

## The Argentine Role in the Promotion of Migration Policy in Mercosur (1991-2014)

Ludmila Culpi & Aleksandro Eugenio Pereira

**Ludmila Culpi** : PhD candidate, Federal University of Paraná, Brazil Visitor Student, University of Liège (sponsored by CAPES), [ludi\\_culpi@yahoo.com.br](mailto:ludi_culpi@yahoo.com.br)

**Aleksandro Eugenio Pereira** : Professor of International Relations, Federal University of Paraná, Brazil, [alexsep@uol.com.br](mailto:alexsep@uol.com.br)

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### Résumé :

La politique migratoire des États membres du Mercosur, culminant avec la signature de l'Accord de Résidence du Mercosur (RA) en 2002 a été couronnée de succès depuis les années 2000. L'objectif principal de cet article est d'étudier le processus par lequel les politiques de migration du Mercosur ont été construites pour comprendre le rôle du *leadership* argentin dans le processus. En outre, le Mercosur a modifié ses premiers objectifs des années 2000 et s'est réorienté vers des préoccupations de développement social et politique de la région. Ce changement a entraîné une convergence politique et idéologique entre les États après le virage à gauche en Amérique du Sud, qui peut être expliqué par une approche post-néolibérale du régionalisme. La réorganisation du bloc a empêché la paralysie dans les processus de prise de décision, en particulier en ce qui concerne les questions sociales. Le cadre théorique de cette étude est l'intergouvernementalisme libéral, qui fait valoir que l'intégration régionale est le résultat des négociations réalisées entre les États contrôlés par les dirigeants nationaux. L'étude suppose que les politiques plus progressistes de la politique argentine de migration, par la création de nouvelles politiques en matière de droits de l'homme, et son rôle important en proposant l'Accord de Résidence du Mercosur, était essentielle pour assurer la modification de la politique migratoire dans le bloc.

### Abstract :

The migration policy of the member states of Mercosur, culminating with the signing of the Mercosur Residence Agreements (RA) in 2002, has been successful since the 2000s. The main goal of this study is to investigate the process by which Mercosur's migration policies were constructed, and to understand the role of Argentine leadership in the process. In addition, Mercosur changed its initial purposes (first set in the 2000s) and refocused on concerns regarding the social and political development of the region. This change resulted from a political and ideological convergence among the states after the shift to the left in South America, which can be explained in terms of post-neoliberal regionalism. Thus, the reorganization of the bloc prevented paralysis in the decision-making processes, particularly regarding social issues. The theoretical framework of this study is liberal intergovernmentalism, which argues that regional integration is a result of deals made among the states controlled by the national leaders. The study assumes that more progressive policies in Argentine migration policy (including the creation of additional policies in respect to human rights) and the important role of Argentina in proposing the Mercosur Residence Agreement, were crucial to ensuring the

modification of migration policy in the bloc.

## **Introduction**

The member states of Mercosur have sectorial public sector policies that shape the integration process. The literature on Europeanization analyses the ways in which European Union (EU) decisions influence the internal policies of the relevant states. Regional policies in the South American context, as argued by Modolo, result from articulation at two levels: regional and domestic<sup>1</sup>.

Solanas uses the phrase “mercosurization of public policy” to observe the extent to which Mercosur’s decisions are included in national laws or influence the member states’ individual discussions on policy<sup>2</sup>. In Mercosur, we observe the transmission of migration policies from states to the bloc on some issues, particularly from Argentina, which approved a new law on migration in 2003. The debate surrounding this legislation influenced the formation of the Mercosur Residence Agreement project, signed in 2002, and later ratified in 2009.

Thus, it is relevant to examine sectorial case studies to investigate the possibility of policy diffusion and the importance of Mercosur and its institutions for promoting policies on some issues. In this sense, Mercosur’s migration policy has changed and it was strongly influenced by the domestic decisions of member states, particularly Argentina. The Argentine process of setting the legal framework had a material impact on the construction of regional migration mechanisms, which this study demonstrates.

This study’s preliminary argument is that Argentina plays an important part in deepening Mercosur’s migration agenda because of the intergovernmental character of the bloc. The study’s theoretical framework follows the logic of intergovernmental theory, which proposes that member states generally determine the process of integration based on their individual national interests. Thus, individual domestic policies influence the integration process at the regional level.

