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Access to Social Protection by Immigrants, Emigrants and Resident Nationals in Argentina.

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Chapter 2
Access to Social Protection by Immigrants, Emigrants and Resident Nationals in Argentina

Verónica Carmona Barrenechea, Giuseppe M. Messina, and Mora Straschnoy

2.1 Overview of the Welfare System and Main Migration Features in Argentina

This chapter aims to discuss the link between migration and social security and protection in Argentina. The introductory section provides a historical overview of the national security system and recent transformations of migration policy in Argentina. The main section analyzes the link between migration and social protection by closely examining the current legal framework regarding five main policy areas: unemployment, health, pensions, family benefits and guaranteed minimum resources. Lastly, the section on conclusions presents a summary of the key findings of this study.

2.1.1 Main Characteristics of the National Social Security System

At the end of the 1970s, Argentina's welfare institutions resembled those of the European conservative model with a developed contributory Social Security and quasi-universal state provisions in the areas of healthcare and education (Lo Vuolo and Barbeito 1994; Isuani 1992).[1] However, risk coverage, eligibility and benefit

[1] In this section we are referring to the classic categorization by Esping-Andersen (1990). This author distinguishes between a social-democrat model of Welfare state (high decommodification,

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amounts were highly stratified (see Filgueira 1998); a proper unemployment income protection was never fully developed; and a significant quota of people remained excluded from the contributory system- especially informal workers (Lo Vuolo and Barbeito 1994). The latter was actually a key element that emerged during the 1990s, a period in which unemployment and informality increased steadily, reaching the highest levels during the political and economic crisis of 2001–2002 (Lindenboim 2003).[2]

In those years, Argentina's welfare regime suffered a significant shift towards a liberal-residual model (Barrientos 2009) with the introduction of a capitalization pillar for the pension system managed by private pensions funds (*Administradoras de Fondos de Jubilaciones y Pensiones* – AFJP), the deregulation of "*Obras Sociales*" (statutory insurance schemes paid with joint employer-employee Social Security contributions) (Danani and Hintze 2011), and the increasing weight of "*Prepagas*" (private medical insurances) in the provision of health and private schools in education (Gamallo 2011). Even if the contributory unemployment insurance was implemented in 1991, its coverage was particularly low. For instance, in 2001 – as the economic crisis was in full swing- only 6% of the unemployed were receiving this benefit (Messina 2017). Between 2003 and 2015, these tendencies have been partially reversed (Danani and Hintze 2011).

Firstly, the pensions system underwent a renationalization in 2008 forming a united pay-as-you-go public system called Integrated Argentinian Pension System (*Sistema Integrado Previsional Argentino* – SIPA). Since 2005, a special access and Contribution Repayment Plan ("*Moratoria previsional*") allowed millions of people to retire within the Social Security scheme, although at a minimum level and regardless of previous contributions.[3] As of September 2017, around 6.8 million people were receiving a pension, out of which 3.6 million had gained access due to the moratorium (MTEySS 2017). Secondly, the introduction of a non-contributory pillar to the Social Security Family Allowance system in 2009 – "*Asignación Universal*

universalistic social policies), a liberal model (low decommodification, residual social policies), and a conservative one (high stratification, contributory social policies). The concept of decommodification refers to the disconnection of individual welfare from access to formal labour markets. Stratification captures the distributive effects of social policy on the class structure of society. In the case of the conservative model, social security is founded on horizontal solidarity between workers along professional lines in order to cover for social risks such as old age, sickness, unemployment, etc. while preserving occupational hierarchies. This is historically combined with a high familiarisation of unpaid care work that rests on the shoulders of the female members of the household, whose irregular work histories have prevented them from accessing in full form to social insurance programs (Martínez Franzoni 2008).

[2] Unemployment rate was as high as 18% and informality among salaried workers jumped to the 44% Source: SEDLAC (CEDLAS and The World Bank).

