹²In that way, external workers have some characteristics which are part of the economic expansion; they are excluded in crisis and because of their low wage they do not consume much and they cannot reduce the inflationary risk in expansive phases, reducing the demand in recession periods (Meyers, 2000).

terests, views and institutional practices of the migration phenomenon (Simmons and Keohane, 1992; Calavita, 1992; Fitzgerald, 1996 and others) [26]-[28]. They vary in the autonomy of political institutions, State consideration and State agenda.

Other contributions made to understand the definition of migration policies (Brubaker, 1992; Hollifield, 1994; Kurthen, 1995; others) [29]-[31], include what Meyers (2000) calls the *model of “national identity”*. From this perspective, it is assumed that the history of each country, its citizenship and nationality conception, debates about national identity, civil conflicts and, more specifically, the criteria of ethnic/national eligibility for accepted migration. From that point of view, migration policies are not built from any basis in particular, but, from cultural and identity issues, inherited or created, (generally, depending on the elite or dominant groups in the State) which determine who can be a member of the national community (Albarracín, 2005) [32].

The approach belongs to the fields of historic sociology and it has been built over sociological and psychological theories, such as, “national identity”, “national construction”, prejudice, order and social closure. It is similar to the constructivist approach of international relations, due to the characteristics of the interests and identities of the State, such as a specific historical context (Wendt, 1992; Koslowski and Kratochwil, 1994; Walt, 1998) [33]-[35].

Now, one of the issues that have influenced the study of migration policies has been the lack of attention of the international relations regarding migration policies in particular, especially, considering the international nature of the phenomenon, which involves the definition of one or more States, susceptible to affect the interest of both States and, consequently, their connections and relationships.

On the one side, the approach highlights the scarce contribution of the *realistic theory* in the study of migration policy, due to its marginal conception, subordinated to the international agenda, in relation to the importance of the topics of strategic military policies. This doctrine, which suggests a separation between internal and external policies, has seen migration policy as a part of domestic policies (such as economic, labor or demographic policies) in host countries and, from a unilateral perspective, the State has the exclusive right to decide who enters and how they enter the territory, without the necessity of establishing consensus, agreements, cooperative connections or relationships with other States (Pérez Vichich, 2007) [36].

In the last period of the Cold War, there appeared the first investigations about migration policies, which interpreted the concerns and strategies related to the State security (among others, Miller and Papademetriou, 1983; Weiner, 1993; Teitelbaum and Weiner, 1995) [37]-[39]. These investigations highlight the regulation of refugees¹³, focusing on the American case, especially after 9/11, 2001 (Van Selm, 2005; Bigo, 2005) [40] [41], even on its Latin American impact.

From the opposite ideological spectrum (*liberalism*) and specifically, from the *neoli-*

¹³In general, these papers have shown that the interests of national security and the considerations of exterior policy have been conceived as core elements in the answers the State give to migrants and especially to the refugees, instead of having restriction schemes such as selective promotion of immigration.

beral institutionalism approach, which reflects on the effects of institutions and regime of the State, they have predicted a low influence of international institutions on the migration policies designed by host countries (Hollifield, 1992; Cornelius, Martin and Hollifield, 1994). That perspective implies a low predisposition of the State to establish schemes of cooperation, running high political risks, difficulties in sharing benefits between countries and limit the labor force which would influence host countries (Meyers 2000).

The free circulation of people within the European Union, Schengan Agreement, (Uçarer, 1997; Koslowski, 1998) [42] [43] and the generalized adhesion to the refugee international regime (Hartigan, 1992; Skran, 1995) [44] [45] would constitute the exceptions to the rule in this investigation.

Finally, the second aspect of liberalism investigated by *globalization theorists* (Soysal, 1994; Jacobson, 1996; Sassen, 1996) [46]-[48] advise that the growing loss of national State power to control migration, due to, the transformation of state sovereignty as a consequence of economic globalization and a combination of pressure that would restrict actions in that context. For example, the international systems of human rights, circulating capital, ethnic lobbies, supranational instances, among others.

One of the main researchers in this area, Saskia Sassen (2006) [49], studies the cases in the United States and Western Europe and states that the growing global interdependency will force a radical reconsideration of the way of looking at migration and what is now experimented as a “State crisis in border control” can represent a way of focusing on migration flow in an interdependent world. In other words, the authors believes that reality has forced new practices in the interstate system and the growing tension among multiculturalism, internationalism, unilateral action and national discourse, which has been partially solved by the growth of “bi and multilateralism de facto”, when they faced the specific aspects of international migrations.

