
Transfer and Diffusion of Health Policies via International Cooperation in South America: lessons from the empirical evidence of international law¹

Transferência e Difusão de Políticas Sanitárias via Cooperação Internacional na América do Sul: lições a partir das evidências empíricas do direito internacional

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DOI: 10.22478/ufpb.2525-5584.2020v5n2.51882

Date of Recieval: 15/04/2020
Date of Approval: 19/06/2020

*Los que hacen de la objetividad una religión, mienten.
Ellos no quieren ser objetivos, mentira:
quieren ser objetos, para salvarse del dolor humano.*
José Coronel Urtecho to Eduardo Galeano, El libro de los abrazos

Abstract: This paper argues that beyond the perspective of foreign policy as public policy, the former may also be a precursor of the internationalization of other policies, via international cooperation. Thus, based on the empirical evidences of international law, this research investigates how the processes of policy transfer and policy diffusion occur in bilateral and regional levels, in the health sector, starting from Brazil and focusing on South America. Due to the normative approach of this undertaking, some questions about the research demands arising from the recognition of these processes are also addressed, discussing some obstacles and possible strategies, involving the International Relations and International Law disciplines, to solve them.

Keywords: Policy Transfer; Policy Diffusion; Structuring Cooperation in Health; Health Policies; International Law.

¹ This paper received public funding from CNPq Edital Universal (Process Number 423592/2016-5) and from the ARD FAPERFGS Edital (Process Number 19/2551-0001210-1).

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Resumo: O presente trabalho argumenta que para além da análise da política externa como política pública, a primeira pode ser também precursora da internacionalização de outras políticas, via cooperação internacional. Assim, a partir das evidências empíricas do direito internacional, a presente pesquisa investiga como os processos de transferência e difusão de políticas ocorrem nos níveis bilateral e regional, em matéria sanitária, a partir do Brasil e com foco na América do Sul. Devido ao componente normativo desta empreitada, também são desmembradas algumas questões sobre as demandas de pesquisa decorrentes do reconhecimento desses processos, discutindo alguns obstáculos e as estratégias possíveis, envolvendo as disciplinas de Relações Internacionais e Direito Internacional, para resolvê-las.

Palavras-chave: Transferência de Políticas; Difusão de Políticas; Cooperação Estruturante em Saúde; Políticas Sanitárias; Direito Internacional.

1. Introduction

Given the strong influence of the realist theory in the field of International Relations (IR), foreign policy (FP) has been understood as an isolated area from other public policies (PPs). But such isolation is strongly challenged by the intensification of the relations between the international and national scopes (Sanchez et al, 2006). The connections between FP and other PPs have been approached from the normative point of view, starting with the comprehension that the decision-making process in polyarchies should be a *continuum* from the national to the international (Milner, 1997). Likewise, they were approached from the point of view of Political Science, in which the similarity of FP to PPs was verified either due to its subjects, distributive or redistributive politics for instance (Ingram & Fiederlein, 1988), or due to the similar decision-making processes in democratic States (Ingram & Fiederlein, 1988).

In addition to the analysis of FP as PP, this article seeks to argue, based on empirical evidences of international law, that the former can also be a precursor of the internationalization of other PPs, such as the health ones, through specific mechanisms of international cooperation.

According to Constantine and Shankland (2017), the relation between policy transfer (bilateral, discussed in the first section of this article), policy diffusion (multilateral/regional, debated in the second section), and international cooperation has been increasingly important for two main reasons: (1) the exchange of knowledges, and (2) the demand for substitution of unidirectional knowledge transfers, a feature of north-south cooperation (NSC), for multidimensional transfers and mutual benefits among cooperation partners, which are the principles of south-south cooperation (SSC). Also,

because of these reasons, a generous amount of contemporary lessons concerning these processes are found in the Global South. Even so, empirical studies about this process in the South are scarce.

Therefore, this paper seeks to discuss in three sections both processes of internationalization of policies (transfer and diffusion) in the health sector in the Global South, based on empirical evidences from international law. In the first section, the goal is to discover which cases regarding internationalization of PPs can be verified by international agreements in the health sector that have been signed bilaterally between Brazil and other independent South American countries. The main argument in this section is that the internationalization of health policies, or components of it, in this case, is being conveyed by a specific model of cooperation developed in Brazil: the structuring cooperation in health (SCH)⁴. The validity of this assessment is tested through the content of the international agreements signed in this sector between the countries mentioned above, according to Pozzatti and Farias' (2019a) survey.

The second section seeks to discuss how regional integration institutions can facilitate the process of internationalization of PPs. It is argued that, despite the institutional engineering with less intention of being supranational, institutions like the Union of South American Nations (Unasur) may set the path for processes of diffusion of health policies in the region. This assertion is tested based on the discussion of other empirical studies, such as those conducted by Agostinis (2019) and Bueno, Faria and Bermudez (2013), and literature review, such as the one led by Pozzatti and Farias (2019b). Finally, the third section looks to dissect the question concerning the demands of empirical research resulting from the recognition of this processes, discussing which are the obstacles and the possible strategies available in the fields of IR and International Law (IL) to solve them.

