

Chapter 4

Understanding Irregular Migration Through a Social Systems Perspective



The structural change of society is beyond the observation and description of its contemporaries. Only after it has been completed and when it becomes practically irreversible, semantics takes on the task to describe what now becomes visible

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The numerous problems and limitations that have affected the theoretical understanding of irregular migration cannot be simply related to a lack of empirical data or to the complexity of the phenomenon. Rather, they reveal important *obstacles épistémologiques* (Luhmann, 2007, p. 11) and conceptual problems that demand a reconsideration of many of the theoretical assumptions that have been generally used. Both the lack of differentiated analysis and the use of mono-causal explanations, which have been indicated as the most evident symptoms of theoretical ineffectiveness, have been linked to three broader and deeper causes. In particular: (a) a limited and often misleading conception of *society*, usually subsumed within the concept of state; (b) the simplistic understanding of the different *social actors* and their interests; (c) the deterministic, cause-effect interpretation of *social interactions*. The extent and complexity of these issues, that evidently surpass the confines of the so-called migration studies, require a more general reflection on contemporary society and its functioning. From this perspective, international migration and, in our case, irregular migration, need to be considered as part and parcel, both products and determinants, of the broader social processes and structures. A satisfactory understanding of them can only be achieved in connection with a more general interpretation of contemporary society, one that critically reviews many important assumptions and preconceptions that have been imposed by the effects of methodological nationalism.

A particularly interesting and stimulating way to interpret international migrations in connection with the larger reflections of social theory has been attempted by a number of scholars who have applied Niklas Luhmann's social systems theory to the study of migrations. Following these steps and directly dealing Luhmann's

work, in this chapter some basic theoretical assumptions of his theory will be present and it will be suggested how they can offer alternative analytical tools to understand more adequately irregular migration as a structural and differentiated phenomenon of contemporary society.

4.1 The Semantics of the Modern State and Society

The extraordinary growth in the mobility of goods, capital, information and people, as well as the drastic reduction in the costs and time required for these exchanges, have shown the implausible character of the deeply-rooted understanding of society offered by the semantics of the modern state (Luhmann, 2009). In particular, globalization has helped to demonstrate the questionability of one of the central assumption of that semantics: the idea of politics as a preeminent, overarching force, capable of fully embracing and controlling society (Luhmann, 2009, p. 79). The analysis of the contradictions between that semantics and what emerges from the structural reality is, therefore, a fundamental step in order to develop an alternative understanding.

An abstract representation of contemporary global society, one that does justice to the myriad of exchanges that take place worldwide, would probably appear as a complex web of lines and colours that mix in exceedingly intricate ways. The image would represent both the diversified communications that interact and connect in seemingly random and disparate ways in every corner of the world and the variety of population encounters, migrations, and contaminations that implicate all ethnic groups, cultures, religions and traditions. Clear demarcations, unique identities, original peoples, if they ever existed outside political discourses, would be impossible to locate. It is possible that a painting by Jackson Pollock could offer a good visual approximation of such a society. It would appear as a largely unified, global space of interaction (Fig. 4.1).

Yet, if we had to graphically imagine the conceptualization of society proposed by the semantics of modern politics, we would come up with a completely different picture. A painting by Piet Mondrian could probably offer an excellent approximation. Black neat lines would perfectly separate a number of internally-homogeneous areas, and the result would look somewhat similar to that of ordinary political maps. The “social space”, understood as the space where social transactions take place, would fall entirely within the “political space”, understood as the space where those transactions are regulated and legitimized by a sovereign power. Accordingly, society would not appear as one, but as many societies, each corresponding to a single state and its own well-demarcated territory. In this idealization, the political power, embodied by the state and its institutions, since it is able to regulate all social transactions, becomes, at the same time, the enforcer and “the guarantor of the social order” (Luhmann, 2009, p. 79). To make this possible, a crucial step is to define a particular population and to be able to effectively distinguish between those people



Fig. 4.1 Jackson Pollock, *Convergence* (1952)

considered insiders, the citizens, and the outsiders, the foreigners. The modern nation-state accomplishes this task precisely through the concept of “the nation” which establishes a natural, direct and unbreakable link between each individual (the population), the place of birth (the territory), and the political power over that territory (the state) (Luhmann, 2009, pp. 227–236; Schinkel, 2010). As becomes evident, in this representation, the concept of society is subsumed into the one of the state: in order to participate in the former, it is necessary to be part of the latter; in order to participate in social transactions, it is necessary to be citizens (Fig. 4.2).

As one can observe, the two paintings offer a completely different interpretation of society. This implies that, while the semantics of modern politics has certainly dominated the modern understanding of society and politics, serving as the ideological pillar for the affirmation of the modern nation-state as the main form of political organization worldwide, its ideals have never been fully realized (Luhmann, 2009, p. 85). This fact, which today is starting to appear self-evident, was not so obvious just some years ago. In the previous historical phase, thanks to the affirmations of modern politics, the “social space” tended to overlap more with the “political space”, giving the impression that the “Mondrian world” was plausible. With the rise and development of the nation-state, the majority of social interactions were increasingly restricted within the national boundaries and those that crossed frontiers were rather limited and closely controlled. This tendency also affected human mobility. Throughout the nineteenth century and especially after the First World War, migrations were heavily restricted and, when they did occur, they were done through the channels established by the states and often under their own auspice (see Chap. 2).

However, even if this historical phase certainly favoured a growth in the political capacity to intervene and regulate social transactions, the world imagined by the semantics of the modern state never materialized. Even during the apex of the

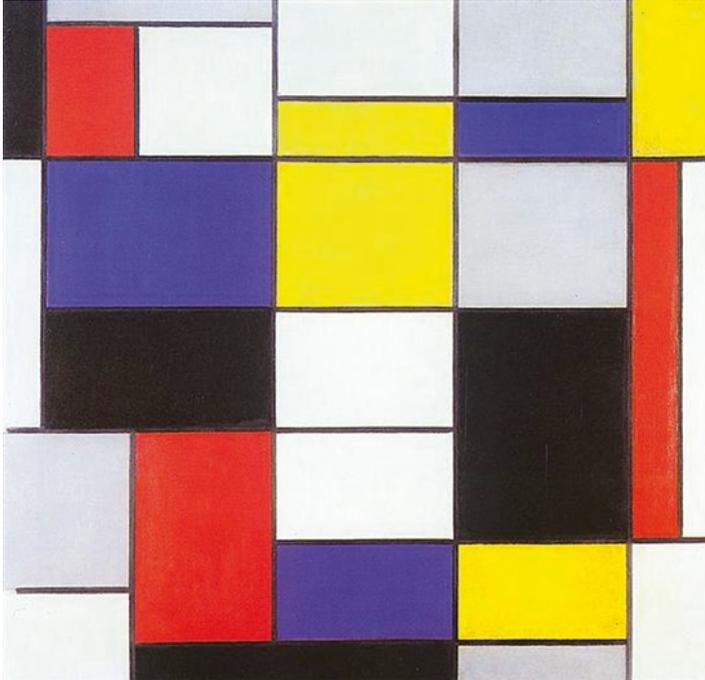


Fig. 4.2 Piet Mondrian, *Composition A* (1923)

mercantilist ideas, the economic exchanges beyond the limits of the state continued to take place (Luhmann, 2009, p. 85). At the same time, notwithstanding the dream (or the nightmare) of a sedentary world (see Chap. 3), migrations never disappeared. After the Second World War, the development of interconnections between individuals and groups gained new strength, inverting that overlapping movement between the “social space” and the “political space”. In this sense, globalization has been determining a “spill over” of the “social space” beyond the boundaries of the “political space” as was prefigured by the modern state. As pointed out by Schinkel, in reference to migrations, it may be: “for a brief (‘Marshallian’) period in the 20th century, citizenship sufficed as a guarantor of membership of both nation-state and the discursive domain of society in an age in which flows of migration have become permanent, that is no longer plausible. [...] The moment society is entered by people not tied through nativity to the nation, the nation can no longer be seen to overlap relatively with society” (Schinkel, 2010, p. 267).

For Luhmann, the incongruence between the two representations of society shows:

A typical case of lack of synchronization between the structure of society and semantics. While in other fields of society – for instance, in the intimacy relations – the ideological baggage of semantics produced transformations that profoundly affected social structures. In the field of politics what we observe instead is the maintenance of a conceptual

framework that has been overwhelmed. The problem is [...] that the semantics of politics takes surreptitiously the role that should correspond to the concept of society¹ (Luhmann, 2009, p. 79).

This lack of synchronization between structures and semantics implies that, while the incongruences between the structural reality and semantics are becoming uncontestedly evident, the method to interpret them is still deeply influenced by semantics and its conceptualizations. As was widely discussed in Chap. 3, this produces a number of theoretical problems, which directly affect our ability to understand a phenomenon like irregular migration. In the next section, it will be discussed how social systems theory, departing precisely from a reformulation of the concept of society that re-establishes its central position, can offer a theoretical framework capable of avoiding many of the problems mentioned.