[3] A vast majority of individuals who had access to the pension moratorium were women (73%). At the beginning, the term used for describing this repayment plan was "housewives pension" as it was the State recognition of reproductive and care work that was mostly in charge of women who also had non-formal jobs. During the second moratorium of 2014, 86% of the beneficiaries were women. See https://www.pagina12.com.ar/diario/suple mentos/las12/13-10464-2016-03-21.html (in Spanish).

por Hijo para Protección Social", Universal Child Allowance, UCA (Pautassi et al. 2013)-, also increased significantly the number of households of informal workers with children which were receiving benefits via the Social Security National Administration (*Administración Nacional de la Seguridad Social*-ANSES).[4] As of September 2017, around 4.2 million workers and 1.8 million retired workers were receiving a contributory family allowance, while 3.9 million non-formal workers were covered under the UCA scheme (MTEySS 2017). Thus, these two non-traditional social policy programs – Contribution Repayment Plan and UCA-accounted for the great increase in pension and family allowances coverage during the last few years (Danani and Hintze 2014).[5]

In other social policy areas, the persistent informality in the labour market – which still characterized around 40% of the overall workforce (MTEySS 2013) – has been affecting the coverage and financing of Social Security institutions, whereas the universal (non-contributory) public provision of goods and services have been generally underfunded. That is the case for the health care system in which the contributory provisions "*Obras Sociales*" cover only formal workers, whereas the public sector has a residual role of attending people without explicit coverage. Consequently, the combination of dual labour markets and the conservative-type of Welfare state institutions have resulted in a highly stratified and segmented access to social policy programs (Pautassi and Gamallo 2014, 2016).

2.1.2 Migration History and Key Policy Developments

Argentina has traditionally been a receiving country for migrants, although the composition of the inflows has varied over time, now coming mainly from the countries of South America. In the pre-World War 1914 era, the migratory flow from Europe was particularly intense: the Census of that year registered the maximum population of foreign origin over the total (around 30%), most of them Italians and Spaniards (Rapoport 2003). In this period, Argentina became the second recipient country for European immigrants after the United States (Migraciones, OEA 2019). Thanks to birthright citizenship *(jus solis),* Argentine nationality is acquired by migrants' children born in Argentina. This factor was compounded by the decline in European migratory balances from the mid-twentieth century, leading to a decrease in the share of foreigners. At the same time, a regional migration system emerged in which Argentina constitutes a pole of migratory attraction originating from

[4] Domestic workers started receiving the Universal Child Allowance regime in 2013. In 2016, under the new right-leaning presidency, the Family Allowance was extended to low-learner self-employed workers, this increasing even more its coverage.

[5] In 2009, 86% of children and adolescent were covered by this mixed family allowance system, while 90% of adults over 65 years received a retirement benefit (Bertranou and Maurizio 2012; Messina 2017).

Table 2.1 Top 10 Countries of Origin of Migrants Residing in Argentina (2017)

Total	Paraguay	Bolivia	Chile	Peru	Italy	Uruguay	Spain	Brazil	Other South America	China
2.164.524	704.503	434.759	221.109	202.643	158.049	137.726	101.726	50.621	32.126	14.936

Source: United Nations, Department of Economic and Social Affairs. Population Division (2017). Trends in International Migrant Stock: The 2017 revision (United Nations database, POP/DB/MIG/Stock/Rev.2017)

bordering countries and other countries of South America.[6] This process occurred while Argentine citizens migrated to more developed countries in Europe or North America during the recurrent phases of crisis started in the 80s (ILO & MTEySS 2011). According to 2017 data,[7] about 977 thousand Argentines reside abroad. The main countries of destination are Spain (254.230) and the United States (196.095). Other countries historically linked to migration to Argentina also host an important Argentine population such as Italy (74.470) and Israel (38.372). Argentine migration is also concentrated in countries in the region such as Chile (73.285), Paraguay (58.535), Bolivia (44.436), Brazil (35.618) and Uruguay (27.933), as well as other countries in North America such as Canada (21.939) and Mexico (19.214).

In recent years, Argentina has been the destination of intraregional migrations (IOM 2017). As shown in Table 2.1, a significant share of foreign residents comes from South American countries.

Regarding immigration policy, the 2004 Immigration Reform (*Migration Law* N° 25781[8]) defined migration as a fundamental human right, while also establishing the general principle of equal treatment and non-discrimination for migrant workers. The reform granted access to public education and healthcare to irregular migrants and ensured the protection of their claims against employers for non-compliance with employment laws. It was an important normative advance in the protection of migrants' rights that replaced the previous regulation approved by the last military dictatorship (Law N° 22439 of 1981). The latter was a very restrictive and punitive regulation regarding undocumented migrants, did not promote channels of legal migration for citizens of neighboring countries and was permeated by a negative attitude towards non-European migrants.[9] Due to restrictions to the legal entry of persons from the Latin American region, the number of irregular foreigners increased during this period (Novick 2012), leading to the adoption of two

[6] In the year 2010, just a 4.5% of Argentine population was foreign. Out of approximately 1.8 million foreign citizens residing in Argentina, 68.9% have arrived from bordering countries (Source: INDEC Census Data).