With all that, each of the revised approaches, with their advantages and disadvantages, has contributed to achieving a better understanding of the formulation of migration policies in general and of some specific migration measures, in particular. However, it is valuable to rethink these contributions considering a case, such as Argentina, and its migration policy components; due to its big migration tradition and migration subsystem, where Argentina is one of the countries with more migration flow in the area, sharing instances of regional integration with other countries (MERCOSUR, Union of South American Nations), developed in the last decade.

4. Rethinking Theoretical Approaches in the Light of the Current Argentine Migration Policy

The previous revision was briefly presented in the form of general hypothesis, since the deep study of each model and theory, variables and contrasts surpass the objectives of this paper. On the contrary, the objective is to illustrate the dimensions, elements and actors highlighted by the analytic proposal in order to rethink Argentine experience.

1) As a starting point, we think that the perspective of neo Marxism does not contri-

bute to our analysis and it loses the capacity to explain the economic determinism, the reduction to a cyclic modality of opening and restricting circulation, the migration pattern, based on the workers who move into developed countries, and the role of the business capitalist class in the formulation of migration policies.

It is worth mentioning that the migration flows that Argentina receives do not belong to the South-North international migration pattern; they are part of a historic subsystem in the South Latin American Cone, which has spontaneous development, stable volume and a diverse and gradual composition, which is not the same as labor migration exclusively. Also, the migration policies analyzed are part of a context where the recovery of the economic activity and the post crisis employment growth of 2001, which, according to the postulates of Marxism, should have developed a policy to increase labor migration which did not happen in practice. None of the instruments of the first part refer to the training of foreign workers; on the contrary, the regularization programs have neutralized the possibility of generating a cyclic regime of promotion/expulsion, even counteracting the interests of business sectors who were benefited by the irregular status of migrants since they made them work more in non-regulatory condition¹⁴.

2) In contrast, the analytic model of the *groups of interest* would result in a utility for emergency and growing influence of the social actors who were a key part of the definition of migration policy, focusing on rights and regularization. These actors are not the ones identified by the socialized literature, as the group traditionally influencing the interests of migration policies (workers unions, ethnic organizations, national groups, business sectors). In the Argentine case, we talk about “organizations for migrants” which, without being confronted or inspired by them, they have rights for the migrants as one of the main areas (Caggiano, 2011) [50]. The core was confronted forming the Center for Legal and Social Studies, the Argentine Association for Refugees and Migrants, the Catholic Foundation for Migrations, the Permanent Assembly of Human Rights, the Ecumenical Movement for human rights, Peace and Justice Service; the Center for Latin American Migration Studies and the Department of Migrations in the Association of Workers of Argentina.

So, in the beginning of the 90's, the request presented by civil organizations was getting stronger and brought the derogation of the migration act which was sanctioned during the military government (N° 22.439). They started with a reactive strategy to make migration policy harder during Carlos Menem's government (1989-1999) in order to move forward into a proactive behavior, with the formal confrontation of a network called “Board of the Organization of the Civil Society to Defend the Rights of the Migrants” in 2000, which was responsible for impelling the project which was promulgated in 2004 as the new Migration Law.

¹⁴Registration systems cannot be explained from the Marxist perspective, either, since the origin of this model does not contemplate the design of selective migration policies considering national origin. On the contrary, the exponents of Marxist perspective see the State, at the service of capital, stimulates migration of people of different races and ethnics to extend the amount of workers, promote the class and racial tension between migrants and native workers (Meyers, 2000).

The studies which analyze the social debate before the act reflect the direct influence of these organizations on the conception of migration as a human right, and on the emphasis on the solution of the problems that affected regional migrants (see: Correa, 2004; Badaró, 2006; Caggiano, 2011; Nicolao, 2014) [51]-[53].

The work of the Board, as an institutional network, was finished with the promulgation of the new law, but some organizations have been activated in the application of norms and new judicial instruments (such as the regulation of the law), in a context of a growing process “citizenship of migration policy”¹⁵.

The analysis of the role of these actors is fundamental to broaden and updating the view and conception of the groups of pressure in the domestic migration area of each country; that aspect is associated with the democratic development of each society¹⁶. Also, the coinciding processes among Latin American countries should be considered, because, in Uruguay, the act of migrations 18.250/2008 was triggered by diverse social, religious, academic and human rights organizations, consolidating a process of dialogue that cross borders and transnational networks.

