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Societies and Identities: the Multi-faceted Impact of Migration

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Session II: Managing Perceptions and Misperceptions of Migrants and Migration

**PUBLIC POLICIES AS A TOOL TO CHANGE THE PERCEPTIONS OF MIGRATION AND
MIGRANTS**

Nora Pérez Vichich ¹

The awareness of the existence of different cultures as a result of the migration to a country or region and the recognition of such cultures enable to lay the basis of coexistence, not only on simple tolerance but also on the acceptance of such diversity.

The lack of recognition of the contributions made by migration in the economic, social and cultural fields, together with abusive situations, unfair treatment, discrimination, xenophobia and mistreat are the elements that shape the rejection to and negation of the 'others', sterilizing any possibility of equal integration in the receiving society.

The 'others', in this case the immigrants, due to their nationality, ethnic origin or culture, are perceived not only as *different*, but also in some sense, as *inferior*, and therefore having less rights than natives.

When migrants claim equal access to the labour, social or political rights they are denied, they are perceived as *intruders* or *invaders* and if they are irregular or have not the same customs as natives, as a threat to the social cohesion of the receiving community.

The change in perceptions needs an intercultural dialogue where interlocutors know each other, and 'know' means not only to accept that he or she *is*, that he or she *exists*, but to admit to seeing, approaching and touching him or her, listening to his or her accounts and stories, singing his or her songs, interacting and meeting in spaces of creation and material and cultural production, as well as the generation of some links and the change of others.

Integration and social cohesion are a double process. The adaptation of immigrants to the culture of the receiving country is not enough. It is necessary that the citizens of the receiving country open their minds, change their rejecting attitudes and learn to understand the cultural forms of their new neighbours; in other words, the national culture should be completely opened to coexistence, changing the negative

¹ Head Advisor to the Directorate of International Migration (DIMIG), of the General Directorate for Consular Affairs (DIGAC), Ministry of Foreign Affairs, Argentina

perceptions that make up the walls of a house that does not protect but excludes: discrimination. A house that should be rebuilt with the help of many actors.

Through the law and the public policies, the State plays the first but not the sole leading role in the deconstruction of discrimination, xenophobia and violence against the others. When the State segregates and determines unequal treatment through its policies, norms or institutional practices, the society perceives their own discriminatory practices as legitimate.

In the case of Argentina, the Law 25.871 of 2004 marked a turning point in the relationship between the State and the migrants as it re-founded such relationship on the basis of the unrestricted respect to the Human Rights of migrants sustained by the 1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Besides simplifying the regularization procedures, the law sets up the inalienable rights to migrate, fair treatment between natives and foreigners, family reunification and treatment free from discrimination. On the other hand, it ensures the access to health, education and social assistance to the foreign population independently of their migration status.

Argentina, a historical country of destination and today also the country of origin of migrants, has been a precursor in the region and in the world with an advanced migration legislation shaped by the principles of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Argentina's programmes to facilitate migration, which reflect in its present public policy, enabled the normalization of the migration status of more than 12,000 migrants from countries outside the MERCOSUR in the period 2004-2006, and more than 600,000 citizens from the Extended MERCOSUR member countries from 2006 up to date.

This line of treatment of migration irregularity is also being adopted by other countries in the Region, on the understanding that maintaining immigrants in an irregular status constitutes a primary form of discrimination, excludible by definition, which can be only overcome by and from within the State.

Therefore, the first anti-discrimination tool is the promotion of migration regularity by means of streamlined and permanent devices, facilitating the insertion of migrants and their rights in the receiving society. This contributes to eliminate a factor that -among others- stigmatizes the migrant in front of the society. Facilitating regularization is the way to empower migrants, reduce their precarious living conditions and ameliorate the living conditions of the society as a whole.

There are subtler, less evident forms of segregation, sometimes hidden behind the mask of 'orderly' migration, such as the so-called 'circular migration'. The countries promoting such pattern, often those with higher levels of relative development, have found in the increase of their circular migration programmes and the

transformation of such programmes into the only possibility for regular entries, a way to be coherent with their restrictive, not very integrating policies on migrants, especially unqualified migrants. Thus, the countries of destination can have flexible labour markets and cover their needs without much social cost or pressures to integrate migrants on a permanent basis.

Some countries undergoing particularly critic situations in economic and social terms can find in this pattern a way out of their employment problems, as it can be valid to tackle a phase of the crisis.

However, instead of a path to development as held by its promoters, the perpetuation of this pattern turns out an actual damage to social cohesion, the stability and social security of workers and their families, the force of their fundamental rights and the genuine national development, when migration causes are none other than poverty and the need to survive and not the free decision to seek new horizons.

In this context, where those who move are not integrated equally, they can hardly escape from the outbreak of prejudice and de-legitimacy as they are treated as simple economic variables that can be used and discarded to the beat of convenience.