[7] United Nations, Department of Economic and Social Affairs. Population Division (2017). Trends in International Migrant Stock: The 2017 revision (United Nations database, POP/DB/MIG/Stock/Rev.2017).

[8] Available in Spanish here: http://servicios.infoleg.gob.ar/infolegInternet/anexos/90000-94999/92016/texact.htm

[9] Article 2 of the law dictated the promotion of migration "whose cultural characteristics allow for their proper integration into Argentine society".

immigration amnesties: in 1984, during the presidency of Raúl Alfonsín, regularizing 136 thousand foreigners; and in 1992, during the first presidency of Carlos Menem, regularizing 224 thousand migrants (ILO and MTEySS 2011).

These temporary solutions changed by a more open migration policy after the 2004 reform. To correct pre-existing situations of irregularity, the National Migratory Document Regularization Program (*Programa Nacional de Normalizacion Documentaria Migratoria* – better known as "Big Homeland"/"*Patria Grande*") was implemented for Mercosur nationals and states associates who were residing in Argentina prior to April 2006.[10] This program thus allowed for a more favorable regime for migration from the Latin American region.

In January 2017, the migration law was reformed in a regressive way by Decree 70/2017.[11] Under the argument of a "security emergency" (including narco-criminality and organized crime threats), the new norm implies a regression in terms of rights and due process, limiting the access to justice, weakening the right to defense in cases, and leading to denial of residence or even expulsions. In February 2017, human rights organizations filed a lawsuit requesting the decree to be declared unconstitutional and their petition was granted in March 2018.[12] Regarding immigration and social protection, the issue of migrants' access to the public health system and free public education gained salience in political debates,[13] although it has not translated into restrictive policies. However, in February 2019, ministers from the Executive Branch have announced measures aimed at hardening immigration policy.[14] The announced modifications imply the presentation of more documentation by the immigrant applicant of residence, including certification of lack of criminal records of the last 10 years, health certificates and work certificate of their countries of origin, and an increase of fees related to the migratory process under the concept of "measures of reciprocity".

[10] This program followed the signing of the "Agreement on Residence for Nationals of the States Parties of Mercosur, Bolivia and Chile" and "Agreement on Residence for Nationals of the States Parties of Mercosur" in 2002, ratified by Argentina in 2004.

[11] Available in Spanish: http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/271245/norma.htm

[12] More information available here: https://www.cels.org.ar/web/en/2018/03/el-dnu-de-migrantes-fue-declarado-inconstitucional-por-el-poder-judicial/

[13] The Minister of Health of Jujuy Province stated in February 2008 that they want to charge foreigners that are treated in public hospitals: https://www.lanacion.com.ar/2111530-el-ministro-de-salud-jujeno-advirtio-que-quieren-que-bolivia-pague-por-la-atencion-medica. This has raised public debates on whether it is constitutional not to attend foreigners in public hospitals: https://www.lanacion.com.ar/2112975-con-que-paises-limitrofes-hay-convenios-de-reciprocidad-en-salud-y-como-funcionan

[14] See https://www.infobae.com/politica/2019/02/28/certificado-de-trabajo-de-salud-y-antecedentes-penales-las-nuevas-exigencias-para-los-extranjeros-que-quieran-radicarse-en-argentina/ https://www.pagina12.com.ar/177874-el-gobierno-dispuso-mas-obstaculos-para-los-inmigrantes

2.2 Migration and Social Protection in Argentina

Although the 2004 Immigration Reform improved the human rights of migrants regardless of the regularity of their residency, the new regime also reaffirmed that residence permits are needed for foreigners to engage in formal economic activities. There are two types of residence permits granting the same rights, but with a different duration: the temporary (1 year) residence permits and the permanent ones. The applicable legislation also differentiates between: (1) nationals of Mercosur and associate countries[15]; (2) foreigners from other countries. Citizens of the former category benefit from a privileged status granting them longer temporary residence permits (2 years instead of 1 year), lower immigration visa fees and access to residence permits based on citizenship. Non-Mercosur citizens have to provide documentation to apply for the types of visas available (employment, education and marriage/civil union being the most important). Other than that, when a foreigner's regular status has been certified and he/she has been granted a National Identity Document (*Documento Nacional de Identidad* – DNI) in Argentina, that person is entitled to the same labour and Social Security rights as national residents, regardless of the migration category to which he/she belongs.