4.2 Elements of Niklas Luhmann's Social Systems Theory

Luhmann's social systems theory is extremely complex and ambitious. The explicit attempt by the German sociologist was nothing less than to build a comprehensive "theory of society" (Luhmann, 2012). This project which was accomplished throughout a lifetime research, transformed into a monumental effort to analyse and re-define many consolidated conceptions and ideas. Given the complexity and the extension of his work, in the next sections there will not be and attempted to summarize his theory. Vice versa, some of its concepts and ideas will be presented and it will be discussed how they can be useful to develop a better understanding of irregular migration.

4.2.1 Systems

The fundamental concept at the root of social systems theory is precisely the one of system. Luhmann proposes a very general and abstract definition: "a form with two sides"; a form that creates a difference, "a difference between system and environment" (Luhmann, 2006, p. 45, 2012). He considers three main kinds of systems: living systems (cells, organisms), psychic systems (minds) and social systems (function systems, organizations, interactions). All these systems share two crucial characteristics: they are autopoietic and operationally closed.

With the first term, i.e. autopoiesis, mutated from biology, Luhmann means that every system creates itself as a chain of operations in a process of circular self-production.

¹The translation from Spanish is mine.

Autopoietic systems are systems that themselves produce not only their structures but also the elements of which they consist in the network of these same elements. The elements (which from a temporal point of view are operations) that constitute autopoietic systems have no independent existence. They do not simply come together. They are no simply connected. It is only in the systems that they are produced (on whatever energy and material basis) by being *made use of as distinctions* (Luhmann, 2012, p. 32).

The concept of autopoiesis implies that:

...all explanations start with the specific operations that reproduce a system". In this sense the concept "says nothing about what specific structures develop in such system [...]. Nor does it explain the historical states of the system from which further autopoiesis proceeds. [...] Autopoiesis is therefore not to be understood as the production of a certain "gestalt" [form]. What is decisive is the production of a difference between system and environment (Luhmann, 2012, pp. 32–33).

With the second term, i.e. operational closure, Luhmann defines the way in which systems relate to their environment.

"There is no input of elements into the system and no outputs of elements from the system. The system is autonomous, not only at the structural level, but also at the operational level. This is what autopoiesis mean. The system can constitute operations of its own only further to operations of its own and in anticipation of further operations of the same system" (Luhmann, 2012, p. 33). "At the level of system's own operations there is no ingress to the environment, and environmental systems are just as little able to take part in the autopoietic processes of an operationally closed system" (Luhmann, 2012, p. 49).

In other words, the relation between a system and its environment cannot be interpreted with an input/output model. Elements or events become relevant for a system only as they transit through the channels and mechanisms built by the system to observe its environment. Through this process of filtering and re-assembling, systems construct their own "systemic reality".

As pointed out by Moeller, this conceptualization produces a radical shift from the common understandings of reality:

The theory of autopoiesis and operational closure [...] breaks with the notion of a common reality that is somehow "represented" within all systems or elements that take part in reality. According to systems theory, systems exist by way of operational closure and this means that they each construct themselves and their own realities. How a system is real depends on its own self-production, and how it perceives the reality of its own environment also depends on its self-production. By constructing itself as a system, a system also constructs its understanding of the environment. And thus a systemic world cannot suppose any singular, common environment for all systems that can somehow be "represented" within any system. Every system exists by differentiation and thus is different from other systems and has a different environment. Reality becomes a multitude of system-environment constructions that in each case are unique (Moeller, 2013, p. 16).

Autopoiesis and operative closure do not mean absolute closure. All systems relate to their environment and in this sense they are open, yet not operationally open. This means that the environment cannot *directly* affect the internal functioning of a system, i.e. its internal operations. The input/output model cannot be of help for understanding systemic relations, because it presupposes the possibility of an *immediate* contact of the environment with a system and of a system with the

environment (and other systems). Social systems theory, instead, understands these relations as *mediated* by the *ad hoc* cognition structures and mechanisms that each system develops to relate with the outside. Elements, events, irritations present in the environment become relevant for a system only if they are successfully translated into its internal language, becoming information. “Such information does not exist in the environment but only has correlates out there...[...]” (Luhmann, 2002, p. 122 in Moeller, 2013, p. 17). What a system sees through its mechanisms, what a system makes of the irritation it receives, is entirely dependent on its own structure (Moeller, 2013, p. 17). This strategy allows systems to reduce the complexity present in their environment and, therefore, to be able to build up their own internal systemic complexity. Moeller provides illustrative examples:

A system cannot come into immediate contact with its environment by way of its own operations. The biological operations within a cell, for instance, are only connected to and in continuation with the other biological operation within it. The same is true for psychic operations within an individual mind and for communicational operations within a communication system. The biological operations of the brain are connected to and continued by other biological operations of the brain. Similarly, a thought or a feeling is connected to and continued by other thoughts or feelings. A mind cannot continue a thought with a brain-wave. And a communication can, of course, only be continued with more communication. You cannot communicate with me with your mind or brain, you will have to perform another communicative operation such as writing or speaking (Moeller, 2013, p. 17).

While social systems theory excludes the possibility of direct interaction between systems, the concept of *structural coupling* captures the possibility of a strong interdependence. Two systems are structurally coupled whenever the presence of the other one in each environment is so “bulky” that the structures on which the autopoiesis rely become shared. The operative closure is preserved since the coupling “only affects the structures level and not that of self-reproduction: while systems’ independence remains intact in what refers to the construction of their own elements and the determination of their contacts, it is possible to observe a coordination between reciprocal structures” (Baraldi, Corsi, & Esposito, 1996, pp. 19–21).

4.2.2 Social Systems and Society

Social systems are a specific kind of system defined by their distinctive operation: communication (Luhmann, 2009, p. 91, 2012, p. 41). Biologic systems and psychic systems are the environment of social systems. Communication can be “made” by means of a wide variety of communicational elements, for instance: gestures, images, sounds, languages, money, etc. In order for one of these elements to become communication, and not simply be a body movement, a visual object, a noise, a group of signs, or a piece of paper, it must be inserted into a sequence that makes it possible to overcome the double-contingency problem and therefore produce understanding (Luhmann, 2009, p. 645). The autopoietic development of different types

of sequences that use different types of communication elements produces a wide variety of social systems.

Society is defined by Luhmann as the “all-comprehensive social system” (Luhmann, 2012, p. 40). In their “Luhmann Glossary”, Baraldi, Corsi and Esposito effectively summarize the sociologist’s conceptualization:

Society is a special type of social system; the social system that includes all communications. As a consequence there is no communication outside society. [...] All differentiation of particular social systems occurs within society. Society, intended as system, is not made of individuals, their relations or roles, is made of communications. The boundaries of society are not the territorial ones, but those of communication. [...] The distinctiveness of society as a social system relies on its complexity reduction achievement: society is the social system that institutionalizes the latest, most basic complexity reductions and, through this, creates the premises for the operations of the other social systems² (Baraldi et al., 1996, pp. 154–155).

This complex all-embracing system is internally diversified into a wide variety of sub-systems. Each sub-system, which performs a specific type of communication, has its own autopoietic independence and is operationally closed. As pointed out by Moeller, this last point implies that every subsystem is the intra-social environment for the others. In this sense, each one “has its own social perspective and creates its own reality. [...] Society looks different from the perspective of each subsystem and there is no perspective, or super-system that can “supervise” the subsystems” (Moeller, 2013, p. 24) (Fig. 4.3).

As for systems in general, including social systems, operative closure determines an indirect, mediatory form of interaction with the environment and the other systems (both intra-social and extra-social). Luhmann uses the concepts of *irritation* and *resonance* to specify more clearly the ways in which this interaction takes place (Luhmann, 1990, p. 61, 2012, p. 67). If one social system, as part of its own autopoietic process and by means of its own structures, emits a communication to the environment, this communication has the effect of irritating the other systems. This external irritation is filtrated and translated by the observing structures of the receiving system into its

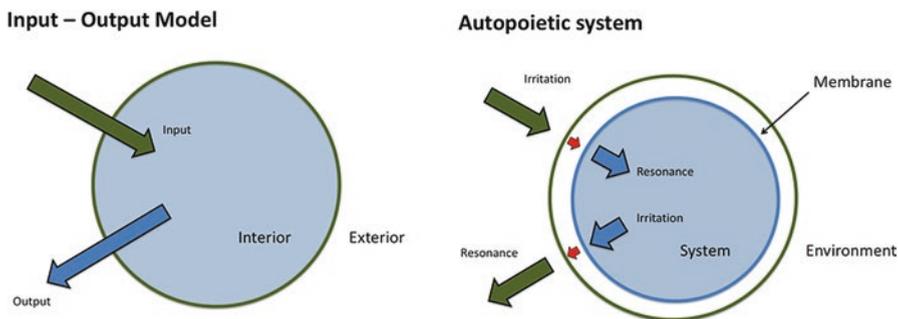


Fig. 4.3 Input-Output model vs. Autopoietic systems’ model

²The translation from Spanish is mine.

internal operations. This may or may not produce a systemic resonance, understood as a reaction that is entirely dependent on the specific structures and characteristics of this system. To give one example, if the political system takes a political decision, for instance, to raise taxes, this has the effect of irritating the other systems in its environment. Each system perceives this irritation in a particular way and reacts or, rather, resonates according to its own internal logic. In this case, the economic system may resonate by raising prices, the mass-media system by airing protests, the legal system by signalling the unconstitutionality of the measure, etc. The crucial point is that no system can directly interfere with or determine the operations of the others or of the entire society. The irritation/resonance model bestows systemic independence on each system and understands interactions as processes of indirect, mutual influence. As pointed out by Moeller:

Through structural coupling, systems cannot steer other systems or directly interfere in their operation. They can, however, establish relatively stable links of irritation that force other systems to resonate with them. There are always two sides to structural coupling. A system that irritates another cannot, in turn, avoid being irritated (Moeller, 2013, p. 39).