⁴ Some scholars translate “cooperação estruturante” as “structuring cooperation” (Constantine & Shankland, 2017, p. 107) and others as “structural cooperation” (Almeida et al, 2010, p. 23; Ferreira & Fonseca, 2017, p. 2129). We chose “structuring cooperation” to emphasize more the movement, the process of structuration, than the structure itself, although we recognize that this process strengthens those structures that already exist and builds structures that do not yet exist in the State partner. For us, “structuring cooperation” seems capture this meaning of action and transformation in a better way.

2. Policy Transfer as the Construction of Capabilities in the Bilateral Scope: Brazil's experience with other South American countries

This section argues that Brazil's FP, insofar as it implements SCH with other South American independent countries, does so through transfers of policy, policies' components or health expertise. Thus, in addition to the perspective of FP as PP, the former may also be a precursor of the internationalization of other PPs aiming to build and/or strengthen the capabilities of other countries from Global South. Based on this, some strategies regarding the continuity of the study about this thematic in the fields of IL and IR are enumerated.

SCH is an international cooperation model which is an exponent of SSC. The model is based on the Brazilian practice with other South American countries and other Portuguese speaking countries (Almeida et al, 2010), and it was theorized by researchers from the Oswaldo Cruz Foundation (Fiocruz), who describe it as a form of cooperation

Centered on strengthening recipient-country health systems institutionally, combining concrete interventions with local capacity building and knowledge generation, and promoting dialogue among actors, so that they can take the lead in health sector processes and promote formulation of a future health development agenda of their own" (Almeida, De Campos, Buss, Ferreira & Fonseca, 2010, 2010, p. 26)

SCH distinguishes itself in the prospect of what nowadays is being applied as *capacity building*, once it is being engaged toward the training of human resources and the construction of capacities (Ferreira & Fonseca, 2017, p. 2130). This model has three conceptual premises that, according to Fonseca and Buss (2017), define how it operates: the social determination of health, the international cooperation in a collaborative spectrum, and the strategic planning in health.

In the survey of all international agreements in the health sector signed between Brazil and other independent countries of South America, that were in force, totalizing 145 agreements⁵, Pozzatti and Farias (2019a) put aside a thematic regime to aggregate agreements intended to specifically positivate the SCH, which they have denominated

⁵ In force and available on the portals of the Division of International Acts of the Ministry of Foreign Affairs (in Portuguese, Ministério das Relações Exteriores - MRE) of Brazil (Concórdia Platform), of the International Advisory of the Ministry of Health of the same country (in Portuguese, Assessoria Internacional do Ministério da Saúde - AISA), of the official website of Unasur (now extinct), and the official website of the Southern Common Market (Mercosur) - these last two institutions from which the multilateral agreements mentioned in this section came from - until June 6, 2018.

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institutional strengthening regime (made up of 18 agreements). Furthermore, they have also made a second classification in which 50 agreements dealt about “sectorial strengthening”, a thematic regime “that differs from the first one, in which are grouped acts that deal with the strengthening of an institution in general, deal about strengthening institutions, actions and programs in a specific subject or capacity” (Pozzatti & Farias, 2019a, p. 376-377, our translation).

Within these 50 international acts, nine of them are also part of the thematic regime of institutional strengthening⁶. Besides that, eight of the 50 agreements are multilateral, signed in the framework of the Southern Common Market (Mercosur) and Unasur. These eight acts refer themselves to the formation of networks of structuring institutions and an exchange platform, thematics with regional scope, which are addressed in the second section of this paper. Thus, in this section, the content of 51 international agreements⁷ are being considered, regarding the sum of the bilateral international agreements both of sectorial and institutional strengthening.

Regarding the sectorial strengthening acts, when dealing with the strengthening of specific institutions in other countries and in terms of specific capacities, it can be asserted that they do so following the logic of policy transfer. That is because, (1) the expertise exchanged by the Brazil is obtained according to its own PPs in all cases, and (2) that also includes Brazilian aid to the construction of PPs – according to its own – in other countries. This logic is also verified through interviews considering the practice of cooperation in the health sector promoted by Brazil: either in other regions, and from the perspective of the technicians of the country that apprehends the transfer, such as in the interviews led by Milani and Lopes (2014) with Mozambican technicians; or in the case of specific institutions, as is the case of the Centre of Excellence Against Hunger – a Brazilian institution in partnership with the World Food Program (WFP) of the United Nations (UN) – in which this logic is also described by technicians of the Centre and Brazilian diplomats interviewed by Dri and Da Silva (2019).

⁶ This is because the initial classification of Pozzatti and Farias (2019a) considered the main theme of each agreement, and the second classification, aimed at seeking structuring possibilities even in agreements whose main theme was not institutions, and it was the one that led to the sectorial strengthening regime, which permeates the others.

⁷ On August 1, 2020, there were no new international health agreements in force between Brazil and none of the other South American countries, as reported by Concordia. As well as all the 51 acts analyzed for in this paper were still in force and available on this portal.

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This finding allows us to infer that: capacity building via SCH means - mostly - exchanging/transferring policies. Examples of that are the six international acts responsible for strengthening the national response of other States regarding the HIV epidemic, an issue in which Brazil was the third country in the world - and the first developing country - to adopt a policy of treatment as prevention, making universal access to antiretroviral drugs available to the population living with the virus (UNICEF, 2016). Also fitting here is the example of the Human Milk Banks (HMB), in which Brazil developed one of the most complex and efficient networks in the world, and subsequently exported on a large scale to developing countries (Dri & Pittas, 2017). The implementation, consolidation, and expansion of HMBs are the content of ten of the international sectoral strengthening acts with countries in South America analyzed here.