3) The *institutions* of the State have occupied a fundamental role in the model of interests and practices in the field of migration, especially, in Argentina where migration has been the object of study in public intervention since early stages. Some specialists analyze tradition within public administration, which tend to include topics that they know in depth and visualize with less degree of uncertainty (Tamayo, 1997) [54]. Gil Araujo goes beyond and states “(…) the national history of migration policies have restrictions in which *policymakers* should provide solutions to current issues trying to reconcile new circumstances within the inherited practice” (2009:17) [55].

In that respect, regularization of migration emerges as a typical case of institutional practice inherited by Argentine migration policy. In 1949, the first amnesty was dictated for the first time; which later changed into a tradition of all of the democratic governments of the country (Halpern, 2009; OIM, 2012) [56] [57]. Moreover, Argentina was one of the first host countries in the world which adopted a process of migration regulation, whose implementation started to be extended to the rest of the world in 1970 (Domenech, 2011) [58], enriching the history of migration policies and redefining a priority. While the conception of migration and migrants has been modified in relation with the previous stage, the way in which it intervenes seems to have the same instruments. From there, there comes the need of preparing the history of institutional

¹⁵This idea reflects the growing participation of the organizations of the civil society in this presentation and the application of migration policies as a result of demonstrations of the organizations and other groups and the new political strategies of the international organizations and the national States to “legitimate” those processes, bringing together spaces “won by conviction” and other “given for convenience” (Domenech 2008).

¹⁶In the Argentine case, the civil society should be contemplated because it gained a more important role in the public agenda since the recovery of democracy. (1983) and its trajectory has been especially facilitated by the struggle of human right organizations, some of them started during the last years of the de facto government (1976-1983). In that sense, the gained experience and image of legitimacy have been the result of a substantial contribution (Correa 2004, 175) together with the proximity with human right organizations from the inclusion of the issue in the State agenda at national and international level, since the government of Nestor Kirchner (2003-2007) and Cristina Fernández (2007-2011/2011-2015).

practices in the field.

Additionally, the trajectory of the NDM and the level of autonomy of that institution in “migration control” also show that it is impossible to do without the institutional approach and analyze the case study. The NDM was created in 1876 as a General Department of Immigration and, from that moment, it has been moved into different departments (Agriculture, Interior, Foreign Affairs, Labor, etc.), expressing different views and forms of intervening in migration dynamics. Now, during the second part of the xx century and, more clearly, after the coup d'état of 1955¹⁷, a progressive subordination of migration policies started to consider the doctrine of national security¹⁸, which reflected plenitude during the last military government (1976-1983). From those years and in a progressive way, the norms, instruments and migration policy practices were characterized by the exclusive authoritarianism of the State, where migration existed and regional migration was considered problematic, which then was seen as a “threat” which had to be controlled, pursued and expelled (Pérez Vichich, 1988) [59]¹⁹.

The Interior Ministry, where the NDM was operated, started to gain an important place while the restrictive and political character of migration policy was being consolidated; that situation does not call our attention because the same department traditionally monopolized the competences of interior security. As a consequence, and beyond the renovation of the main political contexts of the analyzed stage, the behavior of that department, through its agents of migration control, cannot be interpreted without being connected to the bureaucracy that existed until the act 25.871, which executed the decree act 22.439 (with a logic of policy control developed during the last decades) [60].

4) The “national identity” approach has been used in migration policy to explain the preference for people of European origin. Those people have been prioritized in migration since the beginning of formal and institutional migration policy in the country. In fact, there is a consensus of the historical existence of the treatment of European and Latin American migrants, forming the first group which was included in the creation of the State-nation as part of the “imagined community”, integrated by those who were accepted within a certain project of nation (Anderson, 1991) [61].

Now, an analysis, anchored in the national identity, could illuminate the processes

¹⁷In 1955, a coup d'état overthrew the president Juan D. Perón, and a transitory military government began, being in the power for two years, dissolving the Congress and the Supreme Court of Justice.

¹⁸The National Security Doctrine was promoted by the United States of America to be applied to different Army Forces in Latin America through the School of the Americas. In the context of the Cold War, several social conflicts and guerrilla movement in different Latin American countries and a “capitalist underdeveloped world” were associated with the communist action of the Soviet Union. This doctrine supported the transformation of the role of the Army Forces, which extended their power and were defender of national borders first and later created a new defence strategy against the people, applying counterinsurgency techniques in their own territories.

