

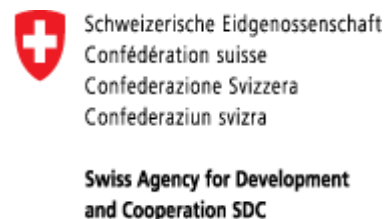


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**Human Rights of Migrants and Their  
Families in Argentina as Evidence for  
Development of Human Rights Indicators  
A Case Study**

Rosalia Cortes

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# Human Rights of Migrants and Their Families in Argentina as Evidence for Development of Human Rights Indicators: A Case Study\*

Rosalia Cortes<sup>†</sup>

## Abstract

Argentina's restrictive migration law enacted in 1981 under military rule remained applicable until 2004; until its demise, migratory controls were strict, and irregular migrants were prone to detention and deportation. Undocumented migrants had limited access to health and education and were not allowed to engage in employment or commercial transactions. This report analyzes continuities and changes in migrant adults' and children's access to their social and economic rights in Argentina since changes in the regulation of migration initiated in 2004 were implemented. The new regulations smoothed the difficulties faced in the process of regularization. Mercosur and associated countries' nationals were able to apply for temporary two-year residence without the prerequisite of holding a job or having family in the country. With regard to the three indicators of decent work available for comparison between migrants and natives—employment population ratio, unemployment rate, and informal (unregistered) employment—this report concludes that regularization facilitated the incorporation of migrant men and women into decent employment. In previous periods the rate of economic participation and employment of men and women migrants was higher than that of natives, and unemployment rates were lower; the main change fostered by the law was increased access to registered work. In construction and in household help the incidence of unregistered work dropped more among migrants than among natives. This is an important change, given that health care insurance, the provision of family allowances, and access to the public retirement scheme are dependent on work status.

Key words: Migration, migrants' rights, social aspects of migration, Argentina, access to health care, access to education, access to decent work

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## Executive Summary

This report analyzes continuities and changes in migrant adults' and children's access to their social and economic rights in Argentina since changes in the regulation of migration initiated in 2004 were implemented.<sup>1</sup> The restrictive migration law enacted in 1981 (22439/81) under military rule remained applicable until 2004; until its demise, migratory controls were strict, and irregular migrants were prone to detention and deportation. Undocumented migrants had limited access to health and education and were not allowed to engage in employment or commercial transactions.

The new Migration Law enacted in 2004 (25781/04) recognized the right to migrate, extending migrants' rights to access health and education services, as well as employment, regardless of migratory status, and protecting children against arbitrary separation from their families. Under this law the executive created two national programs, in 2004 and 2006 (Patria Grande), which simplified regularization and allowed migrants to work and study before obtaining permanent residence.

The analysis concentrates on migrants from neighboring Bolivia and Paraguay and from Peru, representing 77.5 percent of the foreign-born population. It compares migrants' and natives' living conditions (measuring basic needs indicators, household income, access to basic services, housing and habitat), access to health and education of adults and children, employment, and access to social protection, with the purpose of assessing and identifying the progress made since implementation of the laws and decrees.

The report concludes that the new regulations smoothed the difficulties faced in the process of regularization. Mercosur and associated countries' nationals were able to apply for temporary two-year residence without the prerequisite of holding a job or having family in the country. However, regularization was not sufficient for *realizing* rights; migrants—in Argentina as in other countries—had to deal with the prevailing institutional and economic circumstances of the host country. The law stipulated that school and hospital staff were required to advise and orient migrants on different aspects of their rights, but these institutions did not fulfill their obligations. In the past decade, low-income native and migrant households have shared common living conditions, employment trends, and patterns of access to public provision of services.

The data confirm the persistence of similarities between the two groups—migrants and natives in low-income households—with regard to housing, habitat, education, and health, and some improvements in access to decent employment. All in all, concerning social protection institutions, migrants are at a disadvantage: access to cash transfer programs and pensions has been limited by specific rules within these programs that restrict migrants' full participation.

*Living conditions.* The incidence of basic needs deprivation, low quality housing, and poor access to sewage has been higher in migrant than in native households. Living conditions of migrants in 2001 and 2010 (Population Census) did not improve substantially.

*Access to education.* Progress in migrant children's school attendance has been made since 2000, partly because of the new regulations enacted by the education law. Although the elimination of restrictions for accessing secondary education have been eliminated by the new migration law, migrant teens' attendance

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<sup>1</sup> This endeavor requires full access to comparable data. Available data on migrants are scarce and in some cases outdated; moreover, the sample size limits the needed research (see annex 1).

remains low, and the incidence of inactive and out-of-work teens appears higher among migrants than among natives. Public policies around education will need to concentrate on integration and discrimination problems faced by children and youth.

*Access to health care.* In the past decade the numbers of migrants with health care coverage increased as a result of the growth in registered employment (worker and employer contributions are mandatory); and, although there was an increase in the rate of migrants affiliated with institutions financing health care services, the gap between migrants and natives persists. Article 8 of the Migration Law establishes that public health services cannot negate or restrict migrants' rights to health, social assistance, or sanitary attention, irrespective of their migration status. However, migrants face barriers to access; one main issue is that migrants who do not possess a national ID are prone to being rejected in hospitals.

*Employment and decent work.* Regularization allowed migrant men and women to gain decent employment; the law increased access to registered work in the economic sectors employing migrants: construction and paid domestic work.