Furthermore, by being similar to other PPs, at the same time that FP makes possible their transfer, it is itself an object of transfer, and that is verified at least by two of the international acts analyzed, aiming to strengthen international advisory services of Ministries of Health of other countries through the transfer of “knowledge about management of international technical cooperation in the health sector”⁸.

Regarding the nine bilateral acts related only to institutional strengthening, they deal mainly with the exchange and the training of human resources from the other countries in terms of management and planning, having as reference the Brazilians programs and institutions⁹, and also looking for ways in which to expand the regulatory dialogue between health authorities¹⁰, for example. The generality of these functions makes the causal inference between those international acts and specific PPs impossible, just by this research source. Perhaps with other sources, such as “executive projects” and “results reports”, or even using distinct research methodologies than the documentary analyze, like interviews, this analysis could be done.

⁸ As Article I, item 1, of the “Complementary Agreement to the Basic Agreement on Technical Cooperation” between the Government of the Federative Republic of Brazil and the Government of the Republic of Colombia for the implementation of the project “Institutional Strengthening of the International Advisors of the Ministries of Health of Brazil and Colombia”, signed on 05/07/2007.

⁹ As does the “Complementary Agreement to the Basic Technical Cooperation Agreement” between the Government of the Federative Republic of Brazil and the Government of the Republic of Colombia to implement the project “Support for the process of restructuring of the Invima seeking its institutional strengthening”, signed on 26/10/2011.

¹⁰ As does the “Complementary Agreement to the Basic Technical Cooperation Agreement between the Government of the Federative Republic of Brazil and the Government of the Republic of Paraguay to implement the project “Institutional Strengthening of the National Division of Sanitary Surveillance of the Ministry of Public Health and Social Welfare of the Republic of Paraguay”, signed on 24/05/2012.

Even so, it is important to note that, in addition to the cooperation achieved through the transfer of a specific PP – or some of its components -, the cooperation focused on the construction of capacities via expertise transfer, overall, as is the case of the nine acts on institutional strengthening, can also be analyzed through the heuristic of policy transfer (Dolowitz & Marsh, 1996), an approach borrowed from Political Science. Policy transfer is defined as “a process in which knowledge about policies, administrative arrangements, institutions etc. in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place” (Dolowitz & Marsh, 1996, p. 344), and its objects can be “policy goals, policy content, policy instruments, policy programs, institutions, ideologies, ideas and attitudes and negative lessons” (Dolowitz & Marsh, 2000, p. 12).

Therefore, by institutionalizing the cooperation, international law plays the important role of projecting PPs from one country to another, in a way that when it is operated horizontally, it can fertilize the local practices with the external experience. A distinguished feature of the policy transfer built through international cooperation is their formalization, once it can be accessed via international agreements: an international act can be both an element of prestige, since it registers international solidarity, and part of a much bigger movement of resistance, in which the expertise of a developing country is required by another country of similar status, both interested in the autonomous strengthening and development of the Global South, which is a core premise of SSC. In this sense, by addressing values (such as solidarity, autonomy and horizontality), international law also increases the gains and/or the political costs of its effectuation, or of the abandonment of international commitments signed by international acts.

By combining instrumentalism with formalism, Koskenniemi (2011) asserts that the function of international law is to act as a process, since, insofar it is a tool of power (the classic instrumental perspective), it also creates and delimits power (formalist, normative perspective). Thus, the role of international law is to act as a hermeneutic circularity which involves both instrumentalism and formalism. In his own words:

International law certainly seeks to realize political values, interests and preferences of various international actors. [...] however, it also appears as a standard of criticism and means of controlling those in powerful positions. Instrumentalism and formalism connote two opposite sensibilities of what it means to be an international lawyer, and two cultures of professional practice, the stereotypes of ‘the advisor’ to a powerful actor with many policy alternatives and ‘the judge’

scrutinizing the legality of a particular international behavior” (Koskeniemi, 2011, p. 242).

In this process, international law - as a political-institutional practice - operates as a catalyst for the export of PPs. Even so, as it will be demonstrated in the third section of this paper, IL understood as an academic discipline must also incorporate narratives such as the SCH one, if it wishes to be closer to the politics and its transformations. That is because the theoretical description of SCH informs its commitment to certain values and results, since

a) it integrates strengthening human resources with organizational and institutional development; b) it builds on endogenous resources and capacities to enable local actors to take the leading role in the formulation and sustainable implementation of county health agendas (Ferreira & Fonseca, 2017, p. 2130-2131)

Understanding how SCH is positivized involves dismembering and getting to know each part of its processes, but even so, it does not yet lead to an understanding of the whole. Understanding this entire process depends on research questions committed to practice rather than to the isolated theoretical development of an area, as well as access to sources and researcher’s eager for them.

Further investigating this process involves, for example, thinking about the questions of the policy transfer heuristic: (1) why transfer?, (2) who is involved in transfer?, (3) what is transferred?, (4) from where, (5) degrees of transfer, (6) constraints on transfer, (7) how to demonstrate policy transfer?, and (8) how transfer leads to policy failure? (Dolowitz & Marsh, 1996). This heuristic also opens possibilities for several other research questions, linked to specific axes or theoretical approaches.

