

Political views and perspectives of Mercosur, CAN, and Unasur in the construction of a regional citizenship (2002-2016)

Visiones políticas y perspectivas de Mercosur, CAN y Unasur en la construcción de una ciudadanía regional (2002-2016)

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Abstract

The aim of this work is to analyze, from a comparative perspective, the political views and guidelines adopted by the Southern Common Market (Mercosur), the Andean Community of Nations (CAN), and the Union of South American Nations (Unasur) in relation to the proposals put forward to construct citizenship in the South American region between 2002 and 2016. A qualitative research methodology is used, and it is focused on the analysis of official public documents issued by the above mentioned organizations of regional integration, which follow a set of guidelines in terms of regional citizenship. The importance of the paper lies in the reflection upon the kind of citizen and the concept of citizenship that derives from the guidelines promoted by CAN, Mercosur, and Unasur. In this sense, it shows that a multiplicity of legal status hides under the category of citizenship, and that they serve as selection, hierarchization and differential inclusion mechanisms for regional migrants.

Keywords: citizenship, Mercosur, CAN, Unasur.

Resumen

El objetivo de este trabajo es analizar, desde una perspectiva comparada, las visiones políticas y lineamientos adoptados por el Mercado Común del Sur (Mercosur), la Comunidad Andina de Naciones (CAN) y la Unión de Naciones Sudamericanas (Unasur), en relación con las propuestas de construcción de ciudadanía en la región sudamericana entre los años 2002 y 2016. La metodología de investigación es de carácter cualitativa y se centra en el análisis de documentos públicos oficiales, emitidos por dichos organismos de integración

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regional, que se enmarcan dentro de lineamientos en clave de ciudadanía regional. La relevancia del artículo radica en la reflexión respecto a qué tipo de ciudadano y qué concepción de ciudadanía se desprende de los lineamientos impulsados por CAN, Mercosur y Unasur. En este sentido, muestra que, bajo la categoría de ciudadanía, se esconden una multiplicidad de estatus legales que sirven como dispositivos de selección, jerarquización e inclusión diferencial de los migrantes regionales.

Palabras clave: ciudadanía, Mercosur, CAN, Unasur.

Introduction

At the beginning of the 21st century significant transformations in the logics, visions, and political discourses with which migratory policies were traditionally defined occurred in the South American region. Unlike the prevailing political discourse of the 1990s, articulated on the basis of the “rhetoric of exclusion”¹, a new way to address migration under a “rhetoric of inclusion” based on the perspective of human rights, community citizenship, and cultural pluralism (Domenech, 2009) takes shape. Thus, in several countries, migration laws adopted during military dictatorships that were based on punitive and securitized visions that criminalized and stigmatized migrants are repealed; new laws or bills that recognize new rights for migrant populations are promoted; the debate is opened regarding the rights that were marginalized in the agendas of national states and regional integration organizations—such as political and cultural rights—; and new movements and social organizations of migrants that are beginning to debate new migration policies emerged.

These transformations are also visible in the guidelines promoted by the South American integration organizations: Andean Community of Nations (CAN by its acronym in Spanish)², Southern Common Market (Mercosur by its acronym in Spanish)³, and the Union of South American Nations (Unasur by its acronym in Spanish)⁴, which begin to elaborate political proposals for the construction of a

¹ The “rhetoric of exclusion” understands regional migrations as a “problem” and threat to employment, health conditions, public order, and territorial integration, which is reflected in restrictive and coercive border control and residency mechanisms, as well as persecutory and repressive practices in relation to migrant presence (Domenech, 2009, p. 26). Marmor (2010, p. 76) inscribes this type of rhetoric within what he calls the “securitization” model, which designs migration policies as part of the national security of nation-states.

² The CAN was formed in 1969 through the signing of the Cartagena Agreement by Bolivia, Colombia, Ecuador, Peru, and Chile. Chile withdrew in 1976. Venezuela joined in 1973 and withdrew in 2006. Currently, the member countries are: Bolivia, Ecuador, Colombia, and Peru. The associated countries are Argentina, Brazil, Chile, Paraguay, and Uruguay (CAN, n.d.).

³ Mercosur was founded in 1991 through the signing of the Treaty of Asunción by Argentina, Brazil, Paraguay, and Uruguay. Chile, Colombia, Ecuador, Guyana, Peru, and Suriname participate as associate states. Venezuela acceded to the founding treaty in 2006 and is currently a Member State. Bolivia joins in 2015 and is in the process of incorporation (Mercosur, n.d.c).

⁴ In 2004, at the Meeting of Presidents of South America, the South American Community of Nations (SACN) was created, and in 2007 it would be renamed Unasur. It is comprised of the 12 South American countries: Argentina, Bolivia, Peru, Ecuador, Colombia, Venezuela, Chile, Brazil, Paraguay, Uruguay, Suriname, and Guyana (Unasur, n.d.).

regional citizenship. While these projects present significant nuances in relation to the rights they establish for regional migrants, the requirements for applying for residence, the scope of agreements, and the ways of conceptualizing regional citizenship, we believe that, in general terms, they outline new forms of adhesion and “inclusion” of regional migrants to nation states. In a context characterized by the configuration of a global migration control regime that no longer aims at excluding migrants but at channeling, valuing, and exploiting the surplus elements of migratory movements (Mezzadra, 2005, p. 148), it is important to problematize the codes of inclusion and the devices of selection, hierarchization, and stratification that the guidelines of the CAN, Mercosur, and Unasur establish to be able to reflect on the type of citizen and conception of citizenship that they are based on.

Thus, it is interesting to analyze in this work, from a comparative perspective, the guidelines and political visions adopted by these integration organizations in relation to the proposals for the construction of regional citizenship. In the first place, an approximation to the global and regional context that frames and enables the impulse of these guidelines will be made. To this end, the global regime of migration control and its reconfiguration in the South American space will be introduced based on the political legitimization crisis of neoliberalism. Second, the guidelines of the CAN, Mercosur, and Unasur will be analyzed, framed in the political proposals for building regional citizenship, with the aim of identifying points of agreement and articulations, as well as tensions and divergences, which are presented between the guidelines drawn up by regional integration organizations. Finally, it is proposed to critically reflect on the visions and perspectives that sustain the key guidelines of regional citizenship of CAN, Mercosur, and Unasur.