*Access to cash transfer and pension schemes.* The two main social protection programs, the Universal Transfer for Children and the extension of the pension scheme, exclude recent migrants. The Asignación Universal por Hijo (AUH) is a cash transfer program for children up to age 18 years living in households with parents working in the informal sector, earning less than the mandated minimum wage. It excludes migrant children and adolescents who have been residents for fewer than three years, and those born in Argentina whose parents have not been residents for three years. These restrictions contradict the Convention on the Rights of the Child. In 2006 self-employed workers with fewer than 30 years of contributions to social security were able to receive a pension.

## **Organization of the Report**

The first section of the report describes the recent history of international migration to Argentina, identifying the nationality and gender and age composition of the main waves of migration, and gives a brief account of the changes in the regulation of migration since 2004. The subsequent sections analyze changes and continuities in migrants' and their families' access to quality housing and sanitation; to education and health; to employment and decent work; and to social protection. The last section presents conclusions.

### **1. Argentina: Trends in International Migration**

Since the 1960s migrants to Argentina from neighboring countries have been more numerous than those from Europe. Beginning in the 1850s, Argentina was a favored destination for migrants from overseas, mainly Spaniards and Italians arriving between the second half of the 19th century and the first half of the 20th. Expansion of the agricultural frontier and the railway between 1869 and 1914 required growing numbers of workers; during the period, 3.5 million overseas migrants arrived, mainly from Italy and Spain, and in smaller numbers from France and Russia.<sup>2</sup>

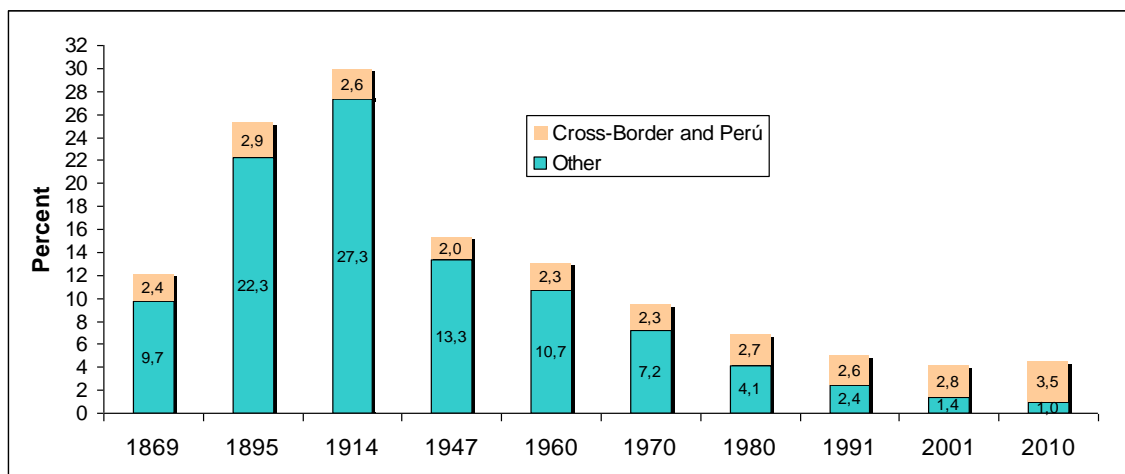
Cross-border migration from Brazil, Uruguay, Paraguay, and Chile also began in the second half of the 19th century. Its pace has been constant; however, given the drop in overseas migration and the aging of the

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<sup>2</sup> INDEC Population Census (1980). Nearly 35 percent of overseas migrants who arrived between 1869 and 1914 returned to their countries of origin.

migrant stock, the relative weight of cross-border migrants has increased (figure 1). In rural areas adjacent to the borders, migrants were needed for seasonal rural work; until the 1950s and 1960s, Bolivian and Paraguayan migrants concentrated in the North West and North East provinces, respectively, to perform this work.<sup>3</sup> The mechanization of agriculture during the 1960s, the stagnation of provincial economies, and the demand for services and manufacturing workers all played important role in reorienting migration toward the capital, Buenos Aires, the Greater Buenos Aires region, and Cordoba and Mendoza.<sup>4</sup>

**Figure 1 Argentina: Foreign-Born Population, 1869–2010**



Source: Based on Population Census, INDEC.

In the 1990s layoffs in the economic sectors that traditionally employed internal and international migrant workers resulted in the reduction of internal migration, while the proportion of Peruvian and neighboring-country migrants increased. One of the causes of the persistence of international migration flows was the prevailing exchange rate regime in Argentina—parity between the local currency and the U.S. dollar—and the facility to remit, which attracted Peruvian migrants in addition to the traditional cross-border migrants (Cortés and Groisman 2004, 172). Between 1991 and 2001, the number of Peruvian migrants had increased 4.3 times, from 16,543 to 87,546. Between 1991 and 2010, Bolivian, Paraguayan, and Peruvian migrant stock continued to increase. The location of migrants responded to labor demand; the increasing urbanization of Bolivian, Peruvian and Paraguayan migrants in the 2000’s decade is linked to the expansion in demand for construction, manufacturing and household work in the Metropolitan Area and a drop in labor demand in the agricultural sector. Bolivian migrants however, continued to live and work in agriculture (growing vegetables and fruits) in Cuyo, Patagonia, and Pampean regions.

<sup>3</sup> The provinces of Salta, Tucumán, and Jujuy (Bolivia); Misiones and Formosa (Paraguay); and Mendoza and Patagonia (Chile).