4.2.3 *Social Differentiation and Modern Society*

Society, the all-comprehensive social system, is internally differentiated (Luhmann, 2013, pp. 1–16). In Luhmann's opinion, systemic differentiation cannot be understood through the whole/parts scheme.

It is important to understand this process with the necessary precision. It does not involve the decomposition of a 'whole' into 'parts', in either the conceptual sense (*divisio*) or the sense of actual division (partition). The whole/part schema comes from the old European tradition, and if applied in this context would miss the decisive point. System differentiation does not mean that the whole is divided into parts and, seen on this level, then consists only of the parts and the 'relation' between the parts. It is rather that every subsystem reconstructs the comprehensive system to which it belongs and which it contributes to forming through its own (subsystem-specific) difference between system and environment. Through system differentiation, the system multiplies itself, so to speak, within itself through ever-new distinctions between systems and environment in the system. The differentiation process can set in spontaneously; it is a result of evolution, which can use opportunities to launch structural changes. It requires no coordination by the overall system such as the schema of the whole and its parts had suggested. [...] The consequence is a differentiation of societal system and interaction systems that varies with the differentiation form of society (Luhmann, 2013, p. 3).

Luhmann sees the particular form of social differentiation as the result of social evolution (Luhmann, 2009, pp. 380–384). As pointed out by Baraldi et al.:

What evolutionarily varies and measures social evolution is the form of primary differentiation. This form establishes the structure of society: social evolution consists in mutation of the social structure. Society primarily differentiates into partial sub-systems that produce more restricted communications. [...] These partial systems do not need to distinguish communication from what is not communication, since for that it is enough for them to be part

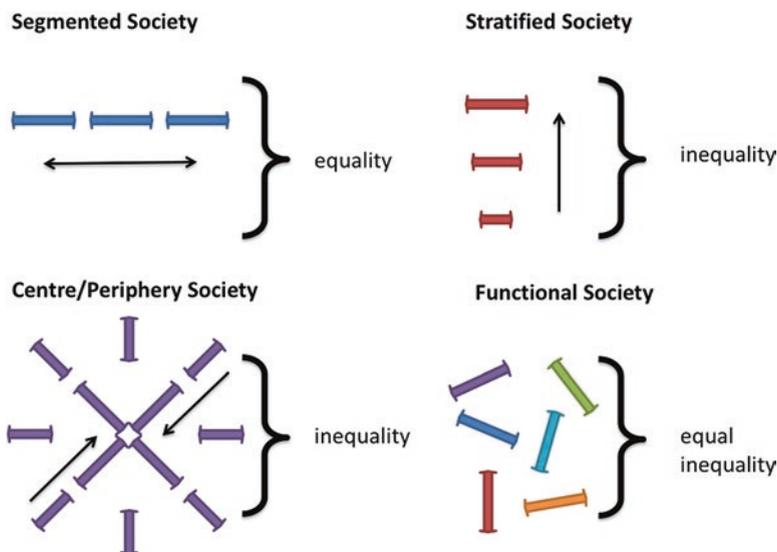


Fig. 4.4 Forms of social differentiation

of society. The reduction of complexity performed by society, allows these systems to build up more specific forms of communication³ (Baraldi et al., 1996, pp. 154–155).

Luhmann identifies four main types of social differentiation throughout history (Luhmann, 2013, p. 12). In particular: (A) segmentary differentiation (equality between the partial systems); (B) centre/periphery differentiation (inequality between the partial systems, based on the proximity or distance from a centre); (C) stratified differentiation (inequality of the partial systems based on their position in a rank); (D) functional differentiation (equal inequality of the partial systems) (Fig. 4.4).

The different types of social differentiation are not mutually exclusive; on the contrary, they often co-exist and compete with each other. Yet, it is possible to identify “a dominant differentiation form in every societal system..”, “the most important societal structure, which, if it can impose itself, determines the evolutionary possibilities of the system and influences the formation of norms, further differentiation, self-description of the system and so forth” (Luhmann, 2013, p. 11). The description of society that emerges from the theory of social systems is not based “on a unifying principle, a transcendental reference or a finalist purpose; society is described not on the basis of an underlying unity but on the basis of underlying difference” (Moeller, 2013, p. 40).

As a result, the concept of *modern society* proposed by Luhmann derives from its form of differentiation. “We understand modern society as a functionally differentiated society” (Luhmann, 2013, p. 87). This type of differentiation became dominant

³The translation from Spanish is mine.

between the sixteenth and eighteenth century and replaced stratified differentiation. Whereas, up until then, the main organizing principle of society had been the exclusive membership of a social strata (nobility, clergy, commoners) (Luhmann, 2013, p. 27):

...in a functionally differentiated society, the partial systems are unequal because they have their own specific function. All partial systems are different and are defined on the basis of the function they develop within society. The main functional systems are: the political system, the economic system, the scientific system, the educational system, the law system, families, the religion system, the healthcare system, the art system (Baraldi et al., 1996, pp. 58–63).

All functional subsystems have evolved in their own particular way developing “their own set of symbolic codes, leading values, operational programs and regulative means” (Cvajner & Sciortino, 2010b, p. 392). In relation to individuals, function systems are in principle all-inclusive. This means that they include or exclude individuals only on the basis of their particular functional code, since they are indifferent to all other possible characteristics. For instance, the economic system only distinguishes between a convenient or inconvenient economic transaction, and does not take into consideration whether the participants are Algerian or Bolivian, lawyers or butchers, aristocrats or clergymen; the scientific system considers a communication only on the basis of its scientific value, and it is not concerned about whether the proponent comes from Ghana or Chile, is rich or poor, lawfully residing or not, etc. The same logic applies to every function system. In modern society the “chances to become included in different social realms – the economy, law, politics, education, health and the family – are no longer based on descent, or belonging to a social strata, or to an ethnic or religious group” (Bommes, 2012d, p. 37), and in this sense, there is no unitary principle of inclusion or exclusion.

If society switches from stratification to functional differentiation, it also has to do without the demographic correlates of its internal differentiation pattern. It can then no longer distribute the people who contribute to communication among its subsystems as it had been able to do under stratification schema or centre-periphery differentiation. People cannot be attributed to functional systems in such a way that each belongs to only one system – the law, the economy, politics, the education system. Consequently, it can no longer be claimed that society consists of people; for people are clearly to be accommodated in no subsystem of society, and hence nowhere in society (Luhmann, 2013, p. 87).

Modern society is therefore “a complex multiplicity of a wide variety of system-environment realities without a centre, an essential core or a hierarchy” (Moeller, 2013, p. 24). Within its realm, no subsystem can claim to present the whole picture, but everyone produces an interpretation of the whole society.

Each functional system can fulfil only its own function. In an emergency, no system can step in for another even in a supportive or supplementary capacity. In the event of a government crisis, science cannot help out with truths. Politics has no capacity of its own to devise the success of the economy, however much it might depend on this success politically and however much it acts as if it could. The economy can involve science in conditioning money payments, but however much money it deploys, it cannot produce truths. With financial prospects you can entice, you can irritate, but you can prove nothing (Luhmann, 2013, p. 99).

4.2.4 *Modern Society as World Society*

“With functional differentiation as its structural characteristic society is no longer primarily divided by regional borders, society is now a world-society” (Moeller, 2013, p. 52). As pointed out by Luhmann, with the rise of functional differentiation, there:

“vanished those premises that enabled earlier social formations to include in the systems boundaries both the relation between systems and environment and those among different systems. Today we cannot expect that the differences between systems and environment and relation among different systems converge in one single system (the political) boundary” (Luhmann, 1982a, p. 239) In this sense, “As a general rule we can say that territorial borders no longer limit entire societies, but only political systems (with all that belongs to them: in particular jurisdiction). Territorial borders have the task of differentiating the world society into segmentary political functional systems: that is in equal states” (Luhmann, 1982a, p. 240).

To make this point clear, it is important to underline a crucial point in Luhmann’s theorization. While all the other function systems have a global reach, the political system, in order to better fulfil its function, namely, “the capacity to produce collectively binding decisions” (Luhmann, 2009, p. 143), is segmentally divided into territorial states. “The political authority of the nation-state ends at its borders” (Moeller, 2013, p. 53).