The study’s methodology is an analysis of the minutes of the Migration Forum of Mercosur Ministers, which was the agency responsible for formulating the bloc’s migration policies, and Mercosur agreements on migration between 1991 and 2014 as well as the literature on the issue. It also is important to understand the domestic factors that promotes one member state to take the leadership on the issue and the reasons that the other member states accepted that prominence.

This article has four parts. First, it covers the contribution of liberal intergovernmental theory to explain the importance of the member states in controlling the bloc’s evolution. Next, it discusses the transformation of the bloc’s goals since 2002, stemming from an ideological convergence among the member states and the post-neoliberal regionalism approach. Third, the elements of Argentine prominence are examined, including an investigation of its national determinants. Fourth, the process of forming migration policies in Mercosur is analyzed from 1991 to 2002 and from 2003 to 2014 to compare the periods and determine whether Argentine leadership since the 2000s contributed to a major advance in the migration issue for the bloc. The conclusion consists of final remarks.

## **Intergovernmental Theory and the Role of the Member States of**

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## **Mercosur**

During its almost 25-year history, ruptures and invariance have marked Mercosur's evolution. Regional integration, particularly regarding Mercosur, is controlled by member states and their national interests, which undermines engagement with the formation of interests and a common collective identity. The differences and asymmetries among the member states have not been overcome, which impedes institutions' work towards establishing clear objectives for the bloc<sup>3</sup>. Mercosur's regional integration development depends on specific interests, with special emphasis on Brazil and Argentina. In the specific case of migration, Argentina has an important role and is a protagonist on this matter at the regional level. Brazil (as well as Venezuela) takes a more conservative approach to the reception of immigrants and the rights of these immigrants.

According to Malamud<sup>4</sup>, the main obstacles faced by the bloc are of an institutional character because of the strong emphases on intergovernmentalism and presidentialism. This emphasis undermines the advancement of integration because the process depends on national interests and sets a strong presidential diplomatic presence in the bloc, a feature which is present in most South American processes. The institutions have little autonomy and suffer from decisional paralysis because they depend on the political willingness of the governmental leaders. In addition, according to Malamud, the most critical decisions are made at presidential conferences. Thus, the emphasis of the intergovernmental bloc hinders the obtaining of a separate and autonomous dynamic<sup>5</sup>.

This paper argues that its intergovernmental character has undermined Mercosur's autonomy, although it has not restrained the development of some important regional policies. The ideas that comprise the process come from decision makers who are generally heads of state, and who have particular interpretations of the policy construction process. From this perspective, national policies and domestic dynamics could inject some topics and agendas into the process of decision making and policy making, as in the case of Argentine migration policy.

Intergovernmental theory is inspired by a realistic approach to regional integrations. Moravcsik<sup>6</sup>, who is the theory's preeminent analyst, assumes that domestic policies have important effects on relationships among states. Therefore, he suggests, it is relevant to open up states' 'black box[es]' to understand regional formation. Malamud points out that 'Domestic politics were thus the source for explaining regional policy-making, and also integration itself'<sup>7</sup>.

In intergovernmental theory, Moravcsik develops an approach to understanding regional processes using three stages. The first stage focuses on the determination of national preferences supported by economic rather than geopolitical interests. In the second stage, negotiations among states occur in order to achieve their individual interests at the regional level through sequential bargaining. The third stage comprises the establishment of institutions designed to guarantee the legitimacy of collective decisions previously made. In each agreement the states decide whether to transfer power to the communitarian organs, excluding the notion of supranationality unless it does not represent a threat to national sovereignty. Malamud argues that the effects of these institutions are irreversible and their functions are intended to defend the credibility of commitments and increase the incentives for states to cooperate.

This paper argues that, because of its assumptions, liberal intergovernmental theory has significant explanatory power regarding Mercosur in the case of migration. In the following section the process of renovating Mercosur's goals from the 2000s is briefly described; this is an important step in explaining the changes to Mercosur's migration policy.

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### The Reorganization of Mercosur in the Post Liberal Regionalism Context

Caballero<sup>8</sup> argues that Mercosur has experienced a restructuring process explainable by several factors. The first factor is the change in member states' governments, which shifted to the left in the 2000s when leaders' policies' synergies contributed to give new purpose to the process. The second factor is the greater participation of civil society actors in the process<sup>9</sup>.