To this end, a qualitative methodological strategy is used focused on the analysis of official public documents, such as Agreement N° 14/02 Residence for Nationals of the Member States of Mercosur, Bolivia, and Chile (Acuerdo N° 14/02 Residencia para nacionales de los Estados partes del Mercosur, Bolivia y Chile, 2002); the Statute of Mercosur Citizenship (Estatuto de la Ciudadanía del Mercosur, 2010); Decision 1343 Andean Statute of Human Mobility (Decisión 1343 Estatuto Andino de Movilidad Humana, 2015); and the Conceptual Report on South American Citizenship (Informe Conceptual sobre Ciudadanía Sudamericana, 2014)⁵. The analysis of the documents is guided by the theoretical and methodological perspective of comparative social history, which allows studying political, social, and economic processes close in time and space which, being subject to the action of the same causes and mutually influencing each other, share a series of specific elements and problems (Devoto, 2004). The comparative method will be used to analyze the similarities as well as to investigate the differences that occur in similar processes in the same historical moment (Bulcourn & Cardozo, 2008, p. 17). In this way, the comparison of the guidelines promoted by the regional integration organizations will be carried out

⁵ Similarly, documents resulting from the meetings of the specialized forums on migration of CAN and Mercosur were consulted, as well as the activities of the Working Group on South American Citizenship (GTCS for its acronym in Spanish) of Unasur, such as: First Andean Migration Forum (CAN, 2008); Second Andean Migration Forum (CAN, 2009); Third Andean Migration Forum (CAN, 2012); Fourth Andean Migration Forum (CAN, 2013); Information on the activities of the GTCS of Unasur (2013); Institutional Report of the Specialized Migratory Forum of Mercosur; and Associated States (Mercosur, n.d.b).

based on the category of regional citizenship, identifying how political, social, and cultural rights are enunciated; the requirements to process residence; the elements linked to the securitization of migrations; and the institutional frameworks in which the agreements are registered.

Migration Governance Policies: A View from the South American Political Space

Since the mid-1990s, the emergence of a global migration control regime has installed a new way of organizing, classifying, and controlling international population movements (Domenech, 2013, p. 6). This regime is an adaptation of the business and management rationales that international organizations, such as the World Bank and the International Monetary Fund, were delineating to materialize the neoliberal restructuring programs of the State; therefore, for the field of migrations, it is promoted by multilateral agencies that are a part of these hegemonic structures of the world system, such as the International Organization for Migration (IOM) and the United Nations (Estupiñán, 2013, pp. 8-9).

An important variety of reforms in matters of legislation and migration policies, inscribed in this regime, find their ideological support in the perspective of migration governance or migration management (Domenech, 2013, p. 2). The perspective of migratory governance starts from the diagnosis of the inevitability of migrations and the uselessness of restrictive measures to contain them, so it seeks to create and implement models and policies that effectively manage, order, and control migratory flows in order to channel them, within clearly delineated regulatory frameworks, towards objectives and demands aimed at maximizing benefits and economic profitability of migrant labor (Estupiñán, 2013; Geiger & Pécout, 2012). Thus, this approach is presented as a less “violent” alternative to control migration, since it is not intended to hermetically “close” borders and establish explicit mechanisms of coercion, but to establish a dam system to produce an active process of inclusion of migrant work through regulatory processes (Mezzadra, 2005, p. 148).

Therefore, the idea of “orderly migration” is based on a logical cost-benefit classification of migrants that, on the basis of their supposed usefulness or not, establishes a series of “advantages-benefits” or “disadvantages-prejudices” in relation to what migrants can “contribute” to economic development, poverty reduction, and “cultural enrichment” (Domenech, 2008, p. 58). In order to obtain the necessary legitimacy for its implementation and to achieve greater results in the effective administration of migrations, the perspective of migratory governance relies on the discourse of the human rights of migrants. However, even if these policies are framed in the protection and defense of human rights, they displace (not eliminate) restrictive and coercive mechanisms and forms of regulation and control with which they coexist (Domenech, 2013, p. 2).

The perspective of governance displaces social integration codes because it blurs the lines between inclusion and exclusion. The guidelines and migration policies framed in this approach promote a process of unequal accessibility to various zones and institutions of society since they recognize some of the rights of citizens (especially those linked to the labor market) but, at the same time, they restrict access to others

(political and participation rights), which implies a differential inclusion that includes excluding migrants from the structures of nation states (Mezzadra & Neilson, 2016, p. 249). Thus, the inclusion of migrants is never complete since it is subject to different degrees of subordination, command, discrimination and segmentation, and becomes a form of control and discipline, which serve to select and filter people and their different modes of circulation, in ways no less violent than those employed by expulsion practices (Mezzadra & Neilson, 2016, pp. 245 and 379).

This overlapping of multiple lines of inclusion and exclusion produces the stratification and multiplication of entry and residence systems of the migrants, giving rise to a multiplicity of statuses that tend to exploit the unitary profile of citizenship (Mezzadra & Neilson, 2016, pp. 253 and 387). Currently, this is not presented as a monolithic and unitary category but rather gives rise to a process of “gradation of citizenship”, that is, different and graded “types of citizens” are configured in terms of access to rights, migrants being in the middle of a scale between “full” citizens and those who are considered “non-citizens” (Varela, 2015, pp. 275-277). Thus, the category of differential inclusion attempts to capture the meaning of the crisis of the unitary figure of the citizen and the corresponding production of multiple conditions of citizenship (Mezzadra & Neilson, 2016, p. 245).