“Basing itself on this form of functional differentiation, modern society has become a completely new type of system, building up an unprecedented degree of complexity. The boundaries of its subsystems can no longer be integrated by common territorial frontiers. Only the political subsystem continues to use such frontiers, because segmentation into “states” appears to be the best way to organize its own function. But other subsystems like science or the economy spread over the globe. It is therefore impossible to limit society as a whole by territorial boundaries, and consequently it no longer makes sense to speak of “modern societies in the plural...” (Luhmann, 1982b, p. 178).

This peculiar characteristic of the political system helps to explain the development of the nation-state semantics and its interpretation of the world as if it was divided into national societies (Luhmann, 2009, p. 217). Yet, the boundaries of the other subsystems, for instance, the economy, mass media, science, etc. cannot be integrated into territorial frontiers, as they transcend geography and politics.

From the perspective of social systems theory, the concept of globalization refers to the world-society and to the global reach of its function systems. However, in Luhmann’s opinion, the idea of a unique society must not be confused with the idea of homogeneity. “Global society is a complex multiplicity of subsystems which are not integrated in an overarching global unity” (Moeller, 2013, p. 54). In this sense, while the effects of functional differentiation spread all over the globe, these effects “combine, reinforce and inhibit one another due to conditions that occur only regionally, and consequently generate widely differing patterns” (Luhmann, 2013, p. 128).

These special local conditions may be structural couplings that promote a surge in modernization in the direction of functional differentiation. More typically, however, the autopoietic autonomy of functional systems is blocked or limited to sectors of its operational possibilities.

It would at any rate be quite unrealistic to see the primacy of functional differentiation as self-realization secured by the principle. [...] From this point of view, functional differentiation is not the condition of the possibility of system operations but rather the possibility of their conditioning. This also gives rise to a systemic dynamics that leads to extremely dissimilar developments within world society. The regions therefore find themselves far from any macrosocietal equilibrium, and precisely in this context are presented with opportunities by a destiny of their own, which cannot be seen as a sort of micro-edition of the functional differentiation form principle (Luhmann, 2013, p. 131).

4.2.5 *The State Beyond Modern State Semantics*

Within society, it is possible to identify another type of systems: the *organizations*. These include, for instance, schools, associations, companies, political parties, etc. These systems are closely related to function-systems and share with them crucial characteristics such as autopoiesis and operational closure. However, they display an essential difference. While function systems are all-inclusive, meaning that nobody can be excluded from participating in them, and thus they have a global reach, organizations establish a clear member/non-member distinction, and so are smaller and localized (Luhmann, 2009, p. 243). An example can be clarifying: whereas everybody can be educated, only a registered student can go to a particular school; while everybody can perform an economic transaction, only accredited brokers can buy and sell on the stock market.

The advantage of organizations, and their usefulness, relies on their ability to coordinate more effectively the internal processes of a system in order to accomplish a specific function. Membership is an evolutionary development that helps the attainment of this objective. By establishing stable, regulated relations between members and the system, it allows complexity reduction and higher degrees of rationality. Every organization adopts its own codes, rules and programmes, establishes participation requirements and builds up internal structures to take binding decisions. At the same time, as a counterpart, it provides certain services and advantages that are reserved to its members.

States are a specific type of organization, closely related to the functioning of the political system. Yet, the two cannot be confused (Luhmann, 2009, p. 254). The political system, as seen before, is a function system that, in order to fulfil its function, is internally differentiated into territorial segments. This strategy is a pragmatic, evolutionary solution to the problem of extremely diversified regional conditions. The great variance of cultures, populations, economic possibilities, and development stages, in the different parts of the world, would make it impossible to provide collectively-binding decisions from a unique political centre.

The seek for democratic consensus and the use of the minority/majority scheme, characteristic of the political decision process, could not be optimized from the heights of a global political system. In that case it would make no sense to participate to democracy, since the differences could not be properly represented. If votes would be quantitatively distributed, Hollanders would always be outnumbered by the Chinese, and the Portuguese by the Indian (Luhmann, 2009, p. 239).

Yet, given the complexity of the political function, the segmental division into territorial portions is not enough and a further step is required. The possibility to effectively communicate decisions that bind collectively has historically evolved into two main strategies: on the one hand, the capacity to force obedience when voluntary collaboration is excluded (the monopoly of the legitimate violence); on the other, the stimulation of voluntary collaboration through a *quid pro quo* logic (security, rights, welfare). Both strategies are obtainable only through organization.

A further important distinction in order to comprehend the functioning of the political system and the state is, in Luhmann's opinion, the one among politics, administration and public (Luhmann, 2009, p. 263). This perspective "allows analysing the power relations and correcting the official representation that understands power as purely hierarchical" (Luhmann, 2009, p. 264). Also in this case, the relationship among the three should not be interpreted through an input/output model but through a circular irritation/resonance model. The concept of "operation power circle" (Luhmann, 2009, p. 265) does not allow one to identify an initial moment or a dominating actor. Politicians take decisions, which are implemented by the administration, which are judged by the public, which elects politicians, etc. This chain creates a complex interdependence among the three, in which each actor needs to fulfil its function but cannot forget its interdependencies.

The state, then, is the organization that allows the political system to factually implement and "organize" a number of mechanisms to provide society with collectively-binding decisions. Citizenship, in turn, is the specific form of membership of this organization. Since it is the biggest and most complex social organization, the state is not a monolithic unity (Boswell, 2007), but is internally differentiated into a myriad of smaller structures and institutions. The relationship among these structures follows the irritation/resonance model, which explains the impossibility to locate entirely coherent, all-embracing, top-down decisions.

While closely entangled, the distinction between the concept of political system and that of state is fundamental for a number of reasons. (A) Whereas the state is a specific, developmental, historical solution to the requirements of the political system to fulfil its function, the relationship between the two is neither exclusive, nor fixed and unalterable. The capacity of the state to produce collectively-binding decisions can be disputed and, in some cases, a new organization can emerge as an alternative and take up the political function. (B) The state is an exclusive organization, and the benefits associated with membership usually apply only to its citizens; the political system is an all-inclusive function system and its communications apply to everyone within its territory. For this reason, for instance, although everybody can be arrested, only citizens can vote. (C) The citizen/non-citizen distinction is an organizational strategy of the state that helps the functioning of the political system. This strategy, however, is neither able to completely monopolize the political communications nor is it able to control the other systems within society. Regarding the first aspect, to give an example, if the state is not able to impose

collectively-binding decisions on a group of non-citizens, or the application of certain rules, it may be forced to include those non-citizens or to change those rules. With regard to the second aspect, the state cannot completely limit the participation of non-citizens in other communications, such as, economic, scientific, artistic, etc. ones. (D) It is important to remember, that the state is not the only organization that is part of the political system and that helps the fulfilment of its function. Other organizations, such as, political parties, associations, syndicates, etc. may play an important role. A particularly interesting case within this group is that of international organizations. The European Union, the UN, the WTO, etc., for instance, are organizations that, usually with the agreement of states, have been acquiring powers in a number of sectors. The increasing importance and capacity of these organizations to produce collectively-binding decisions can be interpreted in relation to the globalizing effect on the political systems of functional differentiation (Moeller, 2013, p. 53).

Whereas for social systems theory the distinction between the state as an organization and the political system as a function system is structural, the semantics of the modern-state did not recognize this fact. In Luhmann's opinion, globalization evidences this point and helps to reveal:

the secret premise of modern state thought: that of being the biggest and most efficient social organization and, together, the self-description formula of the political system. With the semantics of the state, a step was taken to put politics in the position to refer not only to the city or to the domestic context. The state recovers the expectation, included in the concept of civil society and *res publica*... [...], to realize the unity of social order vis-à-vis the multiplicity of individual interests. When Carl Schmitt speaks of the end of statehood, [...] he refers to the impossibility to maintain such pretension (Luhmann, 2009, p. 234).

These theoretical elements on the concept of the state have a number of implications. (A) The idea of the state as an autopoietic, operationally closed organization implies the possibility of immense differences in the particular strategies, characteristics and capacities that each one develops within complex and diversified regional system-environment configurations. (B) They imply that, in order to be able to produce collectively-binding decisions, every state has developed a particular mix of strategies that combine both deterring/threatening measures and encouraging/supportive ones. (C) The idea of the state as a dominating, leading actor within society is abandoned. As happens for all the other components of society, also the state relates to its environment through irritation/resonance relations. (D) While the irritations coming from the social environment, e.g. economic interests, humanitarian claims, mass-media pressures, public opinion, certainly resonate with its structures, the state operates and modulates its actions only in relation to its own functional imperatives (see, Boswell, 2007). (E) Since they are the biggest and most complex social organizations, states are internally differentiated into a myriad of smaller structures and institutions. The relationship among the internal structures follows the irritation/resonance model.

4.3 Irregular Migration as a Structural Phenomenon of World Society

4.3.1 *Migration in World Society*

In the conception of modern society offered by social systems theory, international migration, intended as the movement of people (migration) across state borders (international), appears as an inevitable, expected, structural phenomenon (Bommes, 2012c). Two elements concur to explain this fact. On the one hand, the rise of functional differentiation as the main type of social differentiation has determined the globalization of societal communications and the development of a unified world society. This has implied an increasing pressure on individuals to follow the inclusion opportunities offered by the different social systems (economy, education, family, science, religion, etc.) wherever they emerge. On the other hand, the particular form of differentiation adopted by the political system, i.e. the segmentation into territorial clusters, and the rise of states as the main form of political organization, have determined the enclosure of such societal opportunities within the sealed borders that divide each territory (Bommes & Sciortino, 2011a, p. 214). This has determined that, in order to access such opportunities, individuals need to cross political borders.