¹⁹In Argentina, there were six de facto governments in XX century (1930, 1943, 1955, 1962, 1966 and 1976) which interrupted experiences of democratic government. The first four de facto governments established provisional dictatorships and the last two ones were of permanent status. The last de facto government was characterized by establishing State terrorism, which violated human rights massively and there were thousands of missing people.

and production of state meanings that have promoted the creation of the criteria of nationality of MERCOSUR as a category of innovative residency, even the emergency of the concept of “regional citizenship”, post national citizenship, where the Latin American condition would have a sense of belonging and prefer the invisibility and negation of previous judicial review process (Nejamkis, 2012) [62]. In that line, Taiana (2012) [63] emphasized that the “regional approach” of Argentine migration policy has been based on the introduction of the criterion of nationality, the Big Nation Plan program and the cooperation with Extended MERCOSUR since 2004, bringing a cultural and an identity transformation to the Argentine society. The first effort, in a long series of the process, was the Malvinas War [Falkland War] (1982)²⁰, conflict which influenced the Argentine society to leave the idea of a “European island” in a different territory and strengthen the view of Argentina as part of Latin America. From that moment, there was a rediscovery of the region, in a society with a preference for the foreign issues strongly connected to the country and with a tendency to perceive the country as a one surrounded by a relatively unknown space, looking at the Atlantic. This progressive cultural and identity change was emphasized by the socioeconomic and political crisis of 2001, which consolidated the “South American process” of the country, in terms of an idea which was becoming more evident and affected by similar situations of the countries of the region, sharing recent experiences of political authoritarianism, re-democratization, economic and political crisis and, later, the stronger idea of the necessity of facing problems in a more integrated and cooperative way. There is a key ideological factor in this process, a historic acceptance of Peronism and a left wing tradition that has integrated the peoples of Latin America.

Leaving that hypothesis, we could leave the national integration process and move forward to an explanation about the regional component of the residency systems within migration policy, which should inevitably be complemented by a study anchored in the discipline of international relations, paying attention to historic and contemporary relations of the national State with the countries of the region, showing processes, continuities and breakdowns.

5) Finally, the analysis of Argentine migration policy cannot be disconnected from the sphere linked to migration, but, in terms of theoretical production, the sphere of international relations has not been studied in depth.

International migration cannot be presented as a strictly domestic, political problem (Massey 1999), since the treatment of the citizen who lives in another territory can be affected by the multidimensional connections that the governments have developed or the treatment can consequently affect their relationships. Nowadays, the use of migration policies is more visible and part of the international affairs of the States²¹ (Mármo-

²⁰There was a war confrontation between Argentina and the United Kingdom in April-June of 1982 in Malvinas Islands [Falkland Islands], South Georgia and South Sandwich islands. The war started because Argentina tried to recover the sovereignty over the territory, which the United Nations rules a conflict between

²¹Argentina and the United Kingdom; the territory is currently exploited and managed by the UK.

The exterior policy is defined as a group of objectives and relation schemes defining a State in an international status, reaching out an important spectrum and dynamics for relationships, projecting state and non-state actors (Nicolao, 2014).

ra, 2002) [64], being the interaction between both spheres more dynamic. The objectives of international affairs can influence migration policy; migration policies can give an important projection to international relations and migration can become a subject of negotiation in relation with other external agenda (Mitchell, 1989) [65]. Moreover, some specialists state that “(...) migration policies are in the intersection of interior and exterior policy of host countries” (López Sala, 2005:15).

From the perspective of host States, one of the clearest manifestations is the influence on the measures affecting foreign groups who have the status of refugees or who receive different treatments in admission. The nationality criterion of MERCOSUR cannot be explained without considering the redefinition of the Argentine relations with the countries of the region. In effect, the most important point of Argentine international policy during the last period was enriched by the South American regional integration, being this geographical platform the international intersection of the country (Vadell, 2008; Colombo, 2011; Miranda, 2012) [66]-[68]. That idea converged in the enrichment of the relationships of partner countries, changing the orientation of Extended MERCOSUR project and enriching physical integration, policy coordination and social incorporation.

From the Argentine point of view, the “South American project of international policies” (Miranda, 2012), based on the idea of the current international context, where there is no future for projects of national development; integration is fundamental to achieve an economic intersection to win autonomous margins. But, still, moving forward to that direction implied contemplating and accompanying a “citizen” integration including people’s movement and recognition of rights of those from partner countries.

One of the main manifestations in the growing interaction between international and migration policy is the design of the governmental administration of host States, which is becoming more important²². In Argentina, the Chancellor office has started to progressively participate in migration policy, area which was of interest in the Interior Ministry.

Also, it is necessary to delve into the role of the international institutions in the configuration of migration policies, especially, international regime, supranational structures and international associations.