<sup>4</sup> From 1991 to 2010, the concentration of Bolivian migrants in the metropolitan area increased from 45 percent to 65 percent of total Bolivian migrant stock.

**Table 1 Distribution of Migrants by Region, 1991–2010 (percent)**

Region	Bolivians			Paraguayans			Peruvians		
	1991	2001	2010	1991	2001	2010	1991	2001	2010
Buenos Aires City	12.5	21.6	21.8	11.6	14.5	14.4	22.8	44.4	41.8
Greater Buenos Aires	33.1	38.3	43.3	59.2	65.9	71.0	39.9	37.6	41.3
North West	36.6	23.8	15.8	0.7	0.5	0.4	6.9	2.0	1.6
North East	0.6	0.4	0.3	25.5	16.4	10.3	3.4	0.5	0.3
Pampa	4.6	4.0	4.4	2.3	2.0	2.7	22.1	10.6	10.0
Cuyo	9.8	8.5	8.6	0.2	0.2	0.2	2.8	4.1	3.7
Patagonia	2.9	3.4	5.8	0.5	0.4	1.1	2.3	0.7	1.2
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: Based on Population Census, 1991, 2001, 2010.

The academic literature has stressed the growing feminization of cross-border migration, particularly since the 1980s (Courtis, Liguori, and Cerrutti 2010, 11; Govea 2012, 293; Calvelo 2012,145); however, between 2001 and 2010 the ratio of females to males among Peruvian and Paraguayan migrants decreased whereas it increased among working-age Bolivians. These changes can be interpreted to mean that migrant flows from Peru and Paraguay in the first decade of the 2000s continued to be dominated by women, but that, at the same time, male migration increased in relation to the previous decade.

**Table 2 Ratio of Females to Males, 2001–10 by Age Group and Country of Birth**

Place of birth	2001				2010			
	Total	0–14	15–64	65 +	Total	0–14	15–64	65 +
Total	119	99	116	132	117	100	115	132
LATIN AMERICA	118	99	119	118	116	100	117	122
<b>Border</b>	116	100	116	119	116	100	116	123
Bolivia	99	98	99	93	101	100	102	100
Paraguay	136	103	140	131	125	100	128	132
<b>Not border</b>	135	97	143	97	118	100	121	104
Peru	146	98	156	61	122	103	126	94
Rest of the World	107	95	106	146	108	96	111	123

Source: Based on Population Census, 2001, 2010.

## 2. The Process of Regularization

The 2004 program extended regularization rights to those born in Mercosur and associated countries. Through a 2005 presidential decree, the Migration Office intervened in the regularization of migrants who had arrived before 2006 through May 2008. The law enshrined three main principles: The recognition of the right to obtain permanent residence to Mercosur nationals; the right for all foreigners to access health and education services, regardless of migratory status; and the recognition of labor rights of all foreign born, regardless of migratory status.



The Patria Grande program received 423,697 applications; it granted 98,539 permanent residence permits and 126,385 temporary permits, while 187,759 applicants failed to provide the required documents. According to the Permanent Assembly of Human Rights of Argentina, the state has failed to provide reasons for why so many applicants were not included in the program. Early in 2011 some migrants that had applied to the Patria Grande program were notified that they were going to be expelled because they did not complete the program's requirements (FIDJ and CELS, 2011, 51). The main problems were lack of information on the requisites for renewing temporary residence permits and obtaining permanent residence, the high costs of the process, and the presence of intermediaries. Between 2004 and 2012, 82 percent of applicants (approximately 830,000) were citizens from Paraguay, Bolivia, and Peru, with increasing numbers from Colombia.<sup>5</sup>

Migrants face difficulties and barriers in the regularization process even though the legislation establishes rights for every migrant—women, men, and children—regardless of migratory status. Recent qualitative studies have found that, according to migrant organizations and migrants themselves, the application process is not always easy. Some have reported that the staff at the Migration Office is not helpful; furthermore, because applicants must start the procedures online, those who do not use computers must rely on intermediaries who charge for their services (IPPDH 2013, 13; Cortés 2011, 29). Additionally, until 2011 the Migration Office lacked the necessary instruments and infrastructure to deal with the growing number of applications (Nejamkis and Rivero Sierra 2010, 29), a fact that increased the role of intermediaries who—illegally—charged for their services. From the point of view of migrant organizations, these costs deterred many potential applicants.

The observations concerning the role of the Migration Office, the cost of the procedures, and the requirement for computer expertise can be better evaluated if we consider some of the main socioeconomic characteristics of the first batch of migrants seeking regularization. The Migration Office in 2009 and in 2011 conducted surveys of small samples of applicants; the surveys indicated that the applicants were a socially vulnerable group: low educational attainment, high incidence of inadequate housing, and high incidence of precarious workers lacking social security and health care protection (Dirección de Migraciones 2010, 30–48).

### **3. Living Conditions: Quality of Housing and Access to Basic Services**

This section presents information on structural poverty based on the Basic Needs Indicators (BNI), the quality of housing, and access to water and sanitation.

The incidence of basic needs deprivation in migrant households is high in the capital city, where the value of the index among natives is the lowest. On average, the incidence of BNI has declined in the first decade of the 2000s, but the gap between migrants and natives remains high (Table 3).

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<sup>5</sup> Applications from Paraguay nationals, 40 percent; from Bolivia, 27 percent; and from Peru, 15 percent (Dirección de Migraciones 2013).