The particular configuration of modern society shows, then, a structural contradiction: while function systems are all-inclusive and foster human mobility across the world, the characteristics of the political system, namely states' territorial borders and exclusive membership, limit such mobility. In this sense, while international migration appears as an inevitable feature of world society, its existence is, nevertheless, problematic. As pointed out by Bommes:

...migration is, on the one hand, probable as an attempt to take advantage of opportunities for inclusion. In terms of the economy, the law, education or health, and of modern organizations, migration is something individuals can be expected to do to adjust to the forms of inclusion they offer to them. Migration is therefore part of the normal, i.e. socially expected mobility in modern society, which has historically been implemented, for example, with the institutionalization of labour markets. The case of internal migrations within states' territories makes this clear. They are part of normal events that hardly mobilize social attention. Migration is, on the other hand, manifestly treated as improbable and as a problem, particularly in those countries with fully developed nation states and welfare states, when migration crossing state boundaries is involved (Bommes, 2012c, p. 27).

This scenario calls into question the specific characteristics of the political system and, in particular, of the organization that has monopolized its function, the state. This becomes evident, as suggested by Bommes, when internal migrations are considered. Also in this case, people decide to physically move in order to take advantage of better social opportunities, yet, since no political border is crossed, the phenomenon is unproblematic.

The state, like all the other organizations, uses a member/non-member distinction as a crucial strategy in order to fulfil its own function. In this case, membership

helps the production of collectively-binding decisions in two main ways. On the one hand, it allows the state to register its members and enrol them in institutions, such as, the police or the army that factually permit the monopolization of the legitimate means of violence (Torpey, 1998). On the other hand, it makes the development of a mutually beneficial relationship based on the exchange between loyalty and service possible (Bommes & Geddes, 2000a). The state offers a number of different provisions (security, rights, assistance, etc.) and in turn receives individuals' fidelity and obedience. If this is the basic idea, a fundamental question needs to be answered: how are members selected? On what basis?

The particular type of political membership developed by the modern state, i.e. *national citizenship*, emerged as an evolutionary solution that was able to link in a seemingly natural, immediate and permanent way a single population (the nation), with a specific territory and a political sovereign (the state) (Bommes, 2012b; Halfmann, 2000). The construction of this link and its stabilization, anything but natural, required an immense effort by every state and was the cause behind many of the wars and conflicts that characterized modernity. This effort involved historians and politicians, soldiers and teachers, artists and businessmen, who help to develop a national sentiment among otherwise fragmented and differentiated populations (Benedict Anderson, 2006; Hobsbawm, 2012; Smith, 1986). Notwithstanding the difficulties, this conception of membership was able to develop, in a relatively short time, into a "particular universalism that envisages the inclusion of every individual into one, but only one state" (Bommes, 2012c, p. 27).

The flipside of this process was the creation of the figure of "the foreigner" as the natural counterpart of "the national". While the latter had the right to access the services offered by the state and to freely circulate in and out of its territory, the former was in principle excluded from every benefit and banned from entering the national borders without a valid permit. Thanks to these configurations, as suggested by Bommes and Geddes, states evolved into "thresholds of inequalities", since the communicational possibilities available within their borders became accessible, at least ideally, only to their citizens (Bommes & Geddes, 2000a). This tendency became more and more marked as states evolved into welfare states and the services and opportunities offered to their members constantly increased. To be a citizen of a rich state and not of a poor one, allowed incomparable access opportunities to function systems, such as, the economy, law, science, education, health, etc.

Yet, the all-inclusive character of functionally-differentiated social systems severely questioned the idea of immobile, confined populations, which was alleged within the nationalist conception. The "sedentary bias" (see Chap. 3) proved to be unrealistic and the figure of "the migrant" emerged in the very same moment in which territorial borders were drawn. Individuals, along with the development of world society, were increasingly stimulated to follow inclusion opportunities beyond the regulations and borders established by states. In this sense, migration can be interpreted as an effort made by individuals to achieve social inclusion, as a way to achieve social mobility through spatial mobility (Bommes & Sciortino, 2011b).

4.3.2 *States and Migrants*

Against this backdrop, the structural contradiction between migrants and states becomes evident. On the one hand, migrants try to “achieve inclusion and participation in the various social systems – and with them, access to the relevant social and economic resources – by means of geographical and border-crossing mobility” (Bommes & Sciortino, 2011b, p. 214). On the other hand, states try to reaffirm the basic mechanism of their functioning, i.e. the distinction between members and non-members which allows the loyalty/service exchange.

This contradiction, however, should not be interpreted in absolute, unconditional terms. While it is true that membership is the core feature of the state as an organization and that foregoing this could undermine its very existence, it should be borne in mind that the main function of the political system is not the distinction between members and non-members, but the production of collectively-binding decisions. In relation to this function, the membership strategy is certainly useful, but it is not the only one. In particular, if it is true that society is functionally differentiated, and that individuals seek inclusion in the different systems, the political system, in order to fulfil its own function, cannot impede the functioning of the other systems. If that were the case and other communications of other systems became obstructed, the possibility to produce collectively-binding decisions could be seriously undermined. Individuals would have strong incentives not to follow the decisions of a system that precludes all other communications. For this reason, states are pushed to develop ecological equilibriums with other systems through irritation/resonance relations (Sciortino, 2000). The same, of course, is valid for every system: each has to fulfil its own function but, in so doing, it observes and resonates in the relations with the others.

With regard to migration, while states use and defend the member/non-member distinction, and thus enact policies to control and limit the arrival and residence of foreigners or their access to the services, they must, at the same time, take into consideration the functioning of other systems, for instance, the economy, the law, the family, etc. If an economic sector requires unqualified workers who are not available in the internal market, for example, the political system could decide to amend its principles and admit migrants.

As becomes apparent, the relation between migrants and states is much more complex than the idea of a forthright contraposition might suggest. The perspective offered by social systems theory suggests that this relation embodies in a variety of national settings (Bommes & Geddes, 2000a). Each state, on the basis of its own particular political characteristics, organizational infrastructure, and public opinion, and in relation to both its intra-social (the other function systems) and extra-social environment (the effective migration process) develops a specific, historically-influenced approach to migration. The wide variety of policies analysed in Chap. 2, that range from external and internal controls to migrant labelling and categorization, from legalizations to expulsions, can be understood within this framework. States can be viewed as “political filters” (Bommes & Geddes, 2000b, p. 2) which

mediate not only migrants' efforts to take advantage of their chances for social participation, but also other system demands for migrants.

The different approaches taken by states in relation to migration can also be related to their greater or lesser desire (and capacity) to penetrate their society. As pointed out by Bommes: "nations-states cannot renounce their right to control access to and residence to their territories. This right is implemented very differently: from states' wide-ranging, deep social penetration to lighter and more limited approaches" (Bommes, 2012a, p. 166). In relation to this issue, the development of the modern welfare state is particularly relevant (Bommes, 2012d; Bommes & Geddes, 2000a; Halfmann, 2000; Sciortino, 2004b). The increased services offered to their citizens, in connection to the evolution of the conception of rights (from political to civil, to social), implied a continuous expansion of the state's influence within society. Although this development took diverse paths in the different areas of the world, it has been possible to identify certain patterns and to produce welfare-state typologies (Esping-Andersen, 1990, 1996; Ferrera, 1996; Ferrera, Hemerijck, & Rhodes, 2000; Hemerijck, 2012). In all cases, the involvement of the state in more and more social sectors (education, healthcare, pensions, unemployment support, etc.) and the provision of increasingly-sophisticated and costly services required the extension of the member/non-member logic to each of the new domains of state intervention. It is precisely this latter aspect that further complicates the relation between states and migrants. As pointed out by Sciortino, this occurred in much wider terms than those suggested by the welfare magnet thesis (the welfare state attracts migrants) or by the welfare dependency debate (do migrants contribute to or exploit welfare?) (see Sciortino, 2004b). Recalling Esping-Andersen's approach, he points out that "the welfare structures must be considered as embedded in a matrix of structural relationships among households, the state and the economy. It is precisely within this framework that the relationships between welfare structures and migratory processes may be investigated in full" (Sciortino, 2004b, p. 115). In particular, the extent and specific ways in which state intervention alters the functioning of the other social systems, and the modes in which the political distinction members/non-members penetrates other social realms, can deeply influence the migratory phenomenon. Depending on the case and on the sector, this influence can have the effect of fostering or discouraging migration, of favouring certain types instead of others, of creating better or worse conditions for migrants' inclusion. The differential analysis of welfare regimes is, then, a crucial requirement in order to comprehend not only the interaction between migration and the state, but, more in general, between migration and society.