After the crises and disagreements of the early 2000s, the member states refocused on the region, which strengthened the social aspects of the bloc. It is argued that the explanation for the rapprochement of the member states was the political and ideological convergence that occurred after 2003, when countries went through changes in their governments and assumed new positions, referred to as the 'turn to the left'. This change can be explained by the nationalistic stance of South American leaders, which strengthened the social purposes of the bloc, although it weakened economic goals because of barriers to intra-regional trade. Thus, Mercosur's initial purpose to establish a common market was frustrated, resulting in the need to reorganize the bloc in a movement that can be explained by the post-neoliberal regionalism approach<sup>10</sup>.

Post-neoliberal regionalism or post-hegemonic regionalism is a relevant theoretical framework to this progression. This approach 'refers to the move away from open regionalism<sup>11</sup> in Latin America during the 1990s based on the neoliberal trade policies and economic liberalization'<sup>12</sup>.

This perspective presents a reinterpretation of regional processes in Latin America in the 2000s resulting from the transition from neoliberal governments to leftist governments. This movement, known by some as the 'Pink Wave', was adopted by progressive governments in South America. Silva<sup>13</sup> argues that the conditions that allowed for this phenomenon were the processes of democratization and the ending of the Cold War. The end of the Soviet model led the left-wing parties to adapt solidarist-Marxist logic to household characteristics. Moreover, the restoration of democracy enabled these leftist parties to compete for national-level executive offices.

Post-neoliberal regionalism is a foreign policy mechanism adopted by states to ensure development based on a broad social agenda and regional autonomy. Thus, post-neoliberal regionalism is not understood as a theoretical current, but as an approach that explains the reorientation of regional projects that emerged in South America. Perrotta<sup>14</sup> points out that the region underwent a change in which states roles were redrafted based on the prioritization of a broader socio-political agenda.

In this context, member states have taken a greater number of progressive positions with economic policies that emphasize a fight against income and social inequalities. This ideological convergence, as advocated by Santander,<sup>15</sup> can be initially viewed as beneficial to the progress of the regional integration process led by Brazil under Lula's government. However, Santander argues that this ideological approach did not eliminate the rivalries among national leaders with their national projects, which prevented regional cohesion. Member states undertook a greater number of nationalistic positions in terms of, for example, energy security, which explains the tension between Paraguay (commanded by Fernando Lugo) and Brazil (run by Lula), which share the energy production of Itaipu. This controversy encouraged even Brazil to turn against Paraguay and approach Venezuela, which joined Mercosur in 2013 after Paraguay's suspension (whose position opposed the accession of Venezuela to the bloc) for allegedly violating democratic principles during the 2012 coup against Lugo. Another example of political differences between member states was the case of the Papelleras Cellulose Company, which generated controversy between Uruguay and

Argentina<sup>16</sup>.

Therefore, a simple ideological convergence is insufficient to explain the coordination of policies and assert that there is no distinction between political and economic guidelines. The political radicalism of some member states, along with economic nationalism, hindered the formation of a concrete regional integration process and stopped the advancement of complete intra-bloc commercial liberalization<sup>17</sup>.

The ideological convergence promoted political fragmentation in Mercosur, but it did not prevent the development of certain policies, except regarding the necessary limitations of the advance. The emergence of new blocs and the proliferation of initiatives demonstrate that Mercosur began to face a political crisis and competition, which, at times, created paralysis and disrepute within the bloc. However, Mercosur pressed for the reorganization of the bloc, which began with certain structural changes in 2000. These changes promoted the establishment of new institutions and new themes were brought into the bloc's agenda, such as the migration issue.<sup>18</sup> Evidence of this change is the creation of the Regional Parliament and the Structural Convergence Fund, as well as the institutional strengthening of Mercosur. Mercosur, which had limited abilities to adapt itself to changes, even during alleged paralysis, demonstrated dynamism in some areas, such as the migration issue.

### **How did Mercosur's Reinvention and Argentina's Progressive Policies Influence Mercosur's Migration Legislation?**

The post-neoliberal regionalism movement is conducive of a widening of Mercosur's social agenda, including migration, which has increased its focus on human rights and the construction of a Mercosurian nationality, as is observed through this analysis. This shift in Mercosur's approach to migration can be understood to result from the increasing number of nationalist and populist governments in the region, which have different political orientations on power than those of previous governments.