Among these possibilities, one example would be to ask how the method of implementation can be another characteristic that distinguishes horizontal from vertical cooperation, or what is the impact of technology transfer versus policy transfer in shaping up an autonomous development, in the case of international cooperation studies in the discipline of IR. Or even questioning what types of transfer would be in fact committed with a decolonial approach of IL and IR.

3. Diffusion of Health Policies within a Regional Scope: Unasur’s experience

The purpose of this section is to discuss the experience on the diffusion of health policies within the scope of the Unasur’s networks of health’s structuring institutions,

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starting from empirical studies, such as those by Agostinis (2019) and Bueno, Faria and Bermudez (2013), and literature review, such as the one led by Pozzatti and Farias (2019b). This discussion seeks to think about how this process occurs and which academic demands emerge to deeper its study in the fields of IL and IR.

The regionalism produced in Latin America since the 2000s undergoes a crucial paradigm shift. It is no longer oriented by rules (rule-driven) and become oriented by policies (policy-driven), insofar as that the national State comes back to the center of the debate as inducer of these policies (Lima & Coutinho, 2006). This development (five decades late), meets what Jouannet (2012) considers as a transformation of the purposes of international law, moving from the coexistence to the promotion of the cooperation between States to accomplish social rights, especially those that need a present State rather than an absent one to do so (Torronteguy, 2010). In this scenario, “to offer an effective response to these new challenges, the international legal system must be able to influence the domestic policies of States and harness national institutions in pursuit of global objectives” (Slaughter & Burke White, 2006, p. 328).

In this period (the 2000s), more specifically within the scope of the South American regionalism, the emergence of the “social turn” (Riggirozzi, 2014) positioned the social policies in the center of the integration process. In this context, “health has become a strategic policy driver redefining the terms of regionalism in South America, and hence new forms of regionalization are unfolding ‘on the edges’ of its most usual approach to market-led integration” (Riggirozzi, 2014, p. 434).

In the same period, the competition for the regional leadership makes of Brazil the Unasur’s main investor, and of Venezuela the main investor in the Bolivarian Alliance for the Peoples of Our Americas (Alba). Both States implemented different strategies of international insertion and ways of cooperating (Faria, 2012). In the first case, cooperation was

more diversified and more focused on the transfer of what has been called “social technologies” (and also other forms of technology), but also a cooperation that has a greater degree of institutionalization, both with regard to its domestic organizational bases as well as with regard to its support by international organizations and institutions (Faria, 2012, p. 365, our translation).

In the second case, there was more financing and authoritarianism, and less worry with the result and the institutionalization of a model of cooperation (Faria, 2012). Alba

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“became restricted to a much smaller number of countries and succumbed quickly in the wake of the Chavism crisis” (Faria, 2018, p. 67, our translation), while Unasur was abandoned by its member States in April 2019. About the political inertia of Unasur, Mijares and Nolte (2018) assert that:

The organization's loose plan, which served so much to reach its initial consensus, finally undermined its unity, and could no longer create a supranational institutional fabric capable of going beyond transitional government projects. National autonomies had the last word, so they were superimposed on regional autonomy, and South America no longer counts as an actor in the international system (Mijares & Nolte, 2018, p. 110, our translation)

However, before of the abandonment of its member States, Unasur built in its core an institutional structure composed of six networks of health's structuring institutions: the Advisory Network of International Relations and International Cooperation in Health (in Portuguese, Rede de Assessorias de Relações Internacionais e de Cooperação Internacional em Saúde - REDSSUR-ORIS), the Disaster Risk Management Network (in Portuguese, Rede de Gestão de Riscos e Mitigação de Desastres - GRIDS), the Public Health Schools Network (in Portuguese, Rede de Escolas de Saúde Pública - RESP), the International Network of Health Technicians Education (in Portuguese, Rede Internacional de Educação de Técnicos em Saúde - RETS), the Network of National Institutes of Health (in Portuguese, Rede dos Institutos Nacionais de Saúde - RINS) and the Network of National Cancer Institutes and Institutions (in Portuguese, Rede de Instituições Nacionais de Câncer - RINC).

Bueno, Faria and Bermudez (2013) use Agranoff's (2003) classification of intergovernmental networks, such as Informational Networks, Developmental Networks, Outreach Networks and Action Networks, to classify Unasur's networks of health's structuring institutions as simultaneously networks of development and action, the reason for this, according to the authors is that:

[the networks] are dedicated to the generation and exchange of knowledge (and good practices), and to create spaces that promote these exchanges, such as seminars, conferences, and workshops. In addition, they develop common strategies, which members are encouraged to adopt and, in some cases, with the validation of the Council - ministerial instance with sectoral decision-making power -, formalize regional/multilateral collaborative actions (Bueno, Faria & Bermudez, 2013, p. 95, our translation).

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Even so, the authors assert that a substantial portion of the cooperation empirically verified in the networks is still mainly bilateral, generated in networks, but not actually of its institutional action as a network. This production of bilateral cooperation generated by the use of these networks as a forum is not a surprise, given that for some time, Latin American regionalism, overall, “has mentioned post-liberal formats and a return to sectorial dialogue and to cooperation” (Dri, 2016, p. 02, our translation). To Pozzatti and Farias, “when they are forums, these networks assure that Unasur’s genetic code will not be destroyed alongside it, instead they will find echo in the national institutions” (2019b, p. 14, our translation). For the same authors,

These national institutions are precisely the focus of contemporary international law, which, in order to solve the current global problems, born from the domestic scope of States, need to be able to act through national sovereignty and use these institutions in the pursuit of the global objectives for which it is established. In the case of Unasur, national autonomy is not something that is easily conceded, and this is clear when one looks at the state of the art of sub-regional integration projects. In this context, because the networks conserve national autonomy and work via international cooperation, they seem useful in this effort of making agreements resist around global objectives, in a context where the nation-state also resists (Pozzatti & Farias, 2019b, p. 14-15, our translation).