To make the picture even more complex, it is important to consider three additional issues. (A) States are internally differentiated and each section of their enormous apparatus can develop a certain intra-organizational vision of migration. This implies that monolithically-coherent, one-directional decisions tend to be the exception while diversified, conflictive and multi-levelled ones are the rule. (B) Not only is states' internal view on migration fragmented and conflictive, but also that of the environment. The various social systems may have very different interests concerning migration; therefore, the state is usually confronted by a large number of often

un-reconcilable demands (Boswell, 2007). (C) While the modern state semantics offers the idea of the political system as a regulator of society, as a predominant actor capable of controlling and steering every social process, this is only a self-description. In relation to migration, this means that no state, not even the most developed and determined one, is able to perfectly manage population movements (Cvajner & Sciortino, 2010b, p. 394).

4.3.3 Irregular Migration as a Structural Phenomenon of World Society

Irregular migration is probably the social phenomenon that best highlights world society's structural contradiction between the global, all-inclusive, functional characteristics of all the other social systems and the territorially-bounded, exclusive, segmented characteristics of the political system (Bommes, 2012a, 2012c; Bommes & Sciortino, 2011a; Cvajner & Sciortino, 2010a, 2010b). From the perspective of social systems theory, the emergence of irregular migration must be understood as a logical outcome, embedded in the structure of contemporary society.

At the root of the contemporary migration system is a structural mismatch between the huge demand for entry to the most developed regions and the comparatively small supply of opportunities to enter these areas legally. It can consequently be described as a social system – a structured nexus of interdependencies – where there is an embedded tension within the cultural and social goals prescribed by an increasingly shared global culture and the means available to pursue these goals (Bommes & Sciortino, 2011b, p. 215).

Within this context, migrants are faced with two contradictory communications. On the one hand, function systems, such as, the economy, education, family, etc., which do not recognize the national/foreigner distinction, offer opportunities that attract them. On the other hand, the political system and its main organization, the state, demand membership to allow entry, and therefore discourage their movement. Confronted by this double message, “come/do not come”, the migrants' decision is the result of a complex evaluation of pros and cons. The political limitations imposed by states, although important, are only one of the issues at stake. If the opportunities are great enough and there are no regular channels available, the option to migrate irregularly becomes a valid and sometimes unavoidable alternative.

The birth and development of irregular migration systems is contingent upon the existence of a structural mismatch between the social and the political conditions for migration. As pointed out by Sciortino, such mismatch involves both sending and receiving contexts, and it has both an external and an internal dimension. “Externally, there must be a mismatch between the demand for entry, and the supply of entry slots by the political systems” in the receiving context. In the sending one, “there must be a mismatch between widespread social expectations (usually called “push factors”) and the state capacity to satisfy them or repress them”. In the receiving context, “there must be a mismatch between the internal pre-conditions for

migration (usually called “pull factors”) and their interpretation within the political system. Irregular migrations are in fact an adaptive answer to these unbalances” (Sciortino, 2004a, p. 23).

The existence of such mismatches and the emergence of irregular migration have been interpreted by Bommès and Sciortino in connection to Merton’s concept of “structural anomie” (Merton, 1968). As they underline:

“...an emphasis on social structures as regulators of individual behaviour does not imply that social structures are not also involved in determining the circumstances in which the violation of established social norms is ‘normal’ – that is, predictable in terms of their contradictory device”. “...both conformity and various types of deviance should be seen as adaptive strategies to deal with the structural mismatch between prescribed goals and institutionalized means in a society prizing economic success and social mobility as attainable by all its members. If we apply Merton’s framework to the current world migratory situation, we can conclude that irregular migration is actually a specific form of innovative behaviour. It represents a creative solution to the structural mismatches inherent in modern society – i.e. the demand for labour and the available supply of workers or the demand for social mobility and the supply of opportunities for advancement. It is a strategy that implies breaking away from the use of institutionally prescribed (but obstructed) means in order to keep a communal faith and commitment to the culturally and socially prescribed goals increasingly shared in sending and receiving areas” (Bommès & Sciortino, 2011b, p. 216).

This conception helps to understand a particular feature of irregular migration, otherwise interpretable only in paradoxical or conspiracy terms. From a logical perspective, it could be said that it is the state itself that, by establishing entry criteria and distinguishing between regular and irregular migrants, creates the problem that it later tries to solve. Yet, here it is important to bear in mind that when a system irritates its environment on the basis of its own logic and seeking its own purposes, the environment resonates on its own terms, according to its own logic and in relation to its own purposes. In this sense, while the concept of “legal production of irregularity” may be factually true, its interpretation in terms of a state’s intention or hidden strategy supposes a capacity to control its environment that is unrealistic.

This does not mean denying that state actions may create the conditions for irregularity to develop and evolve. The goal is to warn against simplistic, lineal, cause/effect conclusions. As pointed out by Bommès, for irregular migrants:

...opportunities to participate arise in labour markets, families and elsewhere, and gain greater permanency because there is a receptive context for them, one which is in part politically and legally constituted by the same welfare states which seek to control and prevent these migrations. This is not meant only in the trivial sense that everything which is illegal about illegal immigration is only illegal because there are corresponding laws which limit or prohibit residence or work, but more particularly in the sense that motives arise in labour markets, in private households, in housing markets or in welfare organizations themselves to disregard such limitations or to use them as boundary conditions for establishing employment relations and tenancies, for starting families, providing services or setting up aid organizations which would scarcely come about otherwise (Bommès, 2012a, p. 160).

The structural character of the irregular migration phenomenon does not imply that it occurs in a smooth, non-conflictive way, but quite the contrary. On the one hand, state efforts and capacity to control irregular migration have increased enormously in the last decades. States’ knowledge of the phenomenon has constantly

increased, allowing the adoption of more sophisticated strategies. Yet, these efforts, as the theory of social systems suggests, have never been able to fully regulate the other social processes. “States’ claim of control over a territory is just a claim within various, but never with complete degrees of implementation. Strong mechanisms of control fail when the opportunities to be gained through migration are strong and the social pre-condition for migration amply fulfilled” (Sciortino, 2004a, p. 22). On the other hand, also migrants develop their strategies, increment their knowledge, and build up their infrastructures. This allows them to circumvent state controls, although at very high costs.

4.3.4 Irregular Migration as a Differentiated Sociological Phenomenon

To understand how an irregular migration phenomenon initiates and develops, which resources it mobilizes and what structures and interactions it establishes, it is necessary to consider the dynamic interplay not only between states and migrants, but also between these and all the other social systems. Each actor needs to be considered as internally differentiated, self-referential and, yet, deeply interrelated with its environment through irritation/resonance relations. The main consequence of this radically differential perspective is that the particular phenomenology of each “irregular migration reality” cannot be theoretically or legally deduced, but it must be empirically researched. In this sense, whereas in legal terms it may be possible to talk about irregular migration as a single category, from a sociological perspective, it is more accurate to talk about *irregularities*. In each context, the systemic interactions among states, migrants and the other social systems set the conditions for the emergence and evolution of differentiated irregular migration realities. This approach has a number of theoretical and methodological implications.

Irregular Migration as a Status

The irregular status, attached to migrants by the political system, does not describe their whole social position. “From the point of view of systems theory, individuals are not part of society and therefore also not integrated or ‘incorporated’ into society” (Bommes, 2012c, p. 25). The relationship between individuals and society based on the concept of differential functional inclusion makes the question about the opportunities of irregular migrants empirical. The questions, then, become: How are irregular migrants included in the different social systems? How does the exclusion from political membership affect other inclusions? As stressed by Bommes and Sciortino: “in modern society there is no full total identity, the status is only one piece of the puzzle that is composed by a variety of statuses variously significant in different contexts” (Bommes & Sciortino, 2011b, p. 219). This condition may imply

that irregular status, usually interpreted only as excluding, can turn out to be a condition for inclusion. In certain contexts, for instance, the irregular status may favour the inclusion in the economic system. This evidences how the exclusion from state membership does not necessarily prevent irregular migrants from participating in the other social systems.

Irregular Migration and States

The relation between politics and irregular migration cannot be interpreted in linear, straightforward, oppositional terms (the state vs. irregular migrants). There are different reasons for why this is so. Firstly, states must be considered as internally diversified “organization complexes” (Bommes, 2012d) composed of a wide variety of institutions, agencies, departments, bureaucracies and levels of government. Moreover, the political functioning must be considered in terms of a “power cycle” in which politics, administration and the public reciprocally influence and legitimate each other. Therefore, as happens for most political issues, also for irregular migration, a single, coherent, stand is not available; each component develops a pragmatic approach in an attempt to fulfil its own particular duty and to remain legitimate. This may imply phenomena like the coexistence of policies that favour and disfavour irregular migration, the development of legal loopholes, policy inconsistency along the decision chain, etc. Secondly, it should be borne in mind that, while the member/non-member distinction is an important element of the functioning of states, their core function is the attainment of politically-binding decisions. In this sense, although the control of irregular migration is, in principle, of great importance, the fulfilment of the function is even more relevant. Accordingly, depending on the specific context, the historic moment, the effective capacity to implement policies and the demands coming from the other systems, states may decide to be flexible as regards the membership principle and choose pragmatic approaches that may include: turning a blind eye, the use of symbolic policies, mass-legalizations, etc. Thirdly, whereas states are powerful organizations and the political system plays an important role within social communications, neither of them is capable of dominating society and of completely controlling other system transactions. Adopting a differential perspective, a state’s degree of social penetration and policy implementation capacity becomes an empirical question that has to be answered after analysing each case. Depending, for instance, on the different political traditions and regimes, the type of welfare, the administration’s degrees of development and cultures, public positions and levels of concern, state policies may be very different, and likewise their impact on irregular migration. As pointed out by Bommes and Sciortino, the amount and types of transactions where legitimate residence is considered significant, and the capacity by states to effectively check it, can dramatically change the meaning of being irregular (Bommes & Sciortino, 2011b, p. 217).