The reasons for the adoption of a wider approach in Mercosur are many, such as: (1) the idea 'that a common (regional) position will enhance bargaining power in global forums'; (2) a discursive emphasis on immigrants' human rights; and (3) concerns about security based on the logic that border control would preserve social order<sup>19</sup>. Another reason could relate to the efforts of some transnational policy networks to incorporate human rights considerations. Last, the adoption could relate to governments' interests as they could benefit from workers' movement and avoid negative domestic effects from regional flows. This rhetoric focuses on human rights that spread from the Argentine progressive understanding of migration. In this sense, Mercosur's leaders recreated the bloc and used inclusive discourse to improve their possibilities for successful negotiation with more developed countries to achieve the first reason stated above.

The proactive capacity of Argentina to influence Mercosur's decision-making demands an examination of the ways that member states' foreign policies related to their individual national politics. This notion evokes the intergovernmental theory's assumptions, which argue that regional policies result from bargaining processes among national leaders.

Regarding the important part played by Argentina in the inclusion of migration issues in the Mercosur debates, Margheritis argues:

Indeed, Argentina has acted as an inspirational model for the reforms of national migration laws, particularly in the case of Uruguay, which enacted a new migration law in 2008 after contact with Argentine migration experts. Thus, Argentina is leading the negotiations because of its propositional position in the decision-making process and because of the ‘emulation effect of its national migration policy’, not because it is a relatively more powerful member state<sup>21</sup>. The Argentine migration law, the *Ley de Migraciones argentina* (Argentine Migration Law) No. 18.251, was enacted in 2003. It understands migration as a human right and opposes criminalization of immigrants. In addition, the law refers to Mercosur and the regional aspect of migration. The law was a response to civil society pressures to expand foreign rights. Domenech<sup>22</sup> argues that the law moves migration from the perspective of exclusion to one of inclusion. Domenech states that this progressive law is also a result of international contacts and is based on the logic of international and regional cooperation regarding international migration. Alfonso points out that the criterion of Mercosur nationality was an important instrument on which to build the new migration policy in the government of Nestor Kirchner, who defended the member states relevant to development and social inclusion<sup>23</sup>.

The Argentine Migration Law resulted from many domestic and regional circumstances that led to its success, namely: (1) public concerns with immigrants’ human rights; (2) consensus of the member states (many senators<sup>24</sup> defended the need to reform migration laws); (3) a new Director of Migration installed in 2003 (Ricardo Rodríguez) with a progressive view on migration<sup>25</sup>; and (4) the political will of the Argentine government to boost Mercosur and eliminate the restrictions on movement in neighboring countries.

Furthermore, there was pressure from and involvement by civil society, as indicated in a 2002 report of the Center for Legal and Social Studies<sup>26</sup>. The report notes the concerns of organized civil society regarding the problem of excessive emigration resulting from the Argentine economic crisis and the need to establish a new approach to migration with an increased humanitarian emphasis. In 1996, civil organizations created a forum in Buenos Aires aiming to integrate and defend immigrants’ rights. The debates were crucial to Giustiniani’s drafting of the new law enacted in 2003. There was a conference in December 2000 and a public hearing in September 2002 that included civil society in the discussions<sup>27</sup>.

In this sense, Marmora and Garcia argue that the 2003 Migration Law resulted from a long process of debate among numerous actors, such as civil society and executive and legislative powers, in 2000, 2001, and 2002<sup>28</sup>. During all of the meetings, the search for leadership on the topic was implicit, particularly in statements made by senators and Nestor Kirchner.

The reform of the Argentine law was possible in an ideological context that was provided by Mercosur, as stated by García. Moreover, it is believed that Argentina changed its law to conform to international agreements on human rights and migration, particular those in United Nations’ reports. Minister Jorge Taiana stated at the time that the principles upheld by President Nestor Kirchner regarding management, which influenced the passage of the migration law, were ‘the respect and promotion of human rights and democracy’, with emphasis on the ‘deepening of Mercosur’<sup>29</sup>.

Another initiative that prominently positioned Argentina is the *Patria Grande Program* (Great Homeland) of 2004. This was the unilateral implementation of Mercosur’s Residence Agreement<sup>30</sup>, in which the government approved 430,000 documents of Mercosur’s undocumented immigrants<sup>31</sup>.

Even the regularization program is understood as a success; its goal is to obtain resources from immigrants, who will participate in the social system and pay taxes. This functionalist view contrasts with the humanistic notion of immigrants. It represents the logic of a subordination of some principles on migration and human rights to national economic needs, which again recalls intergovernmental assumptions.