Argentina has also signed a number of international Social Security agreements granting privileged access to some social benefits for national citizens residing abroad or migrant workers coming to Argentina (Table 2.2). Generally speaking, these agreements regulate the transfer of workers' contributions between signatory States.[16] This mechanism allows workers to ask for an aggregation of contributions paid in each country to gain entitlement to contributory public (old age and invalidity) pension benefits in the country of residence. Some agreements also grant access to health care and family allowances for pension recipients (Chile or Italy), maternity leave and sickness benefits (Italy and Spain), and health care for temporary expatriate workers (MERCOSUR), etc.[17]

[15] This includes Bolivia, Brasil, Colombia, Chile, Ecuador, Paraguay, Peru, Uruguay, Venezuela, Guyana and Suriname.

[16] Certain categories of workers remain under the Social Security of the country of origin. In most cases, this applies for workers sent as expatriate to the other country by their employers for a limited period of time; sea and air transportation workers; civil and foreign service employees, etc. See: https://www.anses.gob.ar/prestaciones/prestaciones-por-convenio-internacional/ (in Spanish).

[17] In most cases, bilateral and multilateral agreements have been signed with countries representing relevant migration destination or points of origin. For instance, the three countries whose nationals represent the largest groups of foreigners residing in Argentina are Paraguay (704.503 nationals of Paraguay residing in Argentina), Bolivia (434.759) and Chile (221.109). The three most relevant countries of destination for Argentine migrants are Spain (254.230 nationals of Argentina residing in Spain), the United States (196.095) and Italy (74.470) (Source: United Nations 2017).

Table 2.2 Argentina: International social security agreements

I. Multilateral agreements: MERCOSUR (Brazil, Paraguay, Uruguay); Iberoamerican (Bolivia, Brasil, Chile, Ecuador, El Salvador, Paraguay, Peru, Portugal, Spain and Uruguay).
II. Bilateral agreements with EU countries: Belgium, France, Greece, Italy, Luxembourg, Portugal, Slovenia, Spain.
III. Bilateral agreements with non-EU countries: Chile, Colombia, Peru.

Source: https://www.argentina.gob.ar/trabajo/seguridadsocial/internacionalesvigentes; https://www.anses.gob.ar/prestaciones/prestaciones-por-convenio-internacional/

2.2.1 Unemployment

Unemployment insurance (*Seguro de Desempleo*) has been implemented in Argentina since 1991,[18] granting cash benefits –plus family allowance and health care – during the unemployment period. This contributory scheme is financed by employers from deductions of their employees' gross payroll. To receive unemployment benefits for only 2 months, claimants are required at least 6 months of prior contributions. However, a minimum period of 36 months of contributions is needed to become eligible for a maximum of 12 months of unemployment benefits. Having a formal job and identification documents (DNI) are also important eligibility conditions for nationals and foreigners alike. Continuous residency in Argentina is required for both categories since recipients have to be available for possible controls by the authorities, occupational training and job offers from the employment office.

Nevertheless, many categories of workers are not covered by this general scheme. Currently, unemployment insurance covers private-sector employees, construction workers, and agricultural workers in case of unfair dismissal, while excluding self-employed persons, household workers, public-sector employees or private-school teachers. Informal workers are also excluded because of their lack of contributions, leading to a rather low coverage of this scheme. At the end of 2016, this program had approximately 93,000 recipients (MTEySS 2017), against an unemployed population of approximately 926,000 individuals residing in urban areas (INDEC 2017). Individuals who are excluded from this scheme can still benefit from active labour policies that generally aim to increase the employability of the most vulnerable unemployed persons by granting them some economic incentive/means-tested cash benefits (Bertranou and Casanova 2016).