In the South American region, the perspective of migration governance took root at the beginning of the 2000s with the inauguration of the South American Conference on Migration (SACM)⁶. The SACM becomes a privileged space for dialogue and coordination of migration policies among South American countries, which gives rise to a process of regionalization of migration policies, generating greater degrees of compatibility and convergence in the guidelines promoted by the integration organizations studied⁷. However, the perspective of migratory governance is not necessarily an integral and univocal vision, since its development differs according to the interests of the political actors involved, as well as the specificities of the sociohistorical context in which it is rooted (Domenech, 2013, p. 5). In the South American region, in the period analyzed, those elements linked to the defense of human rights are accentuated and guidelines and policies aimed at the regularization of migrants are promoted; furthermore, the category of citizenship is incorporated to frame the expansion of rights within the framework of regional integration organizations.

This is due to the fact that, with the legitimation crisis of neoliberalism, a new regional political scenario opens up with the emergence of center-left and progressive governments that promote a series of political and social transformations that impact and have effects on political discourse, thus beginning to address the migration issue. We refer, for example, to the recovery of the regulatory capacity of the State with respect

⁶ With the aim of consolidating the global vision of governance of migrations, the IOM creates Regional Consultative Processes (RCP) on Migration as non-binding spaces for discussion, socialization of policies, coordination, and validation of common positions and approaches on migration where States, international organizations, and representatives of organized civil society intervene (Santi, 2011).

⁷ Since 2006 there has been a double process in the dialogue mechanisms established between regional integration organizations and the SACM: on the one hand, the agreements made in the SACM are beginning to be considered central points and the bases for advancing debates within the migratory forums or the guidelines promoted by CAN, Mercosur, and Unasur; on the other hand, with a view to having a greater capacity for advocacy and bargaining power in the SACM, Mercosur, CAN, and Unasur they begin to develop work agendas to be proposed at SACM meetings, moving to an active role in raising issues to be addressed, as well as in the orientations of the agreed-upon guidelines.

to the market; the greater participation of the popular sectors in the construction of the State and the strengthening of social organizations; the promotion of policies of inclusion and redistribution of income tending to recompose the living conditions of the middle and popular sectors; the re-establishment of labor rights; the increase of employment levels, among others. In the same way, these governments initiate a series of ruptures in the ways of understanding the configuration of the integration organisms, promoting a double process: on the one hand, CAN and Mercosur take a turn towards the social aspects at a discursive and institutional level to deepen integration processes by broadening their agendas and frameworks of agreements to address social and cultural issues (Romano, 2009, p. 258). On the other hand, new alternative integration proposals emerge, such as the Unasur, which, by prioritizing a political agenda over an economic one, expand cooperation frameworks in non-trade areas, making social dimensions more relevant and incorporating new issues that were marginalized in the 1990s (Sanahuja, 2012).

This new regional-political scenario is what makes it possible for the integration organizations studied to rethink and revise the guidelines and visions on migration and migrants and thus reconfigure the perspective of migration governance in a unique way. With the transformations in social discourses and policies promoted by these governments and the configuration of regional integration organizations, a favorable scenario was created for them to begin to change the visions and perspectives with which the migratory issue was approached. As pointed out, it is in this context that guidelines framed in political proposals for the construction of regional citizenship emerge. These are analyzed below.

Mercosur and the Statute of Citizenship

The Statute of Mercosur Citizenship. Plan of Action (Estatuto de la Ciudadanía del Mercosur. Plan de Acción, 2010), is presented as a project elaborated from a multidimensional perspective of integration, that is to say, it proposes contemplating actions and measures in political, economic, commercial, social, educational, judicial cooperation, and security matters. In this sense, starting from a language that emphasizes the human rights discourse, it proposes to deepen the social and citizen dimension of the integration process.

As its name indicates, the objective of this guideline is to establish an action plan to progressively conform a citizenship statute, which should be integrated by a set of fundamental rights and benefits for regional migrants. Thus, the proposal is to advance in the implementation of a free circulation policy for people in the region, in order to equal the civil, social, cultural, and economic rights and freedoms for the nationals of the Member States and to equal the conditions of access to work, health, and education (Estatuto de la Ciudadanía del Mercosur. Plan de Acción, 2010, art. 2). In order to achieve these objectives, 11 axes are defined that must be addressed by different Mercosur bodies and working groups: Movement of persons; Borders; Identification; Consular documentation and cooperation; Work and employment; Social security; Education; Transport; Communications; Consumer protection and Political rights.

In relation to the development of these axes, those linked to issues of borders, documentation, work, social security, transport, and education, the Statute does not make a structural and renewed proposal in their treatment, insofar as it is reduced to compiling and proposing the revision and strengthening of the guidelines that Mercosur has been promoting and debating since its conformation in the 1990s⁸. Thus, if we look at all the axes proposed and the approach from which they are addressed, it can be said that the Statute continues to attach great importance to issues related to security and border control and limits the scope of the guidelines to facilitating the movement of professionals, students of higher level, tourists, skilled workers, or those who have a formal job. In this sense, the agendas are not contemplated or expanded to deal with issues and problems that affect the bulk of regional migrants.

The only new element added by the Statute of Citizenship (Estatuto de Ciudadanía, 2010) is the debate on the political rights of regional migrants. The incorporation of this dimension is significant due to the fact that until now it has not been dealt with in an articulated manner in regional contexts, although at the level of national legislation the twelve countries of South America allow residents to vote in local (municipal) elections. Thus, Article 11 states that they will:

Evaluate the conditions to progressively advance in the establishment of political rights in accordance with the national legislations that regulate their execution, in favor of citizens of a Mercosur Member State who reside in another Member State of which they are not nationals, including the possibility of electing Mercosur parliamentarians (Estatuto de Ciudadanía, 2010, p. 4).

A preliminary observation is that what is understood as political rights is not developed and, based on the above, it would seem that they are limited to electoral participation. It is necessary to note that the right to vote is the most visible in terms of political rights for migrants, but it is necessary to incorporate another series of rights into the debate, such as the right to associate, to meet for political purposes, to hold public office, etc. (Ramírez, 2016). Secondly, it is clear that the proposal is highly exploratory, and its debate is conditioned by what is regulated in national legislations; therefore, the approach is reduced to elaborating a statement of the situation without specifying or advancing in concrete mechanisms that allow the effective expansion of political rights for migrants outside what is already established.