In 2005, through the Mercosur Specialized Forum on Migration, Argentina tried to extend its program to other member states. This worked with Paraguay, which began applying its migration program to Argentina's citizens. In April 2005, the Declaration of *Patria Grande* was signed in Mercosur, in which the member states committed to facilitate regularization of Mercosur citizens<sup>32</sup>. This is evidence that Argentina was trying to assume a dominant position in Mercosur on the migration issue. Argentina also was a proponent of Mercosur's Residence Agreement, which was inspired by Argentina's newly adopted migration law. Therefore, this domestic social pressure to change the approach to migration, combined with Argentina's willingness to regionally lead on the issue, resulted in Argentine prominence regarding migration within Mercosur.

In the context of leadership disputes in the bloc, it is important to stress the reasons that Brazil, as the most important Mercosur economy, accepted Argentine leadership on migration. Margheris proposes (in agreement with some other experts consulted for this study<sup>33</sup>) that Brazil did not consider migration as a particularly important element in its agenda and was not suffering from domestic migration-related problems. Furthermore, Argentina filled the vacuum created by Brazil regarding migration.

Overcoming the logic of leadership in Mercosur, Argentina and Brazil formed a basic political understanding on the migration issue. Patarra argues that even Brazil, as one of the more restrictive countries regarding immigrants, took a position towards harmonizing its migration policy in Mercosur, which remains unchanged<sup>34</sup>. The next section explains the ways that the Argentine leadership led to an evolution of Mercosur's migration policy.

## **The Evolution of Migration Policy in Mercosur between 1991 and 2014**

It is important to develop sectorial case studies to examine the part played by Mercosur in the coordination of regional migration policy. To improve understanding of the evolution of migration and mobility policy, we examined the relevant legislation since the bloc's formation in 1991. In the first subsection (below), we explain the migration policy of Mercosur's first 10 years, in which we observed a strong dominance of the commercial aspects of migration in the discussions. In the second subsection, we then analyze the process by which the migration issue was raised, based on the minutes of the Mercosur Specialized Forum on Migration and the ratified agreements on migration from this period, to determine whether Argentine leadership in migration since 2002 was decisive to the migration policy adopted in Mercosur.

### **Migration Policy in Mercosur between 1991 and 2001: A Liberal Approach**

The process of including migration issues in Mercosur's agenda happened in an incremental way. The Asuncion Treaty had no references to the issue of migration; the closest meaningful phrase is 'movement of factors of production', referring to people and workers. In addition, there was no

committee in Mercosur's Parliament or any active committee to exclusively deal with the topic. The first active committee to discuss migration was Working Subgroup No. 11, named 'Labor Relations, Employment, and Social Security', which lasted from 1991 to 1995. This committee brought in a commission to deal with the migration issue. The most important organization on the issue of migration was the Mercosur Specialized Forum on Migration which joined the Ministers of Labor from the member states. The Migration *Committee of the MERCOSUR Ministerial Meeting* has met since 1997. The first meeting was on 30 May 1997, for which the topic was the exchange of information related to domestic migration laws.

In January 1998, the ministers of Brazil, Paraguay and Argentina agreed to exchange information on benefits granted to foreigners and discuss the controls used at the tri-border area.

On the subject of movement, in 1991 the Common Market Council defined the installation of ports and preferred channels of entry and exit for citizens and residents of regional countries to ease cross-border travel. In 2000, privileged channels were installed at airports to give special treatment to Mercosur nationals. In 1993, to facilitate movement, the possibility of creating a Mercosur Passport was discussed. In 1994, a common feature for passports was defined to coordinate the criteria for issuing identity documents. This feature used three passport colors, with the inscription 'Mercosur' on a dark blue background. This year, the Temporary Travel Mercosur Document took effect to allow for easy re-entry to the member states<sup>35</sup>.

An important element of people's cross-border travel throughout the regional space is the search for ways to improve the identification system to verify the authenticity of passports. To oversee the process, the Mercosur Center for Consulting Personal was created to house information on individuals established in the territory of the member states. Regarding the identification of valid travel documents, a series of standards was devised in the 1990s, but none of them are yet in force<sup>36</sup>.

In 1999, the Transit Vicinal Trans-Border was created to establish rules for movement across borders. The possibility of providing authorization to cross borders for 72 hours was defined. Since the bloc's inception, Mercosur citizens have not needed visas to enter member states as tourists. Regarding border control, the Recife Agreement sought to coordinate the border control activities in the border regions. A single model entry card was devised, which is confirmed at the entry point<sup>37</sup>.