Having exhausted the unemployment insurance benefits also grants access to a non-contributory unemployment assistance program called Training and Employment Insurance (*Seguro de Capacitación y Empleo*). This benefit is granted for a maximum period of 24 months. In 2016, this program covered up to 103,000 individuals (CGN 2017). It combines a non-contributory benefit scheme with active labour policies managed by the local Employment Offices where unemployed

[18] Available in Spanish: http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/412/texact.htm

workers must register. Participation in activities such as adult education, vocational training and job placement services, among others, increases the amount of the cash transfer granted to the beneficiaries. However, beneficiaries risk having the benefit suspended – or eventually been excluded from the program – if they fail to participate in those activities or are not available to work. Residency is a strict requirement for accessing this program. The scheme thus excludes Argentines residing abroad. However, foreigners with legal residency and national identification documents have equal access as resident nationals. Moreover, accessing unemployment benefits does not affect *per se* the access of foreigners to residence permits, family reunification or naturalization. It is also important to note that in this area of unemployment protection, multilateral/bilateral agreements do not generally allow to transfer paid contributions to another country, which means that migrants cannot count those contribution periods to become eligible for unemployment insurance in the countries of residence.

2.2.2 Health Care

The Argentine health care sector is highly fragmented and decentralized. Public health services grant universal access to health care, but they are still chronically underfunded. Furthermore, health care services are managed at the subnational level, this affecting their capacity to cover the poorer areas of the country. The poorest sectors of the population, excluded from any kind of health insurance, are the main patients of the public sector. According to the 2010 Census data, up to 36% of the population was in that situation, reaching 60% in the first income quintile. However, 46% of the population have access to "*Obras Sociales*" covering formal private and public workers.[19] The most relevant program in this regard- "PAMI" (*Programa de Asistencia Médica Integral* – Program of Integral Medical Assistance) attends millions of beneficiaries of old-age public pensions. Additionally, around 10% of the population had gained access to private health care insurance through their "*Obra Social*", while 5% are exclusively covered by a private insurance company (*Prepaga*). Around 30% of overall health care expenditures are represented by out-of-pocket costs sustained especially by low-income households.[20]

Different rules apply for accessing healthcare via the contributory, non-contributory and private health sector. This chapter will focus mainly on the contributory sector. "*Obras Sociales*" cover all individuals who are formally employed and self-employed registered with the Federal Administration of Public Revenue (*Administración Federal de Ingresos Públicos* – AFIP). For employees, the benefit is funded out of contributions over the salary: 5% by the employer and 3% by the

[19] Currently there are approximately 280 national *"Obras Sociales"*, most of them under trade union control (Cetrángolo et al. 2011).

[20] Data in this section is taken from Maceira (2011) and Cetrángolo (2014).

employee. For self-employed, the benefit is funded via a monthly fixed amount paid by the worker through the monotax (*monotributo*). Foreigners with legal residency and national documents have the same rights as national citizens to access this scheme. Health insurance under the "*Obras Sociales*" program has a coverage of medicines between 40% and 100%,[21] whereas health insurance may charge a copayment whose maximum value is regulated by the government.[22] However, both contributory and private health insurances have to guarantee a minimum level of medical provision established by the Compulsory Medical Program (*Programa Médico Obligatorio*).

Non-resident nationals are not usually covered by health insurance schemes, with the exception of those residing in other MERCOSUR countries, which are covered by the MERCOSUR Multilateral Agreement on Social Security. This Agreement entered into force in 2005 for the four Member States: Brazil, Uruguay, Paraguay, and Argentina. It includes coverage of healthcare for wage workers according to the legislation of the country of residence. In order for a worker and his/her family members to receive benefits in kind in case of sickness during their time abroad, the person is required to submit to the Social Security of the country of residence a document of enrollment issued by Argentine Social Security. Also, a few bilateral agreements (Chile, Italy and Portugal) grant health care access to retired workers receiving a pension benefit in those countries.

On the other hand, the sick leave and benefit are regulated in Argentina by the Work Contract Law (*Ley de Contrato de Trabajo*) applicable to private sector wage workers. If an individual has been working for less than 5 years in the same company, he/she has the right to a 3-month paid leave (extended to 6-month if he/she has family dependents). The sick leave period is duplicated for those who have worked for more than 5 years in the same company. The monthly amount is equivalent to the full monthly wage and it is paid by the employer. After the paid leave period, the worker has right to up to one more year of unpaid leave. Foreigners with legal residency and national identity documents have the same rights as resident citizens, so no qualifying period of prior residence is required to be eligible. After 2 years of sick leave, the worker must return to work or access a disability pension. In general, non-resident nationals are not cover by sick benefits, but those residing in MERCOSUR countries are covered by the MERCOSUR Multilateral Agreement on Social Security. This Agreement establishes that the Social Security authorities in the country of residence will receive worker's claim including information regarding his/her contribution period and the certification of his/her temporary or permanent incapacity. Doctors will establish if the incapacity is due to working accidents or professional sickness, and if there is the need for rehabilitation; and the liaison bodies of the other state will decide if the right to the sick leave applies according to the legislation in the country of origin.