A striking element of the Statute of Citizenship is the lack of mention of cultural rights. This omission is significant due to the fact that in the stage in which it was promoted, at a regional level, discourses related to cultural pluralism are adopted to address migration policies. However, what is stated in the Mercosur Citizenship Charter can be recovered for our analysis (Mercosur, n.d.a)⁹. It shows how the cultural

⁸ Examples include the implementation of Integrated Control Areas; the harmonization of information for the issuance of identification documents in the Member States; the expansion of consular cooperation mechanisms; the revision of the Recife Agreement and the Social and Labor Declaration (1998); the deepening of the Regional Accreditation System for University Degrees (ARCU-SUR System); and the mechanisms for the simplification of administrative procedures for the equivalence of studies and higher education degrees; among others.

⁹ The Charter was promoted in 2014 and is available in an online format. It compiles and systematizes the main current regulations of interest to regional migrants and includes the bodies responsible for implementing them in each associated or partner State.

dimension involved in migration processes is understood as a problem of “integration” with the objectives of broadening and strengthening cultural exchange between Mercosur citizens and cooperation between cultural institutions and agents in order to favor joint cultural programs and projects (Mercosur, n.d.a). In this way, the guidelines are reduced to the generation of channels for the exchange of information—limited to academic spaces and specialized on specific cultures—through the implementation of institutional projects that make it possible to “know” and identify the diversity of cultural identities existing in the region¹⁰.

This way of understanding integration processes is not compromised beyond certain practices framed in the “cultural understanding model”. It is based on a vision of consensus and a discourse of acceptance, tolerance, and respect for different cultures, which aims, at a practical level, to improve communication between different ethnic groups and encourage changes in attitudes to reverse prejudices, focusing their proposals on awareness programs and human relationship formation (McCarthy, cited in Domenech & Magliano, 2008, p. 435). This approach to cultural pluralism understands “cultural diversity” as non-confrontational and non-hierarchical, implying the harmonious and horizontal coexistence of a variety of cultural groups and forms. Thus, it recognizes society as multicultural and multi-ethnic, values the “contribution” of ethnic groups to the development of the country, and promotes respect for cultural diversity and the recognition of formal equality rights, but maintains unchanged and does not question the power structure that reproduces the material and symbolic conditions of inequality and social exclusion (Domenech, 2007, pp. 25 and 32).

Finally, beyond the Statute of Citizenship (Estatuto de Ciudadanía, 2010), it is considered that in order to understand the guidelines of Mercosur at this stage it is necessary to take from this analysis Agreement N° 14/02 Residence for Nationals of the Member States of Mercosur, Bolivia, and Chile, promoted in 2002¹¹. This Agreement is one of the priority lines of work of the Mercosur Specialized Migration Forum (SMF), since its full implementation and validity is the main subject of most meetings¹². In the same manner, it is the model and the base on which mechanisms for regularization and residence of persons in the South American region will be thought of, and on which the CAN will rely on in order to formulate migratory guidelines. In this sense, it will be the main instrument for articulation and convergence of migration policies between CAN and Mercosur, since all CAN member countries, with the exception of Venezuela, will begin to adhere to and implement it as of 2011, a process that will give impetus, since 2013, to the coordinated work between the two regional integration organizations.

¹⁰ This can be seen in the objectives of Mercosur restricted to the “creation of cultural spaces and the carrying out of actions that express historical traditions, common values, and the diversity of citizens” (Mercosur, n.d.a, p. 81), as well as in the actions that it proposes to carry out, being reduced to the “exchange of artists, writers, researchers, artistic groups, and members of entities linked to culture” (Mercosur, n.d.a, p. 81); to favor audiovisual productions under the regime of co-production and co-distribution; as well as cooperation between historical archives and the common training of human resources involved in the facilitation of the circulation of material for cultural events (Mercosur, n.d.a).

¹¹ Agreement N° 14/02 on residence, although promoted in 2002, entered into force until 2009 due to the fact that Argentina, Brazil, and Bolivia approved it in 2004, Uruguay and Chile in 2005 and, finally, Paraguay in 2008.

¹² The SFM is a space that operates within the scope of the Meetings of Interior Ministers of Mercosur and Associated States. It was created in 2003 and meets periodically.

Agreement N° 14/02 aims to establish an area of free circulation and residence of people in the Mercosur space and focuses on establishing regularization mechanisms for regional migrants¹³. To this end, two types of residence are established, one temporary and the other permanent. The first type of residence is granted for a period of two years and in order to acquire it applicants must present the following: identity certificate; birth certificate and proof of civil status; no international criminal record, judicial and police records, in the country of origin and reception; medical certificate if required; and the payment of a fee for the services (Acuerdo N° 14/02, 2002, art. 4). In the case of permanent residence, the same requirements must be presented, as well as proof of temporary residence and proof of lawful means of subsistence (Acuerdo N° 14/02, 2002, art. 5).

It is observed that although Agreement N° 14/02 grants for a period of two years a type of residence that does not require the possession of a formal job in order to settle in another country, it ends up restricting the ability to reside to the issue of work. The selection criteria that operate are based on instrumentalist and economic criteria since migrants, in order to obtain permanent residence, must demonstrate their “usefulness” and an adequate insertion to the labor markets. At the same time, when requesting the lack of a criminal record, the persistence of elements from the securitization model is found due to the fact that the migrant is still thought of as a potential threat to the security of the country of destination.

It is necessary to pay attention to these selection criteria established by Agreement N° 14/02 since they will permeate the debates and the conception of citizenship present in the Mercosur guidelines, as well as the rest of the guidelines promoted in the region. Due to the above, it can be said that the Statute of Mercosur Citizenship does not exceed the provisions of Agreement N° 14/02 on residence. The category of citizenship is incorporated in a discursive and symbolic way since the Statute does not make a structural and renewed proposal to advance in the conformation of a Mercosur citizenship. Agreement N° 14/02 is not only the axis of priority work within Mercosur, but also becomes a highly relevant instrument for the articulation and coordination of migration policies in the South American region, so it is fundamental to understand the logics, perspectives, and limits of subsequent citizenship construction projects.