Agostinis argues that “RIOs [regional intergovernmental organizations] such as Unasur catalyze transnational diffusion not by enforcing binding regional norms (as in the case of the EU [European Union]), but by bridging member States’ shared functional needs and asymmetric capacities in specific policy areas” (Agostinis, 2019, p. 1111). The diffusion to which the author refers is conceptualized as “a horizontal process of voluntary internalization of new policy instruments and institutional arrangements triggered by the establishment of regional institutions” (Agostinis, 2019, p. 1112).

Agostinis (2019) conducted four case studies about the transnational policy diffusion produced by Unasur’s network of health’s structuring institutions. For him, both the cases of Colombia and Uruguay in the Network of National Cancer Institutes and Institutions (RINC), the case of the Terry Fox National Tumor Bank (BNTTF) in Colombia, and the Uruguayan case of Public Health Schools Network (RESP),

show how the creation of UNASUR Health’s structuring networks bridged member States’ FN [functional needs] and AC [asymmetric capacities] by facilitating the sharing of policy relevant knowledge and

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the articulation of bilateral cooperation initiatives among national health bureaucracies (Agostinis, 2019, p. 1119).

One of the main hypotheses empirically verified by the author is that

The establishment of RI [regional institutions] enables State officials with a common expertise in a specific area of public health to gather and exchange information with high frequency in technical settings insulated from direct political pressure, creating conditions conducive to interbureaucratic learning (Agostinis, 2019, p. 1115-1116).

Thus, Unasur's political inertia obstructs and decentralizes various processes, but it does not end with the process by which regionalism becomes motivated by policies. This is the representation of a contemporary international law that intends to project itself domestically (Slaughter & Burke-White, 2006), and of the possibilities of South American politics, extensively linked to national autonomy (Onuki & Oliveira, 2006; Ruiz, 2012). These networks and bilateral communication are not extinct alongside its formal structure, so that they can remain being fed by those responsible for sectorial politics (bureaucrats, technicians, specialists), when high politics - moved by the main decision makers - suppress strategies of effectuation of human rights. According to Pozzatti and Farias,

when international law succeeds in penetrating domestic membranes, it establishes deeper roots, roots that can reproduce itself, maintaining the genetic code, or the initial agreed value, and more than that, it ceases to be an agreement that ends, to be an agreement that fertilizes. And this possibility of fertilization can be kept alive when it reaches structuring institutions, because human resources do not change as ephemerally as in the case of the presidential sphere. Even when it comes to Ministries, when reaching out to those who design and implement public policy action plans, the schemes are referring more to technicians than Ministers [of Foreign Affairs] themselves (Pozzatti & Farias, 2019b, p. 10, our translation).

In the same sense, Faria argues that

regionalism encourages and facilitates the establishment of international alliances by domestic interest groups and social movements. Through these channels, new ways of defending their interests and promoting their agendas are instituted both at the transnational and national levels (Faria, 2018, p. 80, our translation).

In this scenario it is appropriate to remember Haas' (1992) epistemic communities, to whom these communities of specialists can both elucidate possible solutions to problems in their respective areas, as well as clarify processes and define the

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self-interest of States. In South America, technicians and experts seem to have occupied a prestigious place in the periods studied by the cases analyzed here, in terms of internationalization of PPs, and as a result, they have acted in the movement of regional and social gears that did not seem to be moving with such development before.

Nevertheless, even though the idea of epistemic communities was born with the neofunctionalist perspective of the European integration, it remains being an insufficient perspective to think about experiences such as Unasur. The reason is because this approach is causally linked with the goal of building a new political community of a supranational nature (Hurrel, 1995), which does not translate the way in which such epistemic communities seem to interact in Unasur's networks. Nor could the prospect of neoliberal institutionalism be sufficient, although state-centric, since it connects to a specific route of integration densification, the economic one (Hurrel, 1995), and therefore, also does not reach the necessary emphasis on the health sector, in which Unasur has had success in starting the diffusion processes. Obstacles such as this will be discussed in the next section.

These findings regarding the relationship between the regional institutions and the building and diffusion of social policies, as well as the influence of specialized knowledge in the effectiveness of this relationship, make it necessary to think about other questions that are transversal to the fields of IL and IR. One example would be to think about which measures and theories are really useful to examine the success or failure of the regional institutions in specific contexts, like the South America one, region on which most of the examples cited here are based, and that are so distinct from those where traditional approaches to these regional institutions were written. That does not mean that one should ignore the relevance of the heuristics developed by the traditional theories, but primarily, that is necessary to diagnose with empirical and local fidelity the *modus operandi* and the problems of each region – and specific institution – that one seeks to analyze.