[21] Resolution N°310/2004: https://www.sssalud.gob.ar/normativas/consulta/000595.pdf

[22] Resolution 58/2017: http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=270760

As for invalidity benefits, Argentina's Social Security System covers workers' loss of income caused by conditions of invalidity, defined as the permanent reduction of at least 66% of his/her physical or intellectual abilities. This condition will be assessed through a process of medical qualification regulated by the State. The invalidity benefit is not compatible with an employee's income and the beneficiary must be below the statutory retirement age. There are two categories of beneficiaries: regular and qualifying irregular contributors. Regular beneficiaries are required to have at least 30 months of contributions in the 36 months prior to the permanent invalidity assessment or else meet the requirements for the social insurance old-age pension. They are entitled to a benefit equal to 70% of their contribution base ("*base jubilatoria*"). Qualifying irregular contributors must have at least 18 months of contributions in the previous 36 months or meet 50% of the minimum contribution requirements for the social insurance old-age pension (30 years) and have 12 months of contributions in the previous 60 months. They will receive a benefit equal to 50% of their contribution base. Foreigners with legal residency must meet the same eligibility rules as resident nationals. Both groups are allowed to aggregate contributions paid to another country under a multilateral/bilateral agreement to be eligible for the invalidity benefit. Moreover, both categories can receive their benefit abroad once the process of financial and medical qualification has been completed and the condition of invalidity definitely certified.[23] Migrant beneficiaries are also required to periodically provide a proof-of-life response to maintain the benefit payments.

In Argentina, there is also a means-tested non-contributory invalidity pension requiring at least 76% degree of reduction of capacity. This scheme has strict residency rules (5 years of residency in Argentina for national citizens and 20 years of residency for foreigners) and cannot be exported abroad. The scale of this scheme is quite large (1.1 million beneficiaries in September 2017) when compared to just 194 thousand beneficiaries of the contributory invalidity pension (MTEySS 2017).

2.2.3 Pensions

The pension system in Argentina was renationalized in 2008 under a pay-as-you-go public scheme called Integrated Argentinian Pension System (SIPA). Since 2005, a special access and contribution repayment plan ("*Moratoria previsional*") allowed millions of people to retire via the Social Security scheme, although at a minimum level, regardless of their previous contributions. The Argentinian system also distinguishes between contributory and non-contributory pensions.

Contributory pensions include Old-age pension (*Prestación por Vejez*) and Advanced-age old-age pension (*Prestación de vejez en edad avanzada*). The

[23] When the worker is residing in a country not covered by a multilateral or bilateral agreement for a period of 3 months or more, he/she has to give warning to ANSES so that a local bank that can operate international transfers will be assigned to send the worker's benefit abroad: https://www.anses.gob.ar/tramites/ausencia-del-pais-y-reingreso/

qualifying period of contributions is 30 years and the qualifying age is 60 years for women and 65 years for men. Self-employed or dependent formal workers who meet the age requirement but do not have sufficient years of contributions may do so through adherence to a moratorium, which allows them to complete the missing years of contribution. Old age contributory benefits are increased four times per year according to a mixed price and wage Mobility Index and are paid by the Argentine Social Security – ANSES.

Foreigners with legal residency must meet the same eligibility rules as national citizens to be granted an old-age contributory pension. To be eligible for this pension, both groups are allowed to aggregate contributions paid to another country under a multilateral/bilateral agreement. Moreover, both categories can receive their benefit abroad by giving warning to the ANSES when they leave the country for 3 months or more. Migrant beneficiary are required to periodically provide a proof-of-life response to maintain the benefit payments.