The Andean Statute of Human Mobility of the Andean Community of Nations

The CAN began to promote guidelines in terms of citizenship from 2008, when the Andean Migratory Forum was created (AMF)¹⁴. This debate space dynamizes new perspectives to address migration issues, which crystallize in the approval, in 2015, of

¹³ It should be noted that Agreement N° 14/02 (Acuerdo N° 14/02, 2002) is framed in the language of human rights since it expands and incorporates a series of rights for regional migrants, such as: free transit (internal and external); the right to family reunification and equal treatment with nationals in relation to labor legislation, working conditions, social security, and social security contributions; the right to transfer remittances to the country of origin; the right of children of migrants to have access to a nationality and to educational institutions, regardless of their migratory status (art. 9).

¹⁴ The AMF does not meet on a regular basis but, during the period analyzed, there are four AMF meetings in the years 2008, 2009, 2012, and 2013.

Decision 1343 Andean Statute of Human Mobility (Decisión 1343 Estatuto Andino de Movilidad Humana)¹⁵, which is a normative proposal that gathers and systematizes the advances achieved with respect to human mobility with the objective of achieving the harmonization and unification of regional norms (Decisión 1343, 2015, p. 16). For the purposes of this work, it can be divided into two major blocks: the chapters that establish the rights, duties, and obligations of Andean citizens and those that refer to the modalities for the exercise of human mobility¹⁶.

Regarding the first block, Decision 1343 departs from the recognition of the right to migrate and sets out a series of general rights for regional migrants such as: non-discrimination, treatment equal to that of nationals, free mobility, no deportation without a fair procedure, preservation of their identity documents, no deprivation of their liberty due to being in an irregular situation, family reunification, and access to political rights, participation, health, and education (Decisión 1343, 2015, section one, chapter 2). It also points out the rights established for particularly vulnerable population groups—children, gender, and victims of internal armed conflict or generalized violence—(second section, chapter 2); for asylum or refugee seekers, victims of trafficking and/or smuggling of persons (third section, chapter 2); rights linked to labor relations (fourth section, chapter 2); and cultural rights of Andean peoples (fifth section, chapter 2). In turn, the Statute changes the term “migration” to “human mobility”, which seeks to cover all the processes of moving from a place other than that of habitual residence, contemplating the existence of multiple reasons that cause such mobility (Decisión 1343, 2015, p. 15), such as “processes of emigration, immigration, return, application for asylum and international protection, internal displacement, and resettlement” (Ramírez, 2016, p. 51).

In general terms, it can be said that, until now, we have not found any guidelines in the region that present such high levels of systematization and comprehensiveness at the time of proposing rights for migrants. Unlike the Statute of Mercosur Citizenship, Decision 1343 presents a novel systematization instrument, which shows a renewed perspective in the treatment of migratory problems and reinforces elements linked to the defense and expansion of human rights.

However, examining the conditions established to obtain residence, a strong harmony is found with what is proposed by Mercosur. As in Agreement N° 14/02 on residence, temporary and permanent residence are stipulated. In the first case, the permit is for two years and the following must be presented: identification document; affidavit of non-existence of active criminal proceedings initiated against them, or in any other country other than that of their nationality, for crimes related to trafficking in persons, smuggling of migrants, drug trafficking, or child pornography; and proof of sufficient funds to cover expenses during their stay in the country (Decisión 1343, 2015,

¹⁵ It is argued that this Statute is part of a new way of addressing the migration issue since it presents significant transformations in relation to Decision 545 Andean Labor Migration Instrument (Decisión 545 Instrumento Andino de Migración Laboral, 2003), which not only fails to be regulated but also proposes spaces of free circulation limited to dependent workers, so that the rights it establishes are reduced to those linked to labor issues.

¹⁶ For the purposes of this study, it was decided not to incorporate the analysis of Decision 1343: extra-regional migration, consular protection for Andean citizens in situations of mobility outside the region. It sets out actions aimed at consular cooperation for those nationals of CAN member countries who do not have consular representation from their country of origin in the locality in which they are located.

chapter 4, article 41, Temporary residence permit)¹⁷. To obtain permanent residence, the following must be presented: proof of temporary residence authorization; identity document; proof of permanence in the territory of at least two years; and proof of the lawful nature of the funds and activities developed by the Andean citizen (Decisión 1343, 2015, chapter 4, article 44, Permanent residence).

Through these criteria, Decision 1343 (Decisión 1343, 2015) fails to overcome the link between migration, work, and residence. While the Mercosur Agreement N° 14/02 opens the possibility of residing in the region for a period of two years without the need to accredit “lawful means of living”, in CAN Decision 1343 this is a criterion that is demanded from the moment temporary residence is requested. The requirement to have a sworn statement of the legality of the funds or the labor activity carried out excludes the bulk of migrant workers who have informal jobs or jobs not recognized as such.

In turn, in the same way as Agreement N° 14/02, the condition of certifying the lack of a criminal record is required. However, the fundamental difference lies in the fact that only the so-called major crimes are considered, that is, the right to circulate and reside in the region is limited only to those persons who have antecedents for crimes linked to “smuggling of migrants, trafficking in persons, child pornography, or drug trafficking” (Decisión 1343, 2015, article 35, p. 52). Agreement N° 14/02 on residence, by not specifying what types of crimes it refers to—ambiguously denouncing “lack of judicial and/or criminal and/or police records” (Acuerdo N° 14/02, 2002, article 4, p. 4)—assumes that it prohibits the entry and obtaining of residence to any person who has any of these records, whether minor crimes or a simple contravention, such as, for example, those derived from situations such as street vending, living in a taken house or land, street closure, etc.