An aspect of migration that has received attention since Mercosur was formed was the development of a common strategy to combat human trafficking. This was headed by Argentina, which proposed a Regional Protocol on Human Trafficking and Illegal Migration. This document resulted in the 'Declaration of Asuncion in the Field of Human Traffic and Smuggling of Migrants', adopted on 8 June 2001<sup>38</sup>. This document signals the time when Argentina first showed its capacity for leadership on migration in Mercosur.

To summarize, the evolution of the migration issue was slow in Mercosur. Concerns during the first ten years focused on developing mechanisms for cross-border travel in the region, along with tourism and border control. There were no concerns about expanding and harmonizing the rights of immigrants or combating the illegal trafficking of immigrants. The decisions at meetings aimed to resolve short-term issues on promoting freedom of movement to achieve the desired common market. In the first years of development, until 2000, there was almost no pressure from Argentina



to redirect Mercosur's migration policy. In the next subsection, migration policies that emerged after 2002 are explored to determine whether there were major advancements regarding migration and if the focus on social issues increased, which would suggest that Argentina's national migration law (signed in 2003) was important to the evolution of Mercosur's migration policy.

## **Mercosur Migration Policy from 2002 to 2014: A Post-Neoliberal Approach**

Regarding the issue of residence, at the March 2002 meeting of the Mercosur Specialized Forum on Migrations, Argentina presented a proposed agreement on the differential treatment of Mercosur citizens in the processing of migration regularization in the territory of any member state without the need to first leave the state. This agreement was the seed of the Mercosur Residence Agreement, which was approved in 2002. Argentina played an important part in the agreement, considering its expertise and advanced progressive ideas on the issue of migration. The agreement also emerged from Mercosur's redevelopment, which relates to post-liberal elements, is associated with a search for regional autonomy, and is linked to deeper concerns about social issues.

Agreement on *Residence for Nationals of Mercosur States, Bolivia and Chile*, better known as Mercosur's Residence Agreement (RA), granted rights to Mercosur's immigrants on an equal basis with national immigrants. This superseded Mercosur's commercial logic, which understood mobility only in relation to immigrant workers as a productive factor. The RA identified immigrants as citizens with numerous reasons for migration, such as students, religious leaders, or family members, as stated in the Argentine Migration Law<sup>39</sup>. The RA was an important tool for achieving the goal of creating a Mercosur citizenship.

The RA was possible only after the internationalization of the four member states. It was a barrier because the RA was not ratified until 2009, when Paraguay nationally incorporated it. The document was implemented seven years after its creation, revealing the bloc's intergovernmental character as an obstacle. Indeed, Argentina, as well as being a supporter of the document, was the first country to notify Paraguay of the RA internalization in December 2003<sup>40</sup>.

Argentina's successful trajectory regarding migration was made manifest in the RA, which was proposed by its delegation, with only minor changes proposed by other member states. Comparing the Argentine Migration Law to the RA, we can observe many similarities. Title 1 in the Argentine Law refers to immigrants' rights, as does the RA in its ninth article, where it refers to family reunions, equality of rights, and many others items<sup>41</sup>. The procedures used to achieve temporary and permanent residence for Mercosur nationals were almost identical in the two documents. Therefore, the Argentine influence on the document seems evident. Thus, we conclude that the domestic elements that influenced Argentina's migration norms influenced the content of the RA. The intention to achieve Argentine leadership on migration was observed in many debates in the Mercosur Specialized Forum on Migration which are described and supported below.

In April 2004, the first meeting of the Mercosur Specialized Forum on Migration was held. Through Argentine initiative, the need to create a meeting of Migration Directors in the Migration Forum was considered, and subsequently established in June 2004. Another major breakthrough occurred at the May 2004 meeting related to the Declaration of Principles on migration policy in Mercosur. The Declaration of Santiago on Migration Principles, signed in May 2004, was an important step forward for coordinating migration policy in the bloc and represents the overlap of the Mercosur

economic focus<sup>42</sup>.

At the November 2005 meeting, Argentina presented an idea to reactivate the 'Patria Grande', which was a program of migration regulation for Mercosur nationals. On 18 November 2005, the ministers adopted the Montevideo Mercosur Declaration against Human Trafficking and signed the Declaration of 'Patria Grande' program to facilitate the regularization of immigrants. The Argentine regularization policy was an important tool used to strengthen the regularization of Mercosur's national immigrants because it was later emulated by Uruguay, Paraguay, and Brazil. Paraguay was the first to demonstrate its intention to adopt the program, but it was not implemented until 2009. Uruguay initiated its Regularization Program in 2006 as the first country to imitate Argentina. Brazil started the program first with Uruguay in 2006 and then entered it with Argentina in 2008. The procedures of the three programs were similar to the Patria Grande program and RA requirements in terms of documentation<sup>43</sup>.