**Table 3. Population in Households with at Least One Basic Needs Indicator, 2010 (percent)**

	Buenos Aires City		Buenos Aires Province		Country Total	
	2001	2010	2001	2010	2001	2010
Migrants	28.1	24.9	22.6	19.7	24.3	20.2
Natives	6.2	5.2	15.7	10.9	17.6	12.3

Source: Based on 2001 and 2010 Population Census, INDEC.

In the city of Buenos Aires in 2010, migrants resided mainly in communes with poor basic services and precarious housing: 32 percent of citizens living in hotel rooms, pensions, and squatted houses are migrants (Annual Household Survey). The gap in quality of housing between migrants and natives was also high: in 2010, 33 percent of migrants and 50 percent of natives lived in “satisfactory” houses made of solid and resistant materials, with adequate insulation, pipes inside the premises, and water-flushed toilets (2010 Population Census, INDEC). Some municipalities require at least two years of residence in the country to purchase plots and houses (IPPDH 2013, 78).

With regard to habitat, migrants live in conditions similar to those of native low-income household, that is, those in the first income quintile. Between 2004 and 2013, there was some progress in overcoming the deficit in access to water and sewage. However, by 2013, more than 20 percent of migrants and natives still lacked access to water and sanitation. The progress in the quality of the neighborhood—proximity to slums, garbage disposal, or areas prone to flooding—among migrants has been bleak in the past few years; the proportion of migrant households located in unserved areas has remained even higher than among the poorest native households.

**Table 4. Deficit in Access to Water or Sanitation, 2004–13**

Year	Migrants	Natives by quintile of per capita household income					
		1	2	3	4	5	Total
2004	40,3	41,9	31,9	21,9	11,7	5,9	28,1
2007	31,1	38,8	27,6	20,4	15,7	8,1	26,5
2010	32,4	33,7	27,2	19,5	13,9	6,7	24,3
2013	22,4	27,0	23,3	14,6	10,9	6,0	20,1

Source: Based on the EPH, INDEC.

#### 4. Access to Education

The Education Law passed in 2006 (26.026/06) established compulsory attendance in preschool at age 5, and from ages 6 to 17 for primary and secondary school;<sup>6</sup> the law instructed the National Administration, the provinces, and the city of Buenos Aires to universalize educational services for girls and boys as of age 4. Despite these legislative provisions, a study on the rights of migrant children indicates that schools (and hospitals) have not implemented training programs that would educate their staffs about migrant rights (Ceriani Cernadas and Fava 2010). Their paper stresses the obstacles faced by migrants due to the lack of information and guidance from professional and technical staff.

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<sup>6</sup> The 1993 law required nine years of compulsory education, from ages 5 to 14.

School enrollment for three- and four-year-olds among migrants and natives increased after the expansion required by the 2006 law. Enrollment rates of Peruvian children are higher than those of other migrants because 45 percent of Peruvians immigrants live in the capital city. The number of schools is higher in Buenos Aires than in areas where Paraguayan and Bolivian immigrants reside: nearly 30 percent of the immigrants from these two countries live in provinces where the supply of schools is poorer than in the metropolitan area. Among Bolivian teenagers between ages 14 and 17, and to a lesser extent for 16- to 17-year-old Paraguayans living in the city, the percentage of attendance was higher than in the province of Buenos Aires. The difference in school attendance between migrants and natives is extremely high: for 3- to 4-year-olds and 15- to 17-year olds, the enrollment rate for migrants was 50 percent, whereas for natives it was 70 percent. Teenagers' school attendance dropped steeply among migrants and natives alike between 2004 and 2010. In addition, 14 percent of natives and 21 percent of migrants between 16 and 20 years old are neither seeking jobs nor attending school.

**Table 4 Enrollment, Ages 3-17, by Country of Birth, 2001–10**

Age	Bolivia			Paraguay			Peru			Natives		
	2001	2010	% change	2001	2010	% change	2001	2010	% change	2001	2010	% change
3	17.3	26.6	<b>53.9</b>	28.2	33.8	<b>19.9</b>	42.3	47.5	<b>12.2</b>	29.9	40.3	<b>35.0</b>
4	29.9	48.6	<b>62.3</b>	45.0	57.9	<b>28.8</b>	58.1	71.8	<b>23.6</b>	48.2	69.9	<b>45.0</b>
5	55.9	76.7	<b>37.4</b>	66.9	81.5	<b>21.9</b>	85.8	89.2	<b>3.9</b>	78.8	91.5	<b>16.0</b>
6	81.6	94.1	<b>15.3</b>	86.1	94.7	<b>10.0</b>	93.2	97.1	<b>4.1</b>	96.2	98.1	<b>2.0</b>
7	93.8	97.7	<b>4.2</b>	95.8	97.5	<b>1.7</b>	97.6	99.1	<b>1.5</b>	98.5	99.1	<b>0.7</b>
8	96.1	98.4	<b>2.4</b>	96.5	98.3	<b>1.8</b>	97.9	98.8	<b>1.0</b>	98.7	99.3	<b>0.6</b>
9	95.7	98.6	<b>3.1</b>	96.9	98.4	<b>1.5</b>	98.8	99.4	<b>0.6</b>	98.8	99.2	<b>0.4</b>
10	96.2	97.9	<b>1.8</b>	97.3	98.2	<b>0.9</b>	97.3	98.4	<b>1.1</b>	98.7	99.3	<b>0.6</b>
11	96.8	96.5	<b>-0.4</b>	97.6	96.8	<b>-0.8</b>	96.5	97.1	<b>0.6</b>	98.5	98.9	<b>0.5</b>
12	94.7	96.5	<b>1.8</b>	96.1	97.5	<b>1.5</b>	98.1	97.7	<b>-0.4</b>	97.8	98.5	<b>0.8</b>
13	92.0	95.1	<b>3.4</b>	93.6	95.5	<b>2.0</b>	97.4	95.9	<b>-1.5</b>	95.7	97.3	<b>1.7</b>
14	85.8	87.0	<b>1.4</b>	87.5	89.3	<b>2.1</b>	93.7	96.5	<b>3.0</b>	91.9	94.0	<b>2.3</b>
15	80.0	81.1	<b>1.4</b>	79.9	82.5	<b>3.4</b>	89.2	94.4	<b>5.9</b>	86.1	90.9	<b>5.6</b>
16	67.6	64.7	<b>-4.3</b>	66.6	66.0	<b>-0.9</b>	80.8	84.6	<b>4.6</b>	79.4	80.7	<b>1.6</b>
17	58.4	53.0	<b>-9.2</b>	52.0	52.6	<b>1.2</b>	66.1	70.6	<b>6.7</b>	72.5	73.3	<b>1.1</b>

