



The year 2023 marks the commemoration of important milestones for Argentina. At the international level, **the 75th anniversary of the adoption of the Universal Declaration of Human Rights is commemorated.** The Declaration outlines universal values and a common ideal for all peoples and nations, stating that all human beings are born free and equal in dignity and rights. Coinciding with this commemoration there is the celebration of **40 years of uninterrupted democracy in Argentina**, which establishes human rights as a state policy and has allowed for the consolidation of political, social, and civic rights for those residing in this country. A third milestone is the **20th anniversary of the enactment of the Migration Law in Argentina** (Law Number 25.871), which sets out the equality of rights between nationals and non-nationals based on equal treatment and non-discrimination.

In this context, this publication is presented in the framework of the Work Plan of the United Nations Network on Migration, with the support of the Agencies, Funds, and Programmes that comprise this inter-agency space in the country¹, and from academics and researchers with long-standing commitment and experience in the study of migrations.

The publication titled "**National Migration Law – 20 years after**" aims to provide a perspective on the content of a law that gave rise to a change of a paradigm in Argentina. This assessment of opportunities and challenges urges us to continue uniting efforts to highlight the substantive potential of the norm for the exercise of rights, as well as to emphasize the gaps that still persist for the migrant population in the country.

¹ *The UNNM in Argentina is composed of the UN Agencies, Funds and Programmes that expressed their interest in their participation and for whose mandates migration is relevant: UNHCR, ILO, UN Women, UN AIDS, PAHO/WHO, UNDP, UNICEF, UNESCO and IOM (in its role as Coordinator and Secretariat). The UN Resident Coordinator's Office is part of the Executive Committee.*

Summary of the articles:



Account on the Process and Approval of the Migration Law: A Paradigm Change

by Dr. Lelio Mármora.

At the end of the last Argentine military dictatorship, in 1981, a restrictive migration law concerning the rights of migrants was enacted. For over 20 years following that moment, migration regulations were subject to interpretation and resorted to in order to implement irregular and contested measures regarding documentation and migration control. This period was marked by increasing demands from civil society organizations and advocacy actions driven by international bodies.

As a result of this discontent, a new migration law was proposed and, after several years of consultations and meetings with different sectors of society, it was approved in 2003. This law marked the beginning of the respect for the human rights of migrants, the free movement of people, and migrant regularization.

However, although the law was unanimously approved, its regulation would come five years later, following the creation of the Advisory Commission for the Regulation of the Law, promoted by the National Directorate of Migration. This regulation confirmed fundamental aspects such as the recognition of rights for migrant families - education, health, and the integration of foreign individuals - and led to the granting of regular residence permits to one and a half million migrants between 2008 and 2014. Additionally, the new Migration Law, for the first time, included Argentine nationals living abroad.

2

Access to Comprehensive Healthcare for Migrants

by Cecilia Marzoa, Estefanía Matas, and Daniela Giacomazzo (PAHO/WHO),
and Clarisa Brezzo (UNAIDS)

Human migration poses one of the greatest challenges in public health at both regional and global levels. The resilience and capacity of healthcare systems are tested both along migration routes and in destination countries. The Argentine Republic has a long tradition of recognizing health as a fundamental right and has a comprehensive legal framework supporting this notion. Access to healthcare is universal, meaning that all individuals, residents or not, including migrants and refugees, have the right to receive adequate medical care and to be treated on equal terms and without discrimination in the healthcare system. The Migration Law (Nbr. 25.871) addresses healthcare access under the principles of justice, equity, and universality, which characterize the Argentine public healthcare system.

The article, authored by the technical teams of PAHO/WHO in collaboration with UNAIDS, provides a brief overview of the situation in the Republic of Argentina regarding migration and health, considering the following points: the main international and national guidelines in this field; some data on progress in terms of access to healthcare, with a particular emphasis on sexual health and violence approaches; and, finally, some guidelines to continue expanding access to rights for migrants and refugees.

3

Complementarity between the Migration Law (Law 25.871) and the Law for the Protection of Refugees (Law 26.165)

by Lucia Galoppo (CAREF) under the coordination of Juliana Bello (UNHCR).

Both the Migration Law and the Law for the Protection of Refugees approach international protection differently. The former does so by recognizing safeguards based on humanitarian reasons, while the latter does it through the right to asylum. The concept of a "migrant" and that of a "refugee" differ not only in their legal framework but also in the need for protection mechanisms, understood as safeguards. Based on the idea that any person moving from one country to another for any reason deserves fair, equal, and non-discriminatory treatment with a human rights approach, we can understand that the rights of migrants and refugees are part of the protection system established by International Human Rights Law.

Although the possibility of compatibility and linkage between asylum and migration procedures have been shown, practical difficulties in harmonizing the dialogue between the asylum and migration systems are evident. Challenges persist regarding the comprehensive protection of human rights as regards diversity and gender-based violence.



Migrants, Gender, and Care

by Delfina García Hamilton and José Florito (UN Women), Mercedes Botto, and Laura Golbert (IICSAL-FLACSO-CONICET).

Significant advancements in norms are underlined in the publication, yet challenges persist for the effective enjoyment of rights among migrant women in Argentina. Overall, their labour and social situations tend to be more precarious than those of Argentine-born citizens. High informality, low wages, and deficits in access to healthcare and social protection raise questions about how to translate the progressive regulatory framework into concrete improvements for these women.