In Mar del Plata, at the March 2006 meeting, the Argentine delegation again suggested a change to migration standards for the member states to ensure effective harmonization. At the May 2006 meeting, Argentina presented a paper demonstrating the reasons for harmonizing the legislation among the member states. The Argentine delegation also headed a project to develop an agreement on harmonizing the length of residence for nationals of member states when the purpose of movement across borders is tourism, demonstrating its leadership in the Mercosur Specialized Forum on Migrations<sup>44</sup>.

In March 2007, Uruguay presented its new migration law, which was being studied by the Mercosur Parliament. Uruguayan migration laws were emulated from the Argentine migration laws, which is an example in this matter. An analysis of the Uruguayan laws' content revealed many instances of text copied from the Argentine law<sup>45</sup>.

In October 2007, Brazil proposed including an identity card in the documents accepted for cross-border travel in the region<sup>46</sup>. Regarding the expansion of human rights, an agreement on the 'Implementation of the Shared Database of Children and Adolescents in Vulnerable Situation of Mercosur' was discussed in June 2008. At this meeting, Brazil proposed initiating a negotiation on student visas, suggesting that the application process be simplified. Argentina addressed the need to implement an exchange of information on the agreement on human trafficking. In November 2008, the Declaration of *Porto Alegre* on the Mercosur Residence Agreement was presented, which highlights the importance of the enforcement of the RA<sup>47</sup>. Thus, the bloc was gradually leaving its initial purpose and moving forward into a social agenda.

In April 2009, delegations discussed the Biennial Action Plan on the public safety of Mercosur citizens, debating the fight against human trafficking. From an Argentine initiative in the 2009 meetings, the opportunity to develop guidelines on regional mobility to facilitate the application of RAs was discussed. In May 2009, the issue of human trafficking and refugees was addressed. In October 2009, the ratification of the RA was finally accomplished, after the internal incorporation of Paraguay, which was a great success for migration policy and represented the cornerstone of Mercosur's Migration Policy<sup>48</sup>.

Since 2010, increased concern has been voiced regarding coordinating immigration policy among the member states by promoting courses on International Refugee Protection. A relevant discussion in March 2010 concerned a proposal to modify the Recife Agreement on Integrated Border Controls.

The Argentine delegation proposed achieving simultaneity on border controls, with implementation of one place to entry and exit from both countries and integrated control processes<sup>49</sup>.

At the 2011 meeting, Argentina presented a project for developing an agreement on Mercosur's migration standards to standardize migration procedures. In November 2011, the Project of Common Tourist Visa to Mercosur Member States was proposed by Brazil and discussed. Under this project, visa applicants could apply for visas from only one of the member states. In addition, at this meeting, Brazil presented a draft of the 'Declaration on Gender, Migration and Development', which indicates the change in the bloc's ideas by associating migration with human rights<sup>50</sup>.

An important step was taken at the August 2012 meeting when the Brazilian delegation proposed development of the Mercosur Statute for Refugees, which was an attempt to standardize refugee reception policy<sup>51</sup>. In September 2012, the need to create a specific mechanism to protect people who immigrate in emergencies, such as natural and humanitarian disasters, was discussed. Throughout 2012, the Mercosur Declaration of Principles on Refugee Protection was discussed<sup>52</sup>.

In March 2013, the discussion continued on the Project of Mercosur Migration Agreement, presented by Argentina. Argentina also proposed implementation of a Migration Information Exchange Network of Mercosur to facilitate information exchange among member states' migration authorities. That year, the discussions essentially concerned the Mercosur Migration Agreement and the issues of refugees and statelessness<sup>53</sup>. However, the Refugee Statue was not signed until 2016. Venezuela has been imposing limits because it does not want to discuss this commitment in Mercosur, a fact that demonstrates that the intergovernmental character of the bloc weakens its policy evolution, with each discussion depending on individualized bargaining processes.

In September 2014, another topic under discussion related to the refugee issue was the obligations of member states to protect children and adolescents, including the establishment of identification procedures<sup>54</sup>.