Regarding political rights, Decision 1343 states that “Member States shall promote the political participation of Andean citizens who have established their residence in another country of the Andean Community” (Decisión 1343, 2015, p. 30). For this point it is considered important to comment on two things. On the one hand, there are strong limitations due to the fact that, although it is stated that regional migrants “enjoy all the rights established for national citizens” (Decisión 1343, 2015, p. 34), it is clarified that these may be conditioned by “the limitations established in the internal legislations of the Member Countries regarding the rights related to political participation and access to positions or functions in the public administration” (Decisión 1343, 2015, p. 34). On the other hand, political and participation rights are approached from a restricted perspective since Decision 1343 only commits to generate the possibilities of voting in electoral processes abroad. Thus, it is defined that countries must ensure that their consular offices “have the necessary infrastructure to guarantee the right to vote and to participate in the mechanisms of direct democracy of nationals abroad” (Decisión 1343, 2015, p. 37), reiterating that the political participation of migrants in the receiving country is conditioned by the provisions of national legislation (Decisión

¹⁷ In the case of an application for temporary residence, differentiated articles are established for residence permits for students (Decisión 1343, 2015, article 42) and workers, permanent companions and spouses (Decisión 1343, 2015, article 43). The requirements are the same, specifying for each case those referring to the economic solvency and lawfulness of the economic activities developed. For example, students are asked for a bank certificate that shows the availability of sufficient resources; investors are asked about the origin of the funds they intend to invest in the country; and workers are asked about the legality of the economic and labor activity they intend to develop.

1343, 2015, p. 37). In this way, like Mercosur, there is no significant and novel progress in the expansion of political rights, since a proposal is not elaborated that expands on what is established in the national legislations and that questions the perspective that reduces the political rights to electoral participation.

Finally, concerning the recognition of cultural rights, Decision 1343 (Decisión 1343, 2015) establishes two objectives: first, to guarantee the right for Andean citizens to continue living according to their customs and social practices, respecting their cultural manifestations; second, to promote intercultural coexistence and the integration of people in a situation of mobility in the community of destination (Decisión 1343, 2015, chapter 2, fifth section, article 30). Thus, the proposal is that Member States should encourage processes of cultural exchange, social cohesion, promotion of equality, and strengthening of the Andean culture. For the development of these objectives, a series of rights are established, such as the right to preserve and develop their own forms of coexistence and social organization, as well as their collective knowledge, ancestral knowledge, clothing, symbols, and emblems of their culture (Decisión 1343, 2015, chapter 2, fifth section, article 31). In this way, the cultural dimension is approached, like in Mercosur, from a perspective related to cultural pluralism. The series of rights established are reduced to guaranteeing cultural recognition policies and refer to static cultural representations, which are limited to guaranteeing conditions for Andean peoples to conserve and develop their forms of social organization, knowledge, clothing, among others, denying the conflict and the processes of hierarchization and social exclusion that arise from the cultural identity of migrants.

Unasur and South American Citizenship

Unasur is a part of the integration initiatives that seek to establish themselves in the South American region as alternative proposals to the CAN and Mercosur. Thus, the axes of economic and commercial integration acquire less weight, gaining priority in the elaboration of consensus regarding political and social problems. In this sense, migration becomes a central objective in its integration agenda, with the novel fact that it installs and links the approach to the migratory issue to the processes of construction of a South American citizenship.

Despite the fact that the first Meetings of Presidents of South America mentioned the importance of migratory aspects, it was only at the Second Summit of Heads of State of the South American Community of Nations, in 2006, that a path was proposed “towards the construction of a South American citizenship” (Unasur, 2006, p. 4). The centrality acquired by this axis of work is reflected in its incorporation into the Constitutive Treaty of the Union of South American Nations (Tratado Constitutivo de la Unión de Naciones Sudamericanas, 2011, p. 10), establishing among its objectives “the consolidation of a South American identity through the progressive recognition of rights to the nationals of a Member State resident in any of the other Member States, in order to achieve South American citizenship”. However, until 2014, there was no clarity as to what is understood and what are the elements and variables that a citizenship proposal for the region would contemplate. Thus, the declarations are limited to establishing in a very general way that, through the construction of South American citizenship, they seek to progressively recognize civil, political, labor, and

social rights for nationals of member states, under an integral and comprehensive approach, referring to the implementation of processes of migratory regularization and harmonization of policies in the region.

Therefore, although Unasur is the first South American regional integration organization to incorporate the category of citizenship to address the migratory dimension, it is only in 2012, through Decision N° 8/2012 of the Council of Heads of State, that a process of debate, work, and creation of institutional spaces began with a view to the elaboration of guidelines that conceptualize and establish the dimensions that the South American citizenship project would contemplate. Thus, this Decision decrees the beginning of the construction of South American citizenship, giving priority to migration (Decisión N° 8/2012, 2012, art. 1). Furthermore, the Working Group on South American Citizenship (GTCS by its acronym in Spanish) is created, assigning it the task of elaborating a Road Map and a conceptual report that explores the different dimensions of South American Citizenship, taking into account sub-regional experiences, the internal regulations of the member states, as well as the advances in the different Councils of Unasur that are linked to the topic (art. 2), with the objective of surpassing what was proposed in these instances and go beyond the convergence of the guidelines already promoted. The first draft of the Conceptual Report is presented in 2013 and, after two meetings held in 2014, the final draft of the Conceptual Report is finally approved in the GTCS (Ramírez, 2016, p. 79).

The Conceptual Report on South American Citizenship starts by systematizing the antecedents that were developed in the GTCS, in the Sectorial Councils of Unasur, and in pre-existing experiences such as Mercosur, CAN, the Caribbean Community (Caricom), and the South American Conference on Migration (SACM). It subsequently goes on to approach the proposal for the construction of citizenship in the region and define the strategic guidelines based on three questions: What is the concept of citizenship that is involved in the foundations of the construction proposed by Unasur? What are the elements that have to comprise it, and what juridical-political structure has to sustain it? (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, p. 9). In this sense, the Report proposes a definition of South American citizenship understood as a legal condition of access to rights and obligations, a non-substitutive extension of national citizenship, and a condition of identity and belonging to the South American region. Thus, South American citizens would have the right to: free mobility and residence within the region; the achievement of equality of civil, social, cultural, and economic rights and freedoms in any of the countries; the protection and defense of their rights against racism, xenophobia, discrimination, and abuse of authority, as well as against criminalization; the right to coexistence, social and labor inclusion, citizen participation and integration; and to petition the organizations that form part of the institutional structure of Unasur to recognize, demand, and defend these rights in any circumstance that warrants it (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, paragraph 3). Based on this definition, Unasur advances in a conceptual discussion on the category of citizenship and proposes mechanisms for the conformation of a regional citizenship.