Irregular Migration and Society

The systemic understanding of society not only excludes the possibility of political systems to dominate social transactions; it also excludes that of every other system. Accordingly, neither the economic system nor the legal one, neither the familial nor the educational one, just to mention some, can exert control over society and impose their logic. The reality of irregular migration can be interpreted as the result of the dynamic interplay among the different approaches, interests, and concerns of each system. In this sense, while each system produces its own interpretation, the phenomenon cannot be fully understood only on the basis of one of these.

Irregular Migrants

Even within a single country, the irregular migration phenomenon must be considered as dynamic and internally differentiated. Migrants' interactions with states and with the other systems produce a myriad of different migration trajectories (Sciortino, 2004a, p. 38). This can be related to a number of factors. Firstly, it may be linked to the enormous differences existing between different groups of migrants and between individuals within each group. The availability of human, social and economic capital can make a paramount difference, especially with regard to irregular migrants, since their effort is more complex and cannot count on the support of states. Secondly, the time factor plays a crucial role. The success of an irregular migration trajectory is related to the ability of migrants to analyse the environment and to develop strategies and counter-strategies to deal with problems. These strategies are necessary, for instance, to avoid controls, discover and take advantage of possible legal loopholes or to develop specific social structures. Since there is no instruction booklet available and the social environment continuously changes, irregular migrants need to rely on a learning-by-doing approach and on the development of a trusted network. In both cases, time makes a big difference. The concept of "migratory career" proposed by Cvajner and Sciortino, and derived from Luhmann's theory offers an adequate tool to analyse irregular migrants' trajectories. Intended as "a sequence of steps, marked by events defined as significant within the structure of actors' narratives and publicly recognized as such by various audiences" (Cvajner & Sciortino, 2010a), the notion makes it possible to follow the experience of individual irregular migrants and to identify possible common patterns within a similar migratory context.

4.4 Conclusion. A Systemic Analytical Framework for Irregular Migration

Irregular migration has usually been interpreted either through the lenses of states or through the lenses of migrants. This has generated two main perspectives on the phenomenon: the first understands it as a problem that may signal an erosion of

states' prerogatives; the second understands it as a form of exploitation, which signals states' enduring capacity to seek their goals. Although they contrast each other, both perspectives are based on a similar, problematic, conception of society, social actors and social relations. This conception, based on the semantics of modern states, understands society as subsumed within the concept of the state. The latter is conceptualized as a predominant actor that is able to control (or lose control over) the former. Social actors are intended as monolithic, single-minded, and time-stable players. Finally, social relations are interpreted through an input/output model that, accordingly, presupposes the possibility to establish clear-cut, cause/effect interactions. Irregularity, from this standpoint, is understood as a rather undifferentiated phenomenon that, depending on the case, signals either a state effective strategy or failure.

Niklas Luhmann's social systems theory proposes a radical critique of the semantics of modern states. Society, in this conception, regains a central, all-embracing role. The political system and the state, although important, are considered as only two among the numerous systems and organizations constituting the complex galaxy of social relations. On the basis of this notion, irregular migration should be understood as a complex, differentiated, structural phenomenon of modern world society. The development of this phenomenon is related to the existing structural mismatch between the dominant form of social differentiation (functional) and the specific form of internal differentiation (segmentary) into territorial states of the political system. This creates a fundamental conflict between two logics: on the one hand, the all-inclusive logic of most social systems (economic, legal, educational, familial, etc.) that fosters human mobility across geographic space; on the other, the exclusive logic of states that insists on regulating human mobility on the basis of a membership principle. Against this backdrop, irregular migration emerges as an adaptive solution to the mismatch existing between the high demand for entry into certain states and the limited number of legal entry slots available.

If, in abstract and theoretical terms, irregular migration is explained as a structural feature of world society, the concrete, sociological manifestations embodied in the phenomenon within each context cannot be theoretically deduced. Instead, irregular migration realities must be empirically researched and understood as the result of a context-specific, dynamic, evolutionary interplay among: (A) functional social systems; (B) states; and (C) migrants. As suggested by the theory of social systems, each actor needs to be considered as autopoietic, self-referential and internally differentiated; social relations must be interpreted through an irritation/resonance model instead of an input/output model.

Irregular migration realities can be understood, then, as the result of a complex "equation of irregularity" (Arango, 1992, 2005; Arango & Finotelli, 2009, p. 16) that ponders the role of different actors involved and the many variables at stake. Table 4.1 presents a non-exhaustive analytical framework of the relevant actors and variables affecting the generation of irregular migration realities. In every context, the specific "weight" of every actor, the value of every "variable" and the particular relation among all these factors produce a different result. This transforms into a different ecological positioning of irregularity with regard to the rest of society and into a number of different irregular migration careers developed by migrants.

Table 4.1 Systemic analytical framework for irregular migration realities

Actors				Variables
STRUCTURAL CONTEXT	Political system	States	Politics	Type of political regime Type and levels of services (welfare regime) Political and migration culture Geographical accessibility and proximity of migration sources
			Administration	Extension and efficiency Administrative culture and tradition Internal differentiation and level of government
			Public	Ideologies Civic and migration culture Concern versus migrations
		Other political organizations	Political Parties Organizations Syndicates	Ideologies Civic and migration culture Concern versus migrations
		International organizations	EU, UN, IOM, UNHCR, ILO, etc.	International agreements, decision structures, provisions
		Economic system	Productive structure	Main economic sectors Labour market structure Underground economy
	Economic dynamics		General economic trends Sectorial economic trends	
	Legal system	Internal	Legislation regarding migrations (entry, residency, naturalization, regularization, labour market, welfare services entitlements and access, territory control, etc.) Structure and functioning of legal systems	
		External	International legislation Structure and functioning of international legal system	
	Family system		Family structure and distribution Familial ties and supportive structure	

(continued)

Table 4.1 (continued)

Actors		Variables	
	Education system	Educational levels and accessibility in origin and destiny Role of the public institutions and existence of alternatives	
	Health system	Health care levels and accessibility in origin and destiny Role of the public institutions and existence of alternatives.	
	Mass media system	Culture transmission Transmission of opportunities and options Communication on migration (concerned, indifferent, positive)	
	Religion system	Religious view of migration Religious support structures	
	Migrants' social structures	Network structures and activities Illegal network structures and activities	
MIGRANTS	Migrants' capital	Social	Networks (types, extension, functioning)
		Cultural	Languages, professions, communication abilities, etc.
		Economic	Money
	Numbers	Irregular migrant numbers	
	Time	Migration length	
	Type of migration	Permanent, circular	

4.4.1 What Advantages?

As pointed out in the conclusions of Chap. 3, the theoretical understanding of irregular migration presents two main problems: the treatment of irregular migration as an undifferentiated phenomenon and the use of mono-causal explanations. The proposed explanations, moreover, appeared difficult to reconcile, and were even quite contradictory. These problems were connected to three crucial theoretical flaws common to the majority of the analysed theories, in particular: (A) the state-centric conception of society; (B) the limited conception of the different social actors; (C) the inadequate understanding of social interactions.

The theoretical elements gathered from Niklas Luhmann's theory of social systems, offer interesting, possible improvements to the three theoretical problems pointed out. In connection with these improvements, the resulting understanding of irregular migration appears more complex but, arguably, more consistent with reality.