In the meantime, if the policy diffusion can be used as a measure of evaluation in this sense, it is important to reflect on the reasons why the disciplines of IL and IR focus so little on them. If regional institutions can serve as a catalyst for national public policies to enforce human rights, why do jus-internationalists focus less on them than on the generalist universal agreements? Even when scholars recognize the need to mobilize domestic institutions to give effect to international law in contemporary times, in which global problems are born more from inside the States than from their interstate relations

(Slaughter & Burke-White, 2006), not even the policy transfer and the policy diffusion, not even the bureaucrats, technicians and specialists that make them possible, are preferred objects or sources of scientific investigation in the field.

4. Research demands arising from the recognition of the processes of transfer and diffusion of policies via international cooperation

This section is responsible for discussing the possible challenges and strategies for resolving two main demands arising from the recognition of the processes of transfer and diffusion of health policy, carried out through international cooperation, either the bilateral SCH, or the use of Unasur's networks of health's structuring institutions as forum, as mentioned before. The first is the need for more empirical studies, which can enable the understanding of the specificities of these processes and the lessons that Constantine and Shankland (2017) foresee to exist on the thematic in the Global South. The second is the need for recognition and dialogue with the actors - bureaucrats, technicians, and specialists - who carry out these processes, and whose knowledge need to be absorbed by the IR and IL theories that seek to think about them.

Tomazini (2017, p. 46) lists as one of the main challenges of managing SSC “the compilation of primary sources in digital database”, and this can also be considered one of the main challenges for the empirical research in this field. Tomazini (2017) acknowledges that there was already some progress on the resolution of this challenge, in Brazil, in 2017. She referred particularly to the various publications of the Brazilian Cooperation Agency (in Portuguese, Agência Brasileira de Cooperação - ABC), and to the Report of Brazilian Cooperation for International Development (in Portuguese, Relatório de Cooperação Brasileira para o Desenvolvimento Internacional - COBRADI), published by the Institute for Applied Economic Research (in Portuguese, Instituto de Pesquisa Econômica Aplicada - IPEA), with four editions already published up to date, which depart from their own survey methodology, and are mainly useful for understanding public spending in the area and the ideas that circulate within Brazilian practice.

Still, in the Ibero-American context, the “Ibero-American General Secretariat” (in Portuguese, Secretaria Geral Ibero-Americana - SEGIB) gathers data on bilateral, triangular, regional and inter-regional SSC promoted by the 22 member States of Latin America and the Iberian Peninsula, in editions of the Report on South-South Cooperation

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in Ibero-America. Since 2015, it gathers this data through the Ibero-American Integrated Data System on South-South and Triangular Cooperation (in Portuguese, Sistema Integrado de Dados da Ibero-América sobre Cooperação Sul-Sul e Triangular - SIDICSS), which is the first online and regional platform of survey, and the first regional report of information about this type of cooperation (SEGIB, 2018).

This Report, whose last edition from 2018 collected the data related to 2016 and gather historical series about the previous decade, has the potential to assist several other research questions, as it presents the profile of countries altogether and individually, as well as the roles they take on, the main thematic of cooperation projects and actions, among others. The Report also gathers opinions from different actors and countries regarding challenges and advances in the field. In addition, it exposes the limits within which the statistics it produces operate, such as the case of the deficit of information on data on the costs of cooperation in each country (SEGIB, 2018).

In the specific case of the international agreements signed by Brazil, the Concordia platform, supported by the Ministry of Foreign Affairs (in Portuguese, Ministério das Relações Exteriores – MRE), is wide and currently has on its system 11.892 international agreements, signed since 1822 (MRE, 2020). In the advanced research tab, there are several filters available that can refine the searches, or not. In the case of the survey carried out by Pozzatti and Farias (2019a), for example, there was no use of thematic markers for the search for international acts, only the selection of the “in force” filter. In the case of the health sector, the authors found that the thematic markers are not able to cover all the subjects that can be enclosed by the health sector. Besides, some of the documents attached to the information of a certain agreement are not in fact the document of this agreement, but of some other, uploaded there at random.

Regarding the database organized by the International Advisory of Brazil’s Ministry of Health (in Portuguese, *Assessoria Internacional do Ministério da Saúde - AISA*) (AISA, 2020a), there is no proper communication between them and Concordia, insofar as “the lists of agreements in health sometimes provide a link for a document, and other times a link to a page of the referred international agreement on the Concordia platform” (Pozzatti & Farias, 2019a, p. 371, our translation). In this context, divergences have been found related to the in force *status* of some acts, for example, between one platform to the other. This is the reason why Pozzatti and Farias (2019a) decided to set

preference over information in one platform over another, giving preference to the MRE's Concordia.

Unasur's website did not have organizational tools beyond the search for words mentioned in the body of the text or in the title of the digitalized documents. Even so, when it was extinct without any previous warning, this website took with it a myriad of possibilities of empirical research, and a considerable part of the history of the South American regionalism. And all that is left of it is what can be asserted based on past research experiences. Mercosur's online website (MERCOSUR, 2020), unlike the others, is an example of classification, dividing documents by normative types and year by year.

Beyond the international acts, some of the "executive projects" set by the coordinating institutions (defined in the international acts), at least in the health sector, are available in the "International Cooperation Actions and Project Management System" (in Portuguese, Sistema de Gestão de Projetos e Ações de Cooperação Internacional - SISCOOP) (AISA, 2020b). This database is organized by countries, and has pages of information about the projects and the documents themselves available for download, but occasionally, the information described is incongruous with the document, and sometimes the document is not available for download, or it is a document referring to the act accessed on the page.