Sources: Based on REDATAM, Population Census, 2001, 2010.

These data are compatible with qualitative studies that found that in schools migrant children feel discriminated against by other students and in some cases by their teachers (Cerrutti and Binstock 2012; IPPDH 2013; Cortes 2011a). As noted by Cerrutti and Binstock (2012), work on migrants and education in Argentina has focused mainly on teachers' opinions on migrant students. This study, based on a sample of native and migrant students in 17 secondary schools in the Metropolitan Area of Buenos Aires—four schools in the city and the rest in the Province of Buenos Aires—surveyed both school staff and students on the experiences and performance of migrant and native students. Schools were selected from among those with higher proportions of migrant students. Nearly half of the students were natives; 25 percent

were born in Bolivia, Peru, or Paraguay; and the rest were second-generation migrants.<sup>7</sup> Despite different migrant backgrounds, the students shared common socioeconomic conditions: their parents worked in precarious jobs and a high proportion of households received transfers from social plans. Repetition of a grade was more frequent among natives; their grades were lower; and they were more frequently absent from school. Among migrant teenagers, Bolivians (first and second generation) performed the best, followed by students from Paraguay and Peru (first and second generation).

Migrant students' expectations about their futures were high, mainly in the first generation migrants; they aspired to go to university, again more so than native students.<sup>8</sup>

How do migrant students perceive they are received by their native peers and teachers at school? Bolivian girls perceive discrimination more frequently than their Peruvian and Paraguayan counterparts. Bolivian women and boys feel discriminated against mainly because of the color of their skin, while Peruvians and Paraguayans refer to their looks; in turn, natives feel discriminated against because of their looks or the way they dress, and all of them consider school children to be the main "discriminators." Native students had and expressed negative opinions regarding migrants because they "stole" jobs from Argentinians, and this idea surfaced in some interviews with teachers and school staff (Cerrutti and Binstock 2012, 62). In addition, school teachers and headmasters justified aggression against Bolivian students, arguing that Bolivians were passive and failed to react adequately to aggression.

In summary, there has been progress in migrant children's school attendance during the first decade of the 2000, mainly for those between ages 3 and 14, partly due to the new rules enacted by the Education law. Although the elimination of the restrictions for accessing secondary education have been eliminated by the new migration law, migrant teens' attendance remains low, and the incidence of inactive and out-of-work teens appears to be higher among migrants than among natives. Around this issue, public policies will need to concentrate on integration and discrimination problems faced by children and youth.

## **5. Access to Health Care**

Health care in Argentina is based on the public provision of all services; all inhabitants can access these services, even if they are enrolled in other social or private insurance schemes. Registered workers in both the private and public sectors and their families are covered by the *obras sociales* (health care institutions financed by employer and worker contributions). Provincial public sector workers in turn are covered by provincial *obras sociales*. The biggest public insurer, the National Institute for Social Services, provides services to pensioners and retirees from the labor force. Finally, there are voluntary private insurance schemes (OPS, PNUD, and ECLAC 2011, 22).<sup>9</sup>

The public subsystem is financed through taxes and resources from the Treasury, collected at the national, provincial, and municipal levels; the *obras sociales*, managed by trade unions and the state, are financed by payroll taxes and employer contributions; while the private subsystem is financed by households. Since 1993 workers were allowed to derive their contributions to the *obras sociales* to private providers.

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<sup>7</sup> The sample of schools was selected from among schools with higher proportions of first- and second-generation migrants (Cerrutti and Binstock 2012, 19).

<sup>8</sup> The authors of this research note that the students in the sample came from poor and vulnerable households (Cerrutti and Binstock 2012, 37).

<sup>9</sup> The National Institute of Social Services is known as PAMI.

Broadly speaking, in Argentina the health care-seeking population can be covered in one of two ways: either exclusively by access to public services, or by access to public services as well as health insurance schemes, corporate or private (OPS, PNUD, and ECLAC 2011; Tobar, Olaviaga, and Solano 2012). The proportion of the population with health coverage varies by household per capita income quintile; for example, in 2005, 42 percent of the population in the lowest two income quintiles was affiliated with a health care scheme, as compared with 83 percent of those in the highest quintile.<sup>10</sup> In the 2011 study on the health system, OPS and UNDP conclude that health care services in Argentina are fragmented: different sectors of the population have the right to access different levels and quality of health care services according to their economic and work status (OPS, PNUD, and ECLAC 2011, 56). The analysis that follows attempts to examine how migrants fare in this institutional context.