In the first place, this marks a difference with CAN and Mercosur which, although they speak in terms of regional citizenship, do not explain the mechanisms or how national spaces would interact with the instances of regional integration organizations. Therefore, their guidelines end up being reduced to the recognition of some rights and obligations, and to establishing criteria for applying for residency, thus, limiting their

applicability to the predisposition or political will of the governments of the member countries to regulate and incorporate such guidelines into the frameworks of national regulations. In this sense, the Unasur proposal admits different levels of membership, proposing the constitution of a mixed citizenship (Ramírez, 2016, p. 81), that is to say, that it be linked to an expanded space constituted by all the countries that comprise it, without ceasing to recognize and reaffirm national citizenship. Thus, it establishes that “there is no initial or primary opposition between national citizenship and South American citizenship” (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, p. 5), constituting the second as a non-substitutive expansion of the first, in which “all citizens of the States Parties would gradually, flexibly, and progressively incorporate new rights to be exercised within the framework of the larger political entity, Unasur, as an expansion of national citizenship” (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, p. 5).

In relation to this, a debate is opened around the juridical-political structure that would guarantee this double membership of South American citizenship, introducing the question of the supranational scope of Unasur. The Conceptual Report (Informe Conceptual, 2014, p. 9) establishes that, despite the fact that “the institutional framework of Unasur is still under construction”, its Constitutive Treaty “prepares for the institutional development required for the compliance of the mandates of the competent bodies” (Informe Conceptual, 2014, p. 9), committing itself to initiate an analysis and debate on regional institutionality in order to put into operation “bodies and instances that guarantee that the right of each citizen can be vindicated before them” (Informe Conceptual, 2014, p. 9).

In the beginning, Unasur proposes the constitution of a space of supranational scope, that is, the construction and acceptance of norms and institutions that imply the cession of some aspects of national sovereignty for the sake of the conformation of a regional institutionality. However, Vior (2013) and Serbin (2010) warn that this perspective clashes, in practice, with the principle of national sovereignty that articulates the coexistence of South American states. In this sense, they point out that certain factors become formidable obstacles to advance in the conformation of a supranational space of high density and effectiveness. Among them, the following are mentioned: the low institutionality of the agreements reached; the centrality assumed by States as the main promoters of integration initiatives within the framework of intergovernmental, and, frequently, inter-presidential agreements; the marked politicization of the regional agenda that obliges to build consensus in a context marked by fragmentation and by the aspiration of divergent leaderships; and by the participation of governments unwilling to sacrifice aspects of their sovereignty or national interest in regional commitments.

Furthermore, although the process of shaping South American citizenship is proposed within the framework of an expanded political space, both national citizenships and, principally, national sovereignty still have a strong weight in the perspectives of its constitution. This is maintained because being a “national” of a member state is the central foundation for access to South American citizenship, and it is on the basis of national legislation and regional commitments assumed by member states that progress would be made in the construction of citizenship projects in the region (Unasur, 2013). Thus, Unasur is a project of national states that still retain the monopoly of sovereignty and national citizenship to recognize the members of their political community.

Secondly, another element that emerges from the definition of South American citizenship proposed by Unasur is the question of identity. Thus, the GTCS aims to establish “a conception of South American citizenship that transcends the fundamental repertoire of rights and obligations, to also contemplate a process of identity (identification) or recognition of a common sense of belonging” (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, p. 12). In this sense, South American citizenship is understood as a juridical-political and socio-cultural category (Ramírez, 2016, p. 81).

With regard to the category of identity, the Conceptual Report defines it “fundamentally by what we already are, by what we project to be as a Region, and by the way we position ourselves before third countries and regions” (Informe Conceptual, 2014, p. 12), due to the fact that South America is considered to have gone from being a geographical reference to a political space. Thus, on the one hand, with respect to what we already are, the idea is reinforced that South American identity is defined by elements such as a shared history; bonds of solidarity that were developed in the processes of independence, traditions, and customs; diverse cultures, languages, and worldviews. At the same time, it is presented as representative of a political space with “shared values such as democracy, the rule of law, unrestricted respect for human rights, and the consolidation of South America as a zone of peace” (Informe Conceptual, 2014, p. 13). On the other hand, in relation to what *we project to be*, the efforts of Unasur aim to agree on a series of values, norms, and institutions that, through the recognition of rights, generate a sense of regional solidarity in order to achieve coexistence, cohesion, empathy, and mutual trust among those who know and recognize each other as equal in access to rights in the region (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, paragraph 3). Thus, Unasur uses two strategies to achieve this “identity mark”: it seeks to recover and reinforce some political, historical, and cultural elements found in the South American social imaginary, and it attempts to create loyalties to the political community through the establishment of common rights and values.

However, it is considered that through the category of identity an instrumental symbolic use is done, linked to the economic and commercial objectives of the Unasur¹⁸. The objective of becoming a weighty geopolitical subject on the multilateral world map and having greater gravitation and representation in international markets and forums, makes the constitution of a South American identity a privileged axis and a fundamental element, being the processes of citizenship construction in the region a fertile ground to advance in this sense. In the same way, the efforts aim to create, construct, and install an identification with the region that does not necessarily represent or is installed in the South American social imaginary, rather than contemplating cultural and historical aspects in transforming terms, not stressing the homogenizing pretensions that sustain the hegemonic category of citizenship present in the conformation of the South American States.

As a correlation of this, cultural rights are reduced to: promoting scholarship programs and regional academic mobility; valuing and making visible cultural

¹⁸ Varela (2015, p. 281), based on Stolcke (1994), points out how the European Union uses the development of a sense of shared culture and identity of objectives as a form of ideological support for an economic and political union capable of succeeding at the international level.

diversity and the contribution of indigenous peoples, afro-descendants, and ethnic communities; launching regional policies on language integration; establishing a common educational agenda that promotes interculturality; generating academic networks and joint research agendas; and elaborating a calendar of regional commemorations (Informe Conceptual sobre Ciudadanía Sudamericana, 2014, paragraph 4). In this way, the proposed actions tend to reinforce a project of “cultural unity”, now no longer linked to the hegemonic processes of a Nation State but to a regional scope, which does not intend to transcend the assimilationist perspective of tolerance and respect for cultural diversity embodied in the perspectives related to cultural pluralism that were developed for the cases of CAN and Mercosur.