A number of theoretical and methodological advantages can be suggested:

- (a) Irregular migration is not understood as a state strategy, as a migrant's tactic, or as an economic advantage, but it is understood as a social product resulting from the complex and dynamic interaction between all social systems. Whereas all social actors create their own perspective of the phenomenon and display their own interests, approaches and concerns, the overall social significance of irregularity results cannot be deduced only from one of them.
- (b) Irregular migration is understood in a radically differentiated way. Its concrete forms, structures, social relevance, evolution, externalities are determined by the context-specific configuration that the phenomenon adopts. From a systemic sociological perspective, therefore, it is not possible to understand irregularity as a single phenomenon, but rather as a multiplicity of irregular migration realities.
- (c) The role of the state in relation to irregular migration is understood in a less deterministic way. Since states are not able to fully control and determine social transactions, they are neither omnipotent nor helpless. Each state, depending on a number of variables, is more or less able to enforce its decisions. The way in which these decisions resonate with the other social systems and with migrants is not in its hands and must be empirically researched.
- (d) State policies are not considered as necessarily and coherently against irregular migration. This responds to two factors. A. The very complex forms of states' internal differentiation, which entail the possibility of phenomena like the coexistence of policies that favour and disfavour irregular migration, the development of legal loopholes, policy inconsistency along the decision chain, etc. B. States are organizations that use the member/non-member principle in order to better fulfil the political system's function. Yet, this function, namely the production of collectively-binding decisions, in certain cases or thanks to the interaction with other social systems, can be better fulfilled with a flexible understanding of the membership principle. Pragmatic solutions, that may include turning a blind eye, the use of symbolic policies, mass-legalizations, etc., can be understood in relation to the resonance relations of the state with the other social systems. The orthodox application of the membership principle could determine heavy externalities on the other systems, which may in turn have negative effects on the states' capacity to fulfil their own function.
- (e) Irregular migration is understood as internally differentiated also within a national context. A number of factors, such as, migrants' origin, social, cultural and economic capital, migration duration, availability of migrant supportive (legal or illegal) structures, etc., may determine very different irregular migration careers. These can differ in terms of: (A) The amount and type of inclusions

within the different social systems (economy, education, health, family, religion, politics etc.); (B) The type of irregularity (for instance, permanent or circular); (C) The duration of the irregularity condition; (D) The social conditions.

- (f) The irregular status is not understood as describing the whole social position of a migrant. The relationship between individuals and society is understood through the concept of differential functional inclusion. While irregularity describes the relation between migrants and the state as an organization, their inclusions in the other systems and the way in which that is affected by the political status is not politically determined.

A systemic theory of irregular migration allows one to understand the phenomenon as a radically differentiated, structural outcome of modern world society. Once the idea is disregarded that any actor or institution can control all social transactions, the whole focus changes. The query is no longer about actors' real intentions or covert plans, failure or success, domination or irrelevance; instead, it is about actors' decision-making processes and compromises, degrees of success or disappointment, and complex and dynamic interactions. While this hermeneutic approach would certainly offer less deterministic and clear-cut accounts of irregular migration, its multi-causal and differentiated explanations would certainly reach the aim of being more congruous with social reality.

This approach suggests the need to research irregular migration realities within each context. The possibility to discover common patterns and trends requires then an effort of comparative analysis. Only comparing the way in which irregular migration realities are conformed, develop and interact with their contexts, it will be possible to reach a deeper understanding of the phenomenon. Moreover, as suggested by Bommes, discovering the specific role and significance of irregularity within a context, it is also a way to better understand that context (Bommes, 2012a).

Bibliography

- Anderson, B. (2006). *Imagined communities: Reflections on the origin and spread of nationalism*. London: Verso Books.
- Arango, J. (1992). Los dilemas de las políticas de inmigración en Europa. *Cuenta y Razón*, 73, 46–54.
- Arango, J. (2005). La inmigración en España: demografía, sociología y economía. In R. del Águila (Ed.), *Inmigración: Un desafío para España* (pp. 247–273). Madrid, Spain: Editorial Pablo Iglesias.
- Arango, J., & Finotelli, C. (2009). *Past and future challenges of a Southern European migration regime: The Spanish case*.
- Baraldi, C., Corsi, G., & Esposito, E. (1996). *Glosario sobre la teoría social de Niklas Luhmann*. Mexico, Mexico: Universidad Iberoamericana-ITESO – Anthropos Editorial.
- Bommes, M. (2012a). Illegal migration in modern society: Consequences and problems of national European migration policies. In C. Boswell & G. D'Amato (Eds.), *Immigration and social systems. Collected essays of Michael Bommes* (pp. 157–176). Amsterdam: Amsterdam University Press.

- Bommes, M. (2012b). *Immigration and social systems: Collected essays of Michael Bommes*. Amsterdam: Amsterdam University Press.
- Bommes, M. (2012c). Migration in modern society. In C. Boswell & G. D'Amato (Eds.), *Immigration and social systems. Collected essays of Michael Bommes* (pp. 19–36). Amsterdam: Amsterdam University Press.
- Bommes, M. (2012d). National welfare state, biography and migration: Labour migrants, ethnic Germans and the re-ascription of welfare state membership. In C. Boswell & G. D'Amato (Eds.), *Immigration and social systems. Collected essays of Michael Bommes* (pp. 37–58). Amsterdam: Amsterdam University Press.
- Bommes, M., & Geddes, A. (Eds.). (2000a). *Immigration and welfare. Challenging the borders of the welfare state*. London/New York: Routledge.
- Bommes, M., & Geddes, A. (2000b). Introduction: Immigration and the welfare state. In M. Bommes & A. Geddes (Eds.), *Immigration and welfare. Challenging the borders of the welfare state* (pp. 1–12). London/New York: Routledge.
- Bommes, M., & Sciortino, G. (Eds.). (2011a). *Foggy social structures: Irregular migration, European labour markets and the welfare state*. Amsterdam: Amsterdam University Press.
- Bommes, M., & Sciortino, G. (2011b). In lieu of a conclusion: Steps towards a conceptual framework for the study of irregular migration. In M. Bommes & G. Sciortino (Eds.), *Foggy social structures: Irregular migration, European labour markets and the welfare state* (pp. 213–228). Amsterdam: Amsterdam University Press.
- Boswell, C. (2007). Theorizing migration policy: Is there a third way? *International Migration Review*, 41(1), 75–100.
- Cvajner, M., & Sciortino, G. (2010a). A tale of networks and policies: Prolegomena to an analysis of irregular migration careers and their developmental paths. *Population, Space and Place*, 16(3), 213–225.
- Cvajner, M., & Sciortino, G. (2010b). Theorizing irregular migration: The control of spatial mobility in differentiated societies. *European Journal of Social Theory*, 13(3), 389–404.
- Esping-Andersen, G. (1990). *The three worlds of welfare capitalism*. Princeton NJ: Princeton University Press.
- Esping-Andersen, G. (1996). After the golden age? Welfare state dilemmas in a global economy. In G. Esping-Andersen (Ed.), *Welfare states in transition: National adaptations in global economies* (pp. 1–31). London: Sage.
- Ferrera, M. (1996). The “Southern model” of welfare in social Europe. *Journal of European Social Policy*, 6(1), 17–37.
- Ferrera, M., Hemerijck, A., & Rhodes, M. (2000). *The future of social Europe: Recasting work and welfare in the new economy*. Oeiras, Portugal: Celta Editora Oeiras.
- Halfmann, J. (2000). Welfare and territory. In M. Bommes & A. Geddes (Eds.), *Immigration and welfare. Challenging the borders of the welfare state*. London/New York: Routledge.
- Hemerijck, A. (2012). *Changing welfare states*. Oxford, UK: Oxford University Press.
- Hobsbawm, E. J. (2012). *Nations and nationalism since 1780: Programme, myth, reality*. Cambridge, UK: Cambridge University Press.
- Luhmann, N. (1982a). Territorial borders as system boundaries. In R. Strassoldo & G. Delli Zotti (Eds.), *Cooperation and conflict in border areas* (pp. 235–244). Milano: Franco Angeli Editori.
- Luhmann, N. (1982b). *The differentiation of society*. New York: Columbia University Press.
- Luhmann, N. (1990). *Political theory in the welfare state*. Berlin, Germany/New York: Walter de Gruyter.
- Luhmann, N. (2002). *Einführung in die Systemtheorie*. Heidelberg, Germany: Carl-Auer-Systeme.
- Luhmann, N. (2006). System as difference. *Organization*, 13(1), 37–57.
- Luhmann, N. (2007). *La sociedad de la sociedad*. México, México: Universidad Iberoamericana.
- Luhmann, N. (2009). In J. T. Nafarrate (Ed.), *Niklas Luhmann: la política como sistema*. México, D.F., México: Universidad Iberoamericana.
- Luhmann, N. (2012). *Theory of society – Volume 1* (Vol. 1). Palo Alto, CA: Stanford University Press.

- Luhmann, N. (2013). *Theory of society – Volume 2* (Vol. 2). Palo Alto, CA: Stanford University Press.
- Merton, R. K. (1968). *Social theory and social structure*. New York: Simon and Schuster.
- Moeller, H.-G. (2013). *Luhmann explained: From souls to systems*. Chicago: Open Court.
- Schinkel, W. (2010). The virtualization of citizenship. *Critical Sociology*, 36(2), 265–283. <https://doi.org/10.1177/0896920509357506>
- Sciortino, G. (2000). Toward a political sociology of entry policies: Conceptual problems and theoretical proposals. *Journal of Ethnic and Migration Studies*, 26(2), 213–228.
- Sciortino, G. (2004a). Between phantoms and necessary evils. Some critical points in the study of irregular migrations to Western Europe. *IMIS-Beiträge*, 24, 17–43.
- Sciortino, G. (2004b). Immigration in a Mediterranean welfare state: The Italian experience in comparative perspective. *Journal of Comparative Policy Analysis: Research and Practice*, 6(2), 111–129.
- Smith, A. D. (1986). *The ethnic origins of nations*. Oxford, UK: Basil Blackwell.
- Torpey, J. (1998). Coming and going: On the state monopolization of the legitimate “means of movement”. *Sociological Theory*, 16(3), 239–259.

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