Thus, despite advances in the production of qualified reports, there is still a lack of organization and reliability, especially in databases in which the data are international agreements. About these same sources of investigation, it is important to note that, once the document is found, it is crucial that the researcher has the necessary skills to analyze the data. At this point, academic training of researchers to conduct interdisciplinary investigations are decisive to understand the processes and results of policies transfers and diffusions.

Brazil is the fourth largest provider of SSC through projects in Latin America, but it is far from occupying the first positions in the role of offering actions. Projects and actions are distinct in terms of duration and costs since the former have vaster dimensions in the two variables. The authors of this paper, despite verifying the register of actions in SISCOOP, did not verify treaties that positivize actions, as it is done with the projects, resulting in the hypothesis that the latter are object of greater institutionalization and therefore, also have greater possibility of measurement, either of their processes or of their results. In this sense, there is a clear demand for interdisciplinarity involving IL and

IR studies, since IL not only appropriates international cooperation as a means to act in a system of sovereign States, as the international cooperation is mostly institutionalized through its sources, the international treaties.

However, from the point of view of the jus-internationalist research, it is common the dedication to solving linguistic problems of international law by reinforcing managerialism “that suggests that international problems [...] should be resolved by developing increasingly complicated technical vocabularies” (Koskenniemi, 2011, p. 72). But to address the questions of this research, it is irrelevant to improve this rhetoric of the international rule of law and, as said by José Coronel Urtecho to Eduardo Galeano, in the epigraph of this article, to seek an impossible objectivity is, in fact, to move away from human reality.

South American regionalism, for instance, by sustaining the diffusion of policies on networks of increasingly specific institutions and whose regulatory capacity is strengthened rather than ceded to a new regional arrangement with supranational intent, departs at the same time from the general agreements, which are the focus of the universalist approach of IL (Lorca, 2006), and from the European and hegemonic theories on regional integration in the IR discipline, to persuade *possible arrangements* to effect the right to health in South America. And to understand processes like these, the dedication previously used to solve linguistic problems, should be converted into efforts to extract *some lessons* on how international law works to transfer and diffuse health policies via international cooperation.

For Kennedy, “the world’s most pressing problems are diverse – and will yield only to complex, heterogeneous cocktails of policy at national and international levels” (2006, p. 655). Thus, it would be “useful to have diverse capacities, institutions with diverse political affiliations and different vocabularies for social justice, in approaching both disasters and more quotidian injustice” (Kennedy, 2006, p. 657-658). This means, in general, investing in legal pluralism; and in South America, it means allowing itself to recognize the weight of regional politics on possible arrangements. The second section of this paper is an illustration of the context in which regional institution adapt themselves to this weight via policy diffusion, going beyond the hardened idea of regional integration - supranational, vertical and mostly economic - of the most traditional molds.

Still, about bridging the gap of the two academic disciplines, to Slaughter (1993),

If social science has any validity at all, the postulates developed by political scientists concerning patterns and regularities in state behavior must afford a foundation and framework for legal efforts to regulate that behavior.[...] From the political Science side, if law – whether international, transnational or purely domestic – does push the behavior of states toward outcomes other than those predicted by power and the pursuit of national interest, then political scientists must revise their models to take account of legal variables (Slaughter, 1993, p. 205-206).

That valuation is particularly important for the social rights effected via policy transfer: if there is a way to analyze this process, certainly the heuristics developed decades ago by political scientists are privileged tools:

if the literature on policies seen as domestic seems to have no sensitivity to capture the universe of transnational networks, its more general characterization of interactions within national networks, [...] can undoubtedly be seen as a useful introduction to understanding transnational processes (Faria, 2018, p. 87, our translation).

And if there is a way to put this analysis at the service of some specific value, able to compose more refined and politically interested heuristics, to evaluate the processes and results of policy internationalization, it certainly cannot be done without IL.

Another important demand of bridging the gap of the disciplines is the acknowledgement of the prominence of specialized knowledge, epistemic communities, and domestic interest groups, ascertained in the regional case, and which can also be noticed bilaterally. In Milani and Lopes' (2014) empirical study about bilateral cooperation between Brazil and Mozambique, conducted through interviews, the authors identified specialized knowledge and the engagement of Fiocruz's technicians as a differential in the Brazilian practice of health cooperation. Likewise, Schleicher and Platiau (2017) conclude in the case of cooperation promoted by National School of Public Administration (in Portuguese, Escola Nacional de Administração Pública - ENAP) in Brazil, in the same country, and to whom "from an International Relations theoretical point of view and from the analysis of the Brazilian official discourse, the roles of bureaucrats and the street-level bureaucracy remain invisible" (Schleicher & Platiau, 2017, p. 16).

The lack of absorption of local politics - and of the knowledge of the actors that compose it - by the theory is an existing problem in both disciplines. And it seems to happen not due to the incapacity of South American internationalists in diagnosing problems and specific variables in their own region and practice, but because in the field

of regional integration, for example, there is a higher and older academic commitment to northern narratives. Which is also a common characteristic to the jus-internationalist field. For Lake (2013, p. 567) “the field [of International Relations Theory] would be better off focusing on important real-world problems and achieving progress within each approach according to its own criteria for success”. While for Lorca,

The avoidance of politics has its own costs. [...] depoliticization lessens the practitioners’ expectations in the international legal discourse’s potential. The Latin American legal tradition, in thus losing any appeal it once had for thinking, imagining, or articulating yearnings for socio-political transformation, becomes neoliberalism’s handmaiden for implementing economic orthodoxy (Lorca, 2006, p. 299).