From our analysis, we identified several topics discussed in the Mercosur Specialized Forum on Migrations between 2002 and 2014, of which the following were prominent: (1) control and registration of foreigners; (2) free movement; (3) human trafficking; (4) refugees and asylum seekers; (5) protection of children and adolescents in vulnerable situations; (6) RA; (7) coordination of migration and labor policies among the member states; and (8) the Mercosur passport and migration regularization.

There was a change from the notion of workers' mobility to the construction of Mercosur citizenship, which demonstrates the overcoming of neoliberal ideas. All of these issues indicate the importance of the member states in proposing modifications to migration legislations, particularly the proactive Argentine posture, to protect their national interests. In some cases, Brazil acted as an agenda-setter, particularly after 2011.

Argentina's prominence, achieved through the combination of social pressures and domestic political willingness, which manifested regionally in its propositions of many documents and debates (particularly the RA), are crucial to understanding the changes to Mercosur's approach to migration. The Argentine progressive ideas about migration were expressed in the Mercosur RA and moved Mercosur from a commercial logic to a broader view that understands migration as a human right.

## Conclusions

Legislation on migration since the ratification in 2009 of the RAs has guaranteed advancements in freedom of mobility in the region. The proposals of the Mercosur Specialized Forum on Migrations have contributed to creating regional policies on migration. Mechanisms have been created to manage cross-border movements and to ensure immigrants' identifications and border controls. Indeed, Mercosur is important, particularly as a forum for exchanging ideas and knowledge in a process of bargaining among member states.

Particularly since 2011, the Mercosur Specialized Forum on Migration has discussed issues on the rights of immigrants, refugees, asylum seekers and statelessness. Themes focused on human rights have become a larger part of the agenda, such as children's rights and the fight against human trafficking. Throughout the process of including these items on the agenda, we identified Argentine leadership seeking to spread Argentine national policies. In many cases, member states emulated Argentina and adopted its proposed agreements in Mercosur. The question of the bloc's reorganization permeated the process because there was a higher prioritization given to issues of immigrants' rights since 2002, demonstrating the politicization of migration issues. This change demonstrates that approaches to migration policy since the early years, which focused only on workers' cross-border movements, changed to reflect a perspective about the construction of a Mercosur citizenship.

This analysis found that the transformation of Mercosur's migration policy, particularly regarding the approval of the Mercosur RA, resulted from Argentina's efforts to renew the migration discussion. The reorganization of Mercosur was explained by elements of the post-neoliberal regionalism approach. The changes to migration policy, which became increasingly progressive in the bloc, were explained by several factors, with great importance placed on Argentina's leadership.

We conclude that domestic conditions in Argentina contributed to form its migration approach focused on human rights, and those elements are relevant to understanding the shift in Mercosur's migration perspective. The proactive Argentine posture in the Mercosur Specialized Forum on Migrations was crucial to guaranteeing a reorganization of Mercosur's treatment of migration.

However, there is little progress on commitments and the effective harmonization of migration legislation because of the intergovernmental character of the bloc (as explained by Moravcsik and Malamud). The problems surrounding communitarian decisions persist because of weak institutions combined with conflicts among member states. Since 2010, no one has emerged as a temporary high representative to solve the need for leadership. However, in August 2016, Mercosur faced a crisis because Brazil, Argentina, and Paraguay rejected Venezuela's assumption of the Pro-Tempore presidency, which paralyzed the bloc.

Presidents have historically had an important role in the migration issue, articulating consensus using discursive tools with Mercosur as an example of interpresidentialism more than intergovernmentalism, as presented by Malamud.

Migration agreements progress regarding the free movement of people in the region, but these agreements are discriminatory and do not provide the same rights to nationals of third party states as they provide to member states. The coordination of migration policies has an internal contradiction: the humanitarian view of immigrants runs counter to the mechanisms of border control and restricted entry to nationals of other (non-member state) countries. Thus, there is

apparently weak political will towards coordinating immigration policies between the member states through the nations of third-party states.

Although member states have incorporated the RA and other regulations into their national legislations, they still differ in their treatment of foreigners. Although the rules exist, there are still major obstacles to their implementation and enforcement by member states that undermine progress towards a regional migration policy for the bloc. Domestically, numerous non-state actors contribute to pressure member states to address the migration issue, particularly in Argentina. However, the formulation of Mercosur policy occurs without the meaningful participation of civil society, hampering the legitimacy of decisions.

## Notes

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