During the 1990s, two changes in migration patterns that had begun in 1960 in the Republic of Argentina crystallized: on the one hand, the feminization of migration, and on the other, their concentration in the Metropolitan Area of Buenos Aires (AMBA). In this context, the domestic work sector became a labor niche for migrant women coming from countries in the region. This relationship between migrant women and the care economy holds a network of interrelated inequalities, reinforcing exclusion dynamics and consequently leading to rights violations.

Over the past 20 years, Argentina has solidified an advanced regulatory framework by recognizing the rights of migrants and domestic workers. However, it remains to be questioned whether this legal framework was sufficient to guarantee the effective enjoyment of these recognized rights, particularly in the case of migrant women. Evidence suggests that while it led to improvements in living and working conditions, there are still pending challenges.

5 Migration and Rights of Children and Adolescents in Argentina

by Pablo Ceriani under the coordination of Alejandro Morlachetti, from UNICEF.

The Migration Law and the Comprehensive Law for the Rights of Girls, Boys and Adolescents marked a turning point in the legislative treatment of these issues. Both laws coincide in overcoming an outdated and unconstitutional view that legitimized the violation of basic rights. However, it is important to note that they also share the fact that one does not explicitly incorporate the other, and vice versa. In other words, the Migration Law hardly makes any reference to childhood and adolescence, and the law on children's rights does not expressly address migration matters.

Regarding the right to education, Migration Law Nbr. 25.871 brought about a fundamental qualitative change by ensuring equality in access at all levels of the education system, as well as prohibiting distinctions or restrictions based on migration status.

Additionally, on a global scale, xenophobia has intensified in recent decades. Expressions against migration have led not only to hate crimes but also to the promotion of policies of inequality and exclusion against migrant populations in the societies they inhabit. Despite the momentous change brought about by the adoption of the Migration Law, xenophobia has remained and continues to be a serious issue in our country. Children and adolescents are exposed to this reality in multiple ways, especially in educational areas or in the neighborhoods where they grow up and interact with their peers. Xenophobia directly impacts on their lives and their rights.

6 Access to Justice for Migrants in Argentina, 20 Years after the Enactment of the Migration Law Nbr. 25.871

by María Eugenia Di Paola y Nora Luzi (Direction) and Karina Carpintero (Coordination) from UNDP Argentina; Ana Paula Penchaszadeh and Lila García (CONICET), consultants responsible for the production for UNDP Argentina; and Ángeles Calandri, consultant responsible for the data processing for UNDP Argentina.

The article aims to shed light on the dynamics of access to justice for the migrant population in Argentina, a primary commitment undertaken by Migration Law Nbr. 25.871, ensuring its broad mandate regarding access to universal rights, in line with the perspective of the 2030 Agenda.

To this ends, the article includes general guidelines on the connection between migration and access to justice, offers a brief overview of the current state of affairs in Argentina, and analyzes information on this subject derived from the initial testing of Sustainable Development Goal 16.3.3 on access to civil justice from the 2030 Agenda. This testing was conducted by the United Nations Development Programme in Argentina.

The data obtained by the UNDP study² provide valuable and unprecedented information to assess the extent to which migrants residing in Argentina are particularly affected by legal issues or conflicts. It also explores the intersection of nationality (migrants/non-migrants) with other variables, such as gender or socio-economic and socio-occupational profiles, both in the incidence of conflicts and in the exacerbation of certain situations of vulnerability concerning access to justice.

7 The Role of Culture and Heritage in the Social Inclusion Processes of Migrants

by María Luz Endere (CONICET), Alcira Sandoval Ruíz (UNESCO) y Mercedes Mariano (CONICET).

The Republic of Argentina has a legal framework aimed at guaranteeing the rights of migrants, particularly following the enactment of Law Nbr. 25.871, which recognizes the right to migrate as a human right. In this context, the socio-cultural and heritage dynamics produced by migrant groups demonstrate a growing trend towards the visibility of expressions identified and valued by other social actors. What is novel is that they are not only overseas cultural traditions deeply rooted among generations born in the new territory, but also cultural expressions from relatively recent Latin American migrants. In this sense, these cultural expressions have begun to emerge as possible triggers for social integration processes in receiving societies, capable of contributing to breaking down barriers, restrictions, and obstacles to foster genuine interculturalism.

² PNUD (2023) *Justicia y desarrollo sostenible - El testeo del indicador global de acceso a justicia en el marco de una encuesta nacional de pobreza*. <https://www.undp.org/es/argentina/justicia-y-desarrollo-sostenible>



Labour Migration and Mobility in Argentina

by Mariana Beheran. ILO.

In addition to enjoying protection under international labour standards, migrant workers and their families are safeguarded by fundamental United Nations human rights instruments applicable to all individuals, regardless of their nationality.

As mentioned, Argentina has a legal framework recognized for its high standards in connection with international human rights. Nevertheless, despite numerous multi-stakeholder efforts at the national level, migrants still face challenges in achieving a socio-economic integration which fully guarantees their rights, especially those related to the field of work.

It remains necessary to disseminate the rights enshrined therein and to promote dialogue and the holding of tripartite consultations on the opportunities and practical challenges involved in employing migrant populations. This includes addressing specific concerns raised by labour migration and the role played by governmental institutions and trade unions in providing assistance to migrant workers.



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