An important detail is that, within the scope of epistemic IR community in Brazil, there does not seem to be exactly a prejudice with *area* approaches, addressing real-world problems, since international/global security is the main study area in the country (Villa et al, 2017). There seems to be a negligence on specific areas, since health and gender are the areas of least interest for the epistemic IR community in Brazil and in other communities in Latin America (Villa et al, 2017). That means that the real loss can be found in the neglect of interdisciplinarity, not only within the Social Sciences, in the relationship between the disciplines mentioned here, but also between them and the practices implemented by other sciences, such as the case of SCH, on which the adjective health emerges, before the empirical and generalizable potential in the eyes of the IR and IL scholars.

Thus, the demands of empirical research on the processes described in the first and second sections rest on four main problems: (1) the institutional problem, related to the lack of organization and reliability of the sources; (2) the interdisciplinary problem, where the borrowing of analytical tools is not yet widespread, since this stems from the recognition that an area alone cannot address the complexity of real processes; (3) the epistemological problem, in which only the rise in empirical research production, and over increasingly specific cases, may be able to grasp the necessary lessons for possible generalizations and broader theoretical constructions in health policies transfer and diffusion; and (4) the theoretical problem, since the area theoretical production guided by problems still neglects questions that go over traditional areas, in the case of the IR discipline, while also neglecting the actors who could shed light on these problems.

And all these problems seem to be interdependent. Problem (1) can be mitigated by the resolution of (2), with the refinement of methods such as interviews, old acquaintances of Political Science, for example. Problem (2) could also be resolved by the resolution of (4), insofar as guiding research by problems means combining tools and recognizing the reality, before the longing for insulated deontological approaches, and the resolution of problem (4) could also be a resolution of (3). Thus, all possible responses rest on the researcher's political engagement and interdisciplinarity.

In the case of problems (1) and (2), for instance, strategies like interviews, or research approaches focusing on new categories of actors, like technicians, could help in terms of sources, identification and complexification of problems. Likewise, it could also connect the demands of scholars, decision-makers and technicians. In the case of problems (3) and (4), in the scope of the health sector, the 2020 pandemic of Covid-19 makes the area emerge as an issue of high politics. This can simultaneously be an opportunity to recognize research agendas of the Global South focused on health sector, and could illustrate the gains of the generalizations departing from more and more specific places. However, by taking another road, it can lead to the production of superficial analysis, highly delimited by disciplines, reinforcing the gap between theory and practice - which is complex and interdisciplinary.

5. Final Considerations

In the perspective adopted here, international cooperation and international law are committed to the transformation of reality, not because they lead to a “managerialism” (Koskenniemi, 2011, p. 71) of the State action, which is focused only on legal discourse, but because by stimulating “structural biases” (Koskenniemi, 2011, p. 65), they participate in the iterative process that (con)forms politics. Structural bias is related to slicing institutions in several regimes, so that “the point of creating such specialized institutions [or regimes] is precisely to affect the outcomes that are being produced in the international world” (Koskenniemi, 2011, p. 65). Thus, beyond the theory, departing from the empirical evidences takes the focus away from the doctrine and places it on the institutions, politicizing jus-internationalist research, so that it can accompany the highly politicized political-institutional dynamics of international law. This discloses, as evidenced in this work, for example, how international law can act as a catalyst for local public policies.

This paper was based on the empirical evidences of international law and investigated how FP can, in addition to the analysis as PP, be a precursor of the internationalization of other policies via international cooperation. Therefore, the first section was guided by the question about which cases involving policy transfer can be investigated from the empirical evidences available, related to the health sector, involving Brazil, with the other independent South American countries. It concluded that (1) SCH is mostly carried out via policy transfer, and (2) even when the expertise transfer may not be linked to the content of specific public policies, the policy transfer heuristic (Dolowitz & Marsh, 1996) seems to be valid to understand the cooperation process.

The second section was responsible for discussing policy diffusion departing from Unasur's networks of health's structuring institutions. It concludes that, by catalyzing the diffusion of PPs, through the approximation of functional needs and asymmetric capacities between member States, instead of imposing binding norms, regional institutions with structures of this type (1) bring policies to the center of the integrative processes, (2) make international law reach national institutions, even in extensively linked to national autonomy contexts, like South America, (3) bring new methods by which to measure the success or failure of regional institutions, and (4) bring to studies on integration - at least in South America, where this is perceived late - variables such as epistemic communities and the role of specialists.

The third section was responsible for the questions about the demands for empirical research resulting from the recognition of the processes mentioned above, in South America, debating what are the obstacles and the possible strategies to solve them. Four obstacles are the most prominent: (1) the lack of organization and low reliability of several databases of international agreements; (2) the low interdisciplinarity; (3) the inappropriate use of traditional theories as models for practice and not as heuristics for analysing problems diagnosed locally/contextually, and (4) the low theoretical production concerned with the transformation of reality in neglected areas. And above them, the expectations for resolution listed by the present paper rest on the political engagement of the researcher and on the increase of interdisciplinarity. Research strategies such as interviews, and focuses on new categories in both disciplines, IL and IR, such as technicians, as well as the construction of problems that, *a priori*, exceed the tools of an exclusive area and make necessary for the researcher to combine knowledge, are relevant in this regard.

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