The non-contributory pension- the Universal Pension for Older Persons, (*Pensión Universal para el Adulto Mayor*) is granted by the ANSES to people over 65 years old who do not have any retirement or pension benefits. This pension cannot be exported and additional qualifying requirements also include: being Argentine or naturalised Argentine with at least 10 years of residence in the country or being a foreigner with a minimum period of 20 years of prior residence and maintain the residence in the country once the pension has been granted. The amount of this universal pension is the equivalent of 80% of a minimum old-age pension.

2.2.4 Family and Parental Benefits

The Argentine Family Allowance System was implemented in 1957 and its main aim was to alleviate formally employed workers from the expense of family reproduction by transferring income through the Social Security System. The right to these allowances was conditioned by claimant's relationship to the labour market and his/her financial contributions to the Social Security System. In 1968, the different funds for Family Allowances were unified in the attempt to create an organic family allowance regime (Law N° 18,017).[24] Several allowances were established (for marriage, maternity, birth, spouse, child, large family size, and children in elementary, middle, and high school age) and the frequency of the allowance depended on the type of contingency to be covered.

In 1973, the inclusion process in the Family Allowance System of all formally employed workers was consolidated. During the 1990s, a new reformed introduced the Unique Social Security System (*Sistema Único de Seguridad Social*) leading to the elimination of allowances in higher income tiers and the establishment of a stair-step amount inversely proportional to the income (Hintze and Costa 2011). Changes

[24] See: http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/19443/norma.htm

in the regime involved a shift in paradigm: while Family Allowances covered family contingencies, access to the allowances became relativized due to the new law granting protection against such circumstances.

As a product of the reform and transformations in the labour market, a growing number of families and children were no longer protected by the system. In 2009, the Universal Child Allowance (UCA) was created through Necessity and Urgency Decree No. 1602/09. The UCA incorporates a "per child allowance" into the social security system, for the children of non-formal and domestic workers who earn salaries below the Minimum Adjustable Vital Wage (*Salario Mínimo Vital y Móvil*), and the children of unemployed workers and registered temporary workers of the agricultural sector. As for the nationality criteria, children and adults must be Argentinian, naturalised citizens, or legal residents for no less than 3 years.[25] Migrants who cannot prove legal residency for the required number of years are excluded.

As mentioned before, in 2017, around 4.2 million workers and 1.8 million retired workers were receiving a contributory family allowance, while 3.9 non-formal workers were under the UCA scheme (MTEySS 2017). It is also important to highlight the case of female workers excluded from the contributory family allowance scheme (domestic, informal or unemployed workers). In 2011, a new non-contributory component was added to the UCA scheme; the Pregnancy Allowance for Social Protection (Decree 446/2011[26]), targeting informal or unemployed female workers. Eligible claimants receive a monthly benefit since week 12 of pregnancy, provided that they comply with an established set of health controls and treatments within the public health sector. During their pregnancy, a 20% of the benefit is kept by ANSES and is given to the beneficiaries at the birth of their children. Foreign citizens must have the DNI and a legal residency of at least 3 years.

As for maternity benefits, formally employed female workers have the right to paid maternity leave for 12 weeks. This requirement leaves an elevated number of women without protection, due to the problem of informality. Both Argentinian citizens and foreigners residing legally in Argentina have the right to maternity benefits. The maximum period if paid maternity leave is 3 months (45 days pre-birth and 45 days post-birth leave). The payment is equivalent to the salary and it is done by ANSES. Women residing abroad are eligible for maternity leave in case an International Agreement, such as the MERCOSUR Agreement and the bilateral agreements with some EU countries (France, Greece, Italy, Luxembourg, Spain and Portugal).

[25] An UCA assessment from a human rights of migrants' perspective can be found in Ceriani and Morales 2011. This has been criticized by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on Economic, Social, and Cultural Rights, both of which are United Nations committees. (United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, September 2011).

[26] Family Allowances. Decree 446/2011 Amend Law No. 24,714 in relation to the Pregnancy Allowance for Social Protection. The text of the decree is available in Spanish, See: http://servicios.infoleg.gob.ar/infolegInternet/anexos/180000-184999/181250/norma.htm

Finally, there are no parental benefits at the national level in Argentina. Fathers in a formal wage work have the right to 2 days paid live after their child's birth. Only formal workers are eligible, regardless of their nationality.