The Alternative Report for the Committee on the Rights of all Migrant Workers stresses that article 8 of the Migration Law establishes that providers of public health services cannot refuse or restrict migrants' rights to access health, social assistance, or sanitary attention, irrespective of migration status (CELS, CAREF, AND UNLA, 2011). The document points out the barriers to access faced by migrants, for example, migrants who do not possess national identification are prone to being rejected admission by hospitals.

**Table 5 Financing of Health Care Services by Country of Birth, 2010**

	<b>Bolivia</b>	<b>Paraguay</b>	<b>Peru</b>	<b>Natives</b>
Obra social and PAMI <sup>a</sup>	21.9	30.2	26.3	46.4
Contributions to obras sociales derived to private insurance	3.9	5.2	6.6	10.6
Private insurance	1.6	1.7	2.6	5.1
Public programs	1.6	1.4	1.2	1.8
Only public hospitals	71.1	61.6	63.3	36.1

Source: INDEC, Census 2010

a. Workers, pensioners, and retired workers with access to health coverage. PAMI (Programa de Atencion Medica Integral) is the public health care provider for pensioners.

Table 5 illustrates the incidence of the different forms of health care coverage in the population, according to country of birth. The first row in table 5 indicates the proportion of working and retired population with health care coverage through *obras sociales* and PAMI; the second row shows the proportion of workers that derive their contributions to private insurance providers. While 56.9 percent of Argentinian natives are affiliated to institutions financing or providing health care services, the majority of migrants are covered by the public sector.

Table 6 shows that there has been little progress concerning access to health insurance in migrant households with children.

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<sup>10</sup> "Affiliation is defined as the integration to institutions providing and/or financing health-care services" Ministerio de Salud 2006, 6).

**Table 6 Households with Children: Affiliation to health-care providers by country of birth 2004–13**

	<b>2004</b>	<b>2007</b>	<b>2013</b>
Migrants	80.8	85.4	79.4
Second generation	62.3	57.2	58.5
Natives	49.2	42.7	37.9
Total	50.4	44.3	39.8

*Source:* Based on Permanente Household Survey, first semesters 2004-2010, INDEC.

In 2013, 63 percent of children living in households in the first quintile of per capita income lacked health care coverage, as compared with 5 percent of those living in the top 20 percent. Registered employment and health insurance are strongly associated with income level.<sup>11</sup>

One of the consequences of the lower rates of affiliation among migrant children is that they visit doctors and dentists less frequently. Moreover they recur mainly to public hospitals and primary health care centers (Dirección de Migraciones 2011).

In summary, the supply of health care services is segmented according to the employment status and the income level of different groups demanding services. Registered workers and their families have access to health care insurance. The majority of unregistered workers live in low-income households.

## **6. Employment**

Migrants have historically been concentrated in a small number of industries and occupations such as construction, the garment and footwear industries, petty trade, and paid household work. They labor under precarious working conditions and have limited access to social insurance.

Since the mid-1970s cross-border migrants were mainly in demand for work in construction and manufacturing (men) and household help (women). Those arriving in the Metropolitan Area had characteristics similar to those of internal migrants, specifically low education and skills. Because of the recurrent economic crises in the 1990s, internal migration slowed. International migration, however, was not interrupted despite the decline in labor demand in manufacturing and construction. Neighboring countries' migrants were attracted by the fixed exchange rate and the facility to remit dollars. During the 1990s, migrants were still concentrated in construction and domestic service jobs, where the incidence of unregistered work was higher than in other trades. The regulatory framework—the restrictive 1981 law enacted during the military dictatorship persisted with minor changes until 2003—did not dissuade migration nor the employment of migrants. In this context, migrants were prone to accept precarious working conditions, which entailed lack of access to social security and to representation, and unsafe working conditions. Their irregular situation also inhibited access to labor courts. During the 1990s labor law reforms introduced flexible contracts, lowered employer contributions to social security, and reducing layoff compensation (Cortés and Groisman 2004, 4).

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<sup>11</sup> Data from EAHU (Encuesta Anual de Hogares Urbanos) 2013; INDEC.

The enactment of the Patria Grande program and reform of the migration law expanded the regularization of migrants,<sup>12</sup> all in a context of changes in labor law; the new regulations extended collective negotiation of wages and working conditions, eliminated short-term contracts void of social security contributions, and increased the cost of layoffs.<sup>13</sup> These initiatives were framed under the commitments of the “Promoting Decent Work” goal, signed in 2003 by the national government. Furthermore, the Ministry of Labor, the International Labour Organization, and employer and trade union representatives signed three Decent Work Programs: 2004–07, 2008–11, and 2012–15, aimed at expanding and monitoring decent work in the country (MTSS, CGT, UIA, and OIT 2012).

Analysis of the evolution of migrants’ employment and access to labor rights has to be undertaken keeping in mind the regulatory changes implemented during the period (Cortes 2011, 3). The migration law considers migrant workers to be “those individuals entering the country for developing a licit, paid activity, authorized to remain in the country for a maximum of 3 years, with multiple entrances and exits, with permit for working as employee.” Once migrants obtain a residence permit, they can automatically start working; they do not need a work permit. Trade union rights are granted for both regular and irregular migrants by the Convention of the Rights of Migrant Workers, ratified by Argentina in 2007.