Thirdly, it is important to point out that there are still some issues that the South American Citizenship project cannot overcome in relation to the CAN and Mercosur guidelines. On the one hand, it is not proposed to eliminate the requirement of not having criminal, judicial, and police records. On the other hand, neither in the Conceptual Report nor in the meetings of the GTCS, the question of the participation and political rights of the migrants is tackled, producing a total silence in relation to this dimension.

Finally, as has already been pointed out, the Conceptual Report (Informe Conceptual, 2014) does not make explicit the requirements or mechanisms that would be used to obtain South American citizenship, nor does it make it clear before which instances it should be requested, since the strategic guidelines outlined are very general and do not refer to these issues. However, there is a turning point between 2015 and 2016 in the debates held within the GTCS. In these meetings, work was done on the elaboration of a Unasur residence agreement that contemplates the administrative simplification of the procedure to apply for residency (Ramírez, 2016, p. 84). To this end, two actions were proposed: first, it was agreed that “the Unasur member states will promote actions aimed at reducing the requirements and documents required, particularly: medical certificate and livelihood certificate” (Unasur, 2016, p. 3); second, a commitment was made to “progressively reduce the costs of processing residence” (Unasur, 2016, p. 3). Thus, in contrast to the CAN and Mercosur guidelines, Unasur, through its commitment to eliminate those restrictive requirements in order to apply for residence, not only reduces some of the obstacles that affect the majority of migrants, but also begins to open a scenario to question the instrumentalist perspectives that link migrations with labor markets in a direct way.

A problem that Unasur does not discuss in depth in the meetings of the GTCS, is linked to the institutional instances that would guarantee South American citizenship. It is perceived that national states are the only institutional structures to which appeals can be made, not only to request and process residence, but also to claim and sue the infringement or violation of rights. So far, the guidelines of Unasur do not have legal effects in the countries of the region since they did not manage to become a supranational space, thus regional migrants are subject to national laws and procedures.

In Closing

The new South American political scenario that opens with the crisis of political legitimacy of neoliberalism explains the singular way in which the perspective of migratory governance is redefined and reconfigured by integration organizations. The modification in the conceptions regarding how to understand the processes of regional integration and the transformations in the discourses and social and cultural policies carried out by these governments generated a propitious climate, not only so that the migratory question gains greater visibility, but also so that they begin to change the logics with which it has been approached traditionally. Thus, new policies are promoted, and new discourses begin to circulate that emphasize the defense of human rights; new axes of debate are also included, such as the cultural and political rights of regional migrants. In this context, the regional integration organizations studied frame the expansion of rights under the notion of citizenship, so it is fundamental to problematize and reflect on what notion of citizenship underpins these guidelines and what type of citizen is configured at the time of thinking about regional migrants.

First, since there is no questioning of the perspective of migratory governance, but rather it is shared and compatible with the guidelines studied, one thinks of a type of citizen who has a relation to or who is necessarily inserted in the labor markets. The emphasis on the defense of human rights and the construction of political projects in the key of citizenship coexists and is not contradictory with residence agreements based on an economic and instrumentalist logic. The projects for building regional citizenship, although to varying degrees and with significant nuances, maintain a vision that reduces the approach to the phenomenon of migration to the displacement of labor force because the axis continues to be based on a labor instrumentalism characteristic of migration management policies—policies that seek to channel and regulate migration based on the needs of labor markets and not migrations themselves. The criteria for applying for residence place migrants in the obligation to justify their right to remain on the basis of demonstrating their economic usefulness in relation to their “adequate” insertion in these markets. On this last point, the proposal of Unasur for the construction of citizenship provides a space for debate regarding the limitations pointed out for the cases of the CAN and Mercosur since, despite the fact that it is an incipient proposal, it problematizes the requirement of possessing a certificate of lawful means of living, which directly links migration, work, and residence.

Second, the guidelines are reduced to guaranteeing certain social, economic, and labor rights but do not necessarily promote the political membership of migrants or address the cultural dimensions involved in integration processes. Thus, despite the fact that political and participation rights for regional migrants are beginning to be mentioned and debated, there are strong limitations in their treatment due to the fact that there is no progress in concrete mechanisms that allow for the effective expansion of political rights, and progress in this regard is practically nonexistent. A similar situation can be observed in the treatment of the cultural dimension which, when approached from perspectives related to cultural pluralism, is limited to policies of cultural recognition that deny the conflict and the processes of hierarchization and social exclusion that are produced from the cultural identity of migrants.

Thus, the category of citizenship in the CAN, Mercosur, and Unasur guidelines, despite extending some rights for regional migrants, is limited to establishing regularization mechanisms since, in the end, regional citizens are considered to be those migrants who manage to regularize their migratory status. The problem, however, lies in the fact that encompassing the mechanisms of migratory regularization under the category of citizenship supposes establishing a multiplicity of legal status under the legal figure of citizen, which is due to the fact that a series of administrative distinctions are created within regional spaces and national labor markets (Mezzadra & Neilson, 2016). At the same time that, through the category of citizenship, a differential mode of integration is instrumentalized that hierarchizes and segments access to labor, social, cultural, economic, and political rights (Varela, 2015).

Third, although there are significant differences in relation to the guidelines of Mercosur and the Andean Community of Nations and no treatment in Unasur, none of the projects for building regional citizenship proposes eliminating the requirement of not having criminal, judicial, and police records, reinforcing and sustaining the securitization narratives that weigh on regional migrants.

Finally, it should be noted that the guidelines studied do not transcend the national framework since, although they establish the commitment to guarantee rights in a regional scope, National States are the only institutional structures to which appeals can be made, not only to apply for and process residence, but also to claim and sue the infringement or violation of rights. None of the regional integration organizations have supranational institutions or bodies, so regional migrants are subject to national laws and procedures.

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