For example, it is evident that the migration policies of the States implicated in the processes of regional integration find a new framework for reality adaptation, because the circulation of people in the block is regulated (Mármora, 2002). The decision of being part of a block changes the relation of the countries, i.e., a change in the idea of absolute sovereignty, which is diminished in the existence of multilateral decisions of different issues in the region, depending on the degree of integration expected to be achieved. (Pérez Vichich, 2007). There are also other instances of cooperation (consensus/regional, interregional and international forums), which have grown during the last two decades, some of which have influenced decision making.

²²This is a common aspect for “issuing States” where traditionally these agendas are focused on emigrants (González, 2004), but newer for host countries.

As a consequence of these processes, López Sala (2005) has predicted the emergency of a process of “internationalization of immigration policies”, phenomenon which has shown that some host States have already defined objectives and actions in public migration policies, in articulation/cooperation with other States, in a context of multilateral, supranational and bilateral spaces. That process of internationalization, in the few studied cases, is based on the experience of the countries of the North, especially, Western Europe, illuminating the impulse of “strategies of cooperation”, addressing responsibilities for the control and restriction of the countries and promotion of “good governments” in the interior of the States (Cortés, 2008; Gil Araujo, 2011) [69] [70]. But, what happens in other countries and migration contexts, such as in South American? What other objectives do the States seek as regards migration policy internalization? What experiences of bilateral/regional cooperation are currently emerging? What triggers the strategies? Those are some of the questions that could open the study of migration policies from the perspective of international relations.

In MERCOSUR there are no supranational institutions or common migration policies, since there the situation is far from a full integration status, but, there have been advances in the cooperation of governments in the migration area, such as the Agreement of Residency and the Citizenship Rule. Argentina has been moving initiatives and has committed to participate in the Migration Forum of MERCOSUR, due to the necessity of accelerating the execution of measures that depend on the actions of Partner countries (Big Nation Plan), where the country is interested in reaching reciprocity issues (Residency agreement), among other variables.

5. Conclusions

In this paper, we have thought about some of the components of current Argentine migration policy, in the light of the main theoretical approaches that have been applied or have been part of the understanding of how policies are originated. Simultaneously, we have made questions and have presented some challenges for the emerging investigation of the revised models and public policies. In that sense, we found that the Old School that studied migration policy, which focused on the host Country and showed experiences such as the one seen in Argentina, where the focus is not made on restriction and control, created a space for new thoughts and questions.

The first question presented was the definition of migration policy, showing multiple forced, actors and processes, as opposed to one causative variable. We have included the emergency of social institutions in the public area, formalizing their influence on the institutional network; the role of certain public agencies such as the NDM of the Interior Ministry in the model of interests and visions of participation in migration processes; the institutional practices inherited, replicated in a new context and problems; the enhancement of the bonds between Argentina and South American countries and the redefinition of the integral project of South America, shaping a new criterion of eligibility, opening new bilateral and multilateral practices and solving migration issues; among others.

Now, none of the theoretical models revised incorporates the degree of complexity of migration policies and the interdisciplinary approach. Perhaps, we have mistaken the intention to reach only one explanation. There are different components with different levels of coherence, which, in general, are not affected by the same logic or variables. Also, those variables are part of the dynamics of migration processes, as presented by Marx's theory, due to the movement of "workers" from one country to another; that displacement involves people, families and communities with ideas, traditions and culture that are also part of the political subject, impacting on different areas of the host society. So, if the migration process is not understood in a holistic way, it will be very difficult to understand the definition and variations of migration policies.

But, migrants represent much more than what has been previously introduced. They are also part of the State that faces an international system of state units and non-state units that define connections and complex dynamics. This paper has tried to emphasize the need of having more international investigations of migration policies from the perspective of international relations, at least of two dimensions: the degree of influence of the exterior policies of host States on migration policies and the way in which certain international institutions (instances of regional integrations) affect migration norms progressively. How is the process of internationalization of migration policies materialized? What dynamics, experiences and actors are included? What is the degree of success in their objectives?

It is more evident that the way of looking at the domestic groups of interest, governmental agencies and even cultural and identity issues of the State are a product of a specific historic project, which should be necessarily complemented by a worldwide perspective, international context and dynamics of connections regarding issuing, transit and host States. The growing bilateral and multilateral approach of migration is the clearest manifestation and cannot be interpreted from a strictly domestic perspective. The "international" nature of migration (which involves the movement of citizens from one territory to another and a *transnational* tendency, where people and "here and there" at the same time), puts the regularization of the process in an international dimension which has not been explored in depth in this field of study yet.

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