In the downturn at the end of the 1990s, unemployment jumped to 21.3 percent, fueled by the crisis in manufacturing and construction. The unemployment rate was higher among migrants, reaching 25 percent; layoffs in construction and manufacturing affected migrant men, while layoffs in domestic work included both internal and international migrants.<sup>14</sup> During the economic expansion in 2002–03 manufacturing and construction output recovered, and household income increased, fostering increases in labor demand in the economy and in households. However, labor demand in rural areas did not increase: mechanization and biotechnology resulted in increased productivity and a declining labor force.

In urban areas (according to the Permanent Household Survey) migrant employment rates increased beginning in 2004, reversing previous trends among both women and men. After the recessionary years, the economy expanded without interruption until 2007, slowed down in 2009, then recovered through 2013. During the expansionary years, migrant total and registered employment in construction increased.

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<sup>12</sup> A 2009 survey from the Migration Office indicates that 40 percent of 12,000 applicants had been living in Argentina as irregulars (Cerrutti 2009, 45).

<sup>13</sup> For an analysis of changes in labor regulations introduced in the period, see Ministerio de Trabajo, Empleo y Seguridad Social.

<sup>14</sup> Calculations based on Permanente Household Survey, May-October 2001, INDEC.

**Table 7. Employed Urban Population by Economic Sector, Migrants versus Natives, 2004 and 2013 (percent)**

	Migrants		Natives	
	2004	2013	2004	2013
Primary and manufacturing industry	21.1	17.6	15.7	14.2
Construction	16.5	19.0	7.2	8.5
Trade, restaurants, and hotels	23.1	20.5	23.0	21.9
Transport, water, electricity, gas	4.4	3.2	7.2	7.1
Public administration, education, social and health services	7.1	7.7	24.0	22.6
Household services	19.8	18.4	6.6	6.7
Other services	8.1	13.6	16.1	19.1
Total	100.0	100.0	100.0	100.0

Source: Based on Permanent Household Survey, 2004–2013, INDEC

Between 2004 and 2013 the number of registered migrant wage earners increased by 25 percent; particularly among household workers. In 2013 the proportion of registered employees was double that of 2004. This outcome can be seen as the result of the implementation of the migration law and of changes in protective labor and wage regulations for household workers, and of compliance with labor regulations in the construction sector.

**Table 8 Percentage Change in Registered Workers, Migrants and Natives, 2004 and 2013(percent)**

		Totals	Men			Women		
			Construction	Rest	Total	Household work	Rest	Total
Migrants	2004	35.3	14.3	55.7	44.0	11.1	50.5	25.7
	2013	50.0	35.3	62.7	54.0	30.4	69.3	45.7
Natives	2004	52.0	23.0	60.6	56.2	6.4	59.9	45.6
	2013	64.7	36.5	73.4	68.3	19.5	73.7	59.2

Source: Based on Permanent Household Survey, 2004–2013, INDEC

The Permanent Household Survey sample does not allow the examination of determinants of earning by country of birth, gender, and economic sector. It is possible to delineate general trends that show that wage gaps between migrants' and native's wages reversed in the two prominent migrant occupations: construction and household work. Migrant household workers work on average more hours than native workers, and their wages reflect this difference; native domestic workers' wages have remained more than 20 percent lower than migrants'. This difference may be related to the fact that more migrants than natives (8 percent and 2 percent, respectively) live in their employers' homes, which results in more hours of work. In construction, the increase of registered work resulted, on average, in higher wages for migrants.

However, the migrant wage gap increased in other economic sectors, such as manufacturing where there was a divide between migrants and natives in terms of skills: migrants worked almost exclusively in semi-skilled tasks. In trade the high proportion of unregistered workers can help explaining wage differentials.



## 7. Social Protection

This section briefly examines changes in access to selected social protection institutions among migrants and nonmigrant persons and, whenever possible, among households with children. The regulation of migrants' access to noncontributory cash transfers, such as pensions for the aged and vulnerable and cash transfer programs for children, is restrictive (CELS, CAREF, and UNLA 2011). For noncontributory pensions the law requires at least 40 years of residence in the country. Some limitations also apply to the AUH, a cash transfer program for children living in households without registered adults. Even for children born in Argentina, the child's parents must have resided in the country for at least three years.<sup>15</sup> Work-related social protection for children in migrant households depends on the contractual conditions of adults. Registered workers earning less than the limit established by the law are entitled to child allowances, which are financed mainly by employer contributions.

**Table 9 Children in Informal Workers' Households, 2004–13**

*(Proportion of migrant and nonmigrant children living in households where adult members hold informal jobs)*

Migration Condition	2004	2007	2010	2013
Border countries and Peru	72.0	73.8	63.5	73.5
Second generation	57.1	53.2	52.0	54.0
Total children in migrant households	58.6	56.4	53.7	55.6
Children in nonmigrant households	53.7	45.3	41.4	39.0

*Source:* Based on Permanent Household Survey, 2004–13, INDEC.

**Table 10 Children in Households That Receive Cash Transfers from Government or Private Institutions, 2004–13**

*(Proportion of migrant and nonmigrant children living in households where adult members hold informal jobs)*

Migration Condition	2004	2007	2010	2013
Border countries and Peru	0.9	4.7	25.0	23.7
Second generation	9.9	11.7	33.2	34.4
Total children in migrant households	9.0	10.6	32.0	33.5
Children in nonmigrant households	9.9	19.7	30.0	27.6

*Source:* Based on Permanent Household Survey, 2004–13, INDEC.

The high incidence of informal work in migrant household is visible when examining access to pensions in the population over 70 years old; between 2007 and 2013, access to pensions increased less than in nonmigrant household, where adults' coverage reached nearly 97 percent.

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<sup>15</sup> The 2010 Population Census included a question on the year of arrival, but the information is not available. The Permanent Household Survey subsequent to 2003 has eliminated this question.

## 8. Conclusion

Argentina's migration legislation has changed substantially since 2003, incorporating a set of laws and regulations of great relevance for the protection of children's rights. In 2005 the Law for the Integral Protection of the Rights of Children and Adolescents was enacted; in 2006, the Law of Education. Parliament sanctioned a Labor Law annulling flexible contracts; the Executive signed legislation establishing several Decent Work Programs, committing to expanding and monitoring decent work. In addition, the extension of a waiver for contributory pensions and the implementation of a system of noncontributory pensions, together with a far-reaching scheme of cash transfers to children in households lacking registered income earners, broadened the reach of public instruments of social protection.

The overview of data on migrants' access to social services—education and health, decent work, and social protection—shows that Law 25871 initiated positive changes in various dimensions. With regard to the three indicators of decent work available for comparison between migrants and natives—employment population ratio, unemployment rate, and informal (unregistered) employment—this report concludes that regularization facilitated the incorporation of migrant men and women into decent employment. In previous periods the rate of economic participation and employment of men and women migrants was higher than that of natives, and unemployment rates were lower; the main change fostered by the law was increased access to registered work. In construction and in household help the incidence of unregistered work dropped more among migrants than among natives.

This is an important change, given that health care insurance, the provision of family allowances, and access to the public retirement scheme are dependent on work status. However, other decent work indicators did not change. For instance, the country's labor market is still highly segregated by gender and segmented by income levels; historically, women were in demand mainly in the social and personal services sectors and in trade, while men worked in manufacturing, construction, and highly skilled services jobs. Men from low-income households worked in manufacturing and construction, women in household services. Segregation among migrants continued, although working conditions had improved somewhat.

Labor income, on average, increased in the period; however, given the lack of reliable data on prices it is not possible to calculate the evolution of real wages. Wages of migrants in construction (based on Permanent Household Survey, INDEC).

As discussed in the section on access to health care services, both low-income native and migrant women used emergency rooms, hospitals, or private clinics according to their own or their partner's work status. However, the lack of historical data does not allow changes in these patterns since implementation of the law to be assessed.

The indicators of migrants' (both adults and children) access to social protection have to be in light of the rules of entitlement of each social policy instrument—cash transfer programs to adults and children, pension schemes (contributory and noncontributory), including unemployment transfers and active employment programs, training, and the like. Likewise, the indicators have to measure access to these instruments, according to the rules described above.

With regard to the Universal Transfer for Children initiated in 2009, special regulations present barriers for migrant children, mainly that children (of migrant parents, whether born in Argentina or abroad) must have legally resided in Argentina for at least three years. Pension regulations require at least 20 years of

residence. Social protection outcome indicators should measure actual coverage, while analysis of the entitlement rules will help explain, at least in part, the extent of the coverage.

In education, some progress has been made in enrollment of children up to 15 years old; however, a complete assessment would require information on migrants' dates of arrival and on the regularity of school attendance and the performance of migrants and natives. Information on access has to be complemented by some knowledge on migrant children's involvement in work and out-of-school activities. As mentioned, although the data are weak (small sample size), they hint at a structural problem affecting both migrants and natives, with high incidence among migrants of teenagers and youth who are neither seeking work nor attending school.

The fulfilment of migrant adults and children's rights depends heavily on the creation or strengthening of institutions and spaces of collaboration between the migration authority, migrants' associations, and international cooperation for persistently monitoring indicators of access and results. A necessary requirement for this endeavor the production and dissemination of information. On the production side, it is important to include age, place of birth, year of arrival, and other vital information in education, health, work, and social protection statistics. On the dissemination side it is crucial that society at large be guaranteed access to the information.

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## **ANNEX 1: Availability of Information**

The Permanent Home Survey (EPH, INDEC) has been undertaken annually since 2010 in urban areas in jurisdictions with more than 5,000 inhabitants. From 2003 onward, it has covered urban centers with more than 100,000 inhabitants every trimester. It includes a question on place of birth; however, the size of the sample only allows for a general analysis of trends for an aggregate category grouping cross-border and Peruvian migrants together. Moreover, the survey does not include a question on the year of arrival to the present area of residence.

Concerning health, the survey includes only one question about the financing of health care coverage. For education, the size of the sample does not allow migrants to be divided by age group.

The survey does not include information on beneficiaries of noncontributory pensions, family allowances, or the AUH (Asignación Universal por Hijo).

In 2004, the Ministry of Health undertook the National Survey of Nutrition and Health (*Encuesta Nacional de Nutrición y Salud*), but this instrument did not include a question for identifying migrants.

In 2007 and 2009, the Ministry of Health launched the National Survey on Health Risk Factors (*Encuesta Nacional de Factores de Riesgo*), which did not inquire about place of birth.

The National Institute of Statistics (INDEC) in 2002–03 undertook a post-2001 Population Census survey, Complementary Survey on International Migrations (*Encuesta Complementaria