2.2.5 Guaranteed Minimum Resources

In Argentina there is no general non-categorical cash transfer program for individuals or household whose income is below the extreme poverty line. The largest program targeting low-income households is the Universal Child Allowance (see above), which doesn't include individuals or households without children. Other non-contributory cash transfers are in place for specific categories (old-age, invalidity, etc.).

2.3 Conclusions

The issue of migration is of special relevance for Argentina since the majority of its population is descendant from immigrants who settled in the country in the last few hundred years. According to the 2010 Census, just 2.28% of Argentines declared to belong to an indigenous population. Also, the composition of the Argentine population has changed with modifications in the flow of migration. Prior to the First World War, Europeans (especially from Spain and Italy) were the protagonists of mass migration to Argentina, accounting for 30% of the population at the peak of this process. After the Second World War, not only did the relative weight of immigration decrease, but its composition also changed, with a sharp decline of the European inflow and an increase of immigrants coming from neighboring countries.

The main findings of the chapter indicate that in each of the policy areas analysed, there is a high degree of fragmentation in the systems, with an overlap between contributory and non-contributory regimes which guarantees broad levels of coverage, but unequal levels of benefits. In order to understand what impact this characteristic has on migrants' access to social benefits, two features of the Argentine case must be taken into account. Firstly, the social protection system was constituted around contributory social security institutions with coverage of formal salaried workers (mainly men). Non-contributory programs were introduced during the last decade and they managed to incorporate a large number of people, mainly women, previously excluded because of their work trajectories. In the same period, the immigration reform defined migration as a fundamental human right and established the general principle of equal treatment and non-discrimination for migrant workers.

Within this broader framework, this chapter shows that in the case of contributory benefits, access is not directly subject to the migratory status, but to the condition of labour formality. Formal employees and self-employed workers who

contribute to Social Security have the same rights regardless their nationality. However, in order to become formal workers, foreigners must have regularized their immigration status. The migratory status and the years of residence in Argentina are factors that determine access to non-contributory benefits. For example: the Universal Child Allowance for Social Protection requires 3 years of residence for both parents and children, even in the case of children born in Argentina. Similarly, the Universal Pension for Older Persons requires its recipients to be Argentine by birth, naturalized Argentine with 10 years of residence in the country, or foreigners with a minimum residence of 20 years.

Once the person has gained access to a benefit, there are also differences between the contributory and non-contributory schemes with regards to the residence requirement. For example, in the case of ordinary contributory pensions, the recipients may reside in the country of their choice. However, for the Universal Pension for Older Persons, recipients must reside in Argentina.

Another relevant issue regarding social protection refers to the international Social Security agreements that Argentina signed. These agreements grant privileged access to some social benefits for national citizens residing abroad or migrant workers coming to Argentina. In general, these agreements regulate the transfer of workers' contributions between signatory States. This mechanism allows workers to ask for an aggregation of contributions paid in each country to gain entitlement to old age and invalidity pension benefits in the chosen country of residence. Some agreements also grant access to health care and family allowances for pension recipients (Chile, Italy), or maternity leave and sickness benefits (Italy, Spain). The most robust agreement is the MERCOSUR Multilateral Agreement on Social Security that guarantees access for migrant workers in the States Parties to the same rights as in the States of origin in matters of social security regarding contributory benefits and health services. There are also a number of bilateral Agreements in place which grant access to old age and invalidity benefits. Some of these agreements also grant access to health care and family allowances (usually for pension recipients) and others give access to maternity leave and sickness benefits. When a worker migrates to countries not covered by any Social Security agreements, he/she loses the right to ask for an aggregation of contributions paid in each country to be eligible to contributory benefits in the chosen country of residence. This usually derives in losing the rights to receive a Social Security benefit in Argentina, unless the benefit is already being granted (for example, in the case of retired workers receiving a pension benefit and deciding to move abroad). On the other hand, unemployment benefits are not granted to those residing abroad.

In summary, migrants' access to contributory social security in Argentina is determined mainly by their employment status. In contrast, access to non-contributory benefits depends not only on the eligibility conditions determined by each public policy, but also the years of residence that migrants can demonstrate, once he/she has regularized his/her residence with the migration authorities. This situation is explained by the relatively open immigration policy that characterizes Argentina since the 2004 reform. Yet, the measures adopted by the current government (since the end of 2015) and the discourses that follow them betray a political

change towards a more restrictive migration policy, although this has not been reflected yet in changes in access to social protection for migrants with regular residence.

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