Integration and non-discrimination are constructed in the same spaces as segregation and rejection. The work places, the same as the school, the street and the institutions in general, are crucial for migrants because integration can grow there. Yet, where there is a defensive and utilitarist stance towards migration, there are also the most blatant signs of rejection of values, abusive situations, unfair treatment, discrimination, xenophobia, mistreatment, cultural prejudice and looks of superiority.

Substantially, Argentina's labour law is a non-discrimination law. This is not a mere statement since migrant workers have guaranteed access to justice, in this case labour justice, and to claim for their rights even if they have an irregular status.

The access of migrants to the public services of health, education and protection systems is based on their status as inhabitants of the Argentine territory and universal subjects and embodies inclusion, integration and protection.

The access to health is legally guaranteed. Formal workers are incorporated into the welfare system of their respective activities but all workers, even those in irregular status, have guaranteed access to the universal system of free public health and may utilize the services of the health care network without restriction.

Like in the world, in Argentina the concept of health has varied over time. Presently, the country adheres to the WHO definition, which says that health is '*a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.*'

As a response to diversity, some health care centres have started to tailor health attention to the specificities of migrants, according to the concepts of health and disease held by their respective cultures.

The Law 26.206 on National Education guarantees all irregular immigrants the access, conditions for permanence and exit from the educational system at any level, elementary, secondary schools and universities, as well as professional training in all jurisdictions, either national, provincial or municipal, accepting the documents issued by their countries of origin.

The authorities of educational centres are under the obligation to provide students in irregular status with orientation and advice on regularization procedures. They also promote the regularization of such students before the end of the respective school year.

The National Institute against Discrimination, Xenophobia and Racism (INADI) from the Human Rights Secretariat, Ministry of Justice, Security and Human Rights deals with particular cases of discrimination, xenophobia and racism.

In December 2006, with a view to giving a more accurate diagnosis of the situation throughout the country, the Institute elaborated the first map of discrimination in Argentina. This map, which includes migrants, is a survey on experiences and perceptions of discrimination in every province and contributes to the devise of social awareness, training and information campaigns that are binding for the Argentine State.

While a pioneer with the greatest developments in progressive policies and rules on the issue, Argentina's experience is not isolated: it forms part of the policies appearing with increasing strength in the Region, especially within the framework of the Extended MERCOSUR and the Andean Community, both involving all South American countries at migration level.

The Specialized Forum on Migration of the Southern Common Market-MERCOSUR and the Migration Forum of the Andean Community of Nations -CAN have focused on the improvement of migration management and proposed changes seeking not only more flexibility but also contents more coherent with the consensus reached in the Region.

In the South American Conference on Migration (CSM), where IOM acts as Technical Secretariat, South America has found a permanent forum of cooperation and political dialogue which sets strategic paths on the issue, in turn underlying policies, norms and actions of countries of the Region and sub-regional integration processes.

Advances are not equal in all countries of the Region as yet. Uruguay has followed the steps of Argentina by enacting a new Migration Law in 2008. Several countries have very advanced proposals coherent with the sustained principles. Others have embarked upon internal debates to set up the policies agreed upon at the CSM.

These policies are based on the assertion that the human being is the centre of migration policies, norms and programmes, recognizing the inalienable rights to migrate, not to migrate and return to the country of origin, whose structural foundations are the development of human beings and their countries of origin.

They reject the criminalization of migrants and uphold protection and respect to their fundamental rights regardless their migration status. In this line, they promote the facilitation of regularization as a basic criterion which pursues the eradication of irregular migration and the free circulation of persons as constituents of and pre-conditions for regional development. Thus, they defy other proposals that emphasize the 'combat against irregular migration' and in the end actually combat migrants themselves.

The above does not mean that the other actors playing a leading role in the 'deconstruction' of discrimination, the social negative perception of migration, rejection, xenophobia or violence against migrants lose relevance.

The State needs the contributions and developments of the domestic and international civil societies. It is worth remembering that the human rights acquired universality with the support of international organizations and societies, whose strong drive helped to redefine, among others, the human rights of migrants. The activity of the civil society, in turn, makes full sense when it materializes in policies, legal and juridical structures, national and international political and institutional commitments.

The conjunction State-Civil society closes the virtuous circle that can lay the basis for non-discrimination and the acceptance of ethnic, national and cultural diversity. In short, they should base the construction of a house that can really provide shelter and protection, the house of inclusion, integration and extended citizenship, which should accompany as an attribute all those who move at international level.

I would like to end my presentation with my sincere thanks for the invitation to this Workshop, which is inscribed in the quest for dialogues and interactions indispensable to attain consensus and better solutions. I would also like to point out that my country, Argentina, both individually and as a part of the Region, has a long and fruitful history of cooperation with IOM in the migration field, which we expect will become even stronger in the future. Thank you.