



**CELS Case Study**

# **Migrant Rights: Sharing, and Expanding on, Lessons Learned in Argentina**

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Treating migration as a security problem spawns systemic human rights violations. And it doesn't work. People are migrating in ever larger numbers worldwide despite the risk of death, whether on the Mediterranean Sea or along the Central America-Mexico-US corridor. Restrictive policies criminalize and stigmatize migrants, exposing them to human trafficking, labor exploitation, detention, and separation from their families.

CELS has been fighting since the 1990s to put human rights at the center of migration policies, a feat that was achieved in Argentina. We believe this alternative model must prioritize regularization, meaning the state ensures that immigrants can easily obtain national documentation, which is essential for fully exercising their rights. This framework must also guarantee due process in all proceedings, access to justice and public defenders, and prohibit detention for migration-related infractions.

Guided by this vision, we have worked to influence public policy, improve standards and change the terms of debate regionally and internationally. Some progress has been made but many substantive problems continue to be ignored. And in countries where politicians are whipping up anti-immigrant sentiment today – Argentina included – the scenario is disheartening.

In addition to policy advocacy, grassroots activism and research, CELS has used strategic litigation to enforce migrant rights. A key case was that of Juan Carlos De la Torre, an Uruguayan who was summarily deported after living in Argentina for 22 years. CELS co-filed a petition on his behalf before the Inter-American Commission on Human Rights (IACHR), which led to a [Friendly Settlement](#) in which the Argentine state committed to protecting migrants' rights more broadly. On a national level, several landmark cases – including one on equal access to social services – were litigated by the [Legal Clinic](#) for the Rights of Immigrants and Refugees, established in 2002 by the Argentine Commission for Refugees and Migrants (CAREF), CELS and the University of Buenos Aires.

Our work on migrant rights has always prioritized coalitions, with immigrant associations, churches, academic institutions and political activists. In 2003, after several years of coordinated advocacy, Argentina's Congress unanimously passed a pioneering new Migration Law, the first in the region to recognize the human right to migrate. It underlined the state's obligation to facilitate regularization (enabling nearly 1 million people to obtain their documentation from 2004 to 2014), guaranteed due process when migrants face deportation, and sharply limited the use of detention. This new legal framework had such an impact in the region that it inspired reforms in other countries: Uruguay, Bolivia, Ecuador, Peru and, eventually, Brazil.

CELS contributed to the promotion of rights-based migration overhauls in neighboring countries to expand progressive alternatives and thereby safeguard the Argentine law. Brazil was a key arena for this strategy because of its regional importance. In 2014, a CELS team member based in Brazil began collaborating with local organizations to help them define migration policy goals. Over time, we shared technical expertise based on Argentine regulations and our knowledge of international law, suggesting revisions to the draft bill. The work of our Brazilian allies finally paid off in April 2017. The [new migration law](#) approved by Congress promotes regularization and places the rights of migrants on equal footing with those of citizens.

We took a similar initiative in Chile, meeting with government officials and civil society organizations to try to help foster legislative reform. This included offering technical assistance and co-organizing public events. Although that process stalled, we stand ready to assist if our allies determine conditions are ripe.

In this context, CELS also strove to influence regional standards for protecting migrant rights, making contributions, for example, to the Inter-American Court of Human Rights' Advisory Opinion 21 on [Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection](#), issued in 2014.

To encourage the incorporation of these standards into national policies and spur regional activism on migrant rights, CELS has sought to create spaces for dialogue and training. In June 2014, we co-organized a week-long [regional event in Buenos Aires](#) where activists, government officials and experts exchanged experiences and strategies. A follow-up meeting was held in Mexico, which included Brazilian and Chilean organizations pushing for reform. Also, we co-developed the post-graduate specialization course in "[Migration and Asylum from a Human Rights Perspective](#)," aimed at training professionals from the region and fortifying their ties.

In the global arena, CELS has long promoted the Argentine law as a counter-model to security-focused policies. And starting in 2012, we prioritized collaborating on UN guidelines to protect migrant rights at international borders, which we identified as key areas where violations occur, including detention without access to lawyers or any possibility of reporting abuses of power. To deepen our firsthand knowledge of such problems and make joint contributions, we teamed up with several organizations working on the ground at Mexico's northern and southern borders. It was gratifying to see that the [UN's Recommended Principles and Guidelines on Human Rights at International Borders](#), prepared by the Office of the High Commissioner for Human Rights (OHCHR), recognized many of our inputs.

Over the years, CELS has participated in global debates and contributed – as part of flexible coalitions – to numerous UN documents. In a statement delivered ahead of the [2013 High-Level Dialogue](#) on International Migration and Development, CELS called for policies guided by the right to migrate and the principle of non-discrimination. We noted that models already existed, showing this goal could be achieved.

Some progress has been made getting this on the global agenda. We worked with states in the region to ensure that the [New York Declaration](#), issued by the UN in September 2016, included regularization among the points to be negotiated to forge an unprecedented, intergovernmental Global Compact on migration by 2018. And, thanks to our collective efforts, the notion that regularization is one of the most effective means for guaranteeing rights was incorporated into draft guidelines that the OHCHR is devising on protection of [migrants in vulnerable situations](#). That document also cites the Argentine law as an example to follow.

But there is still a huge gap between what human rights bodies propose and what states are willing to discuss. For example, the New York Declaration permits the detention of migrants – including children. Not even on this last glaring point could countries reach agreement.

Such difficulties are not confined to the international arena, showing that this is an ongoing battle. In January 2017, the Argentine government issued an emergency decree that gutted some key provisions of the Migration Law. It permits people's expulsion for migration-related infractions and minor criminal offenses, and creates a fast-track deportation procedure that violates due process, the right to defense and access to justice.

As soon as the decree was made public, we denounced to the IACHR that it violated the accord in the De la Torre case. The Commission then decided to convoke a public hearing on changes to the Argentine law (which it held up as exemplary) during the [same session](#) in which it called Donald Trump's administration to task over US migration policy. In its recent evaluation of Argentina, thanks to information we jointly provided, the UN Committee Against Torture [urged the state to repeal this decree](#) since it violates due process and access to justice.

At CELS we strive to create a virtuous loop between our national, regional and international work. In this case, the migration law that we helped bring into being and touted abroad is now being defended by human rights protection bodies as it comes under attack in Argentina. Our expertise continues to be solicited internationally, and we were recently invited to a meeting on the Global Compact with the UN Special Rapporteur on migrants' rights where CELS was the only Latin American voice to be heard. This recognition is appreciated, but the fight to promote migrants' human rights will require many more efforts and many other actors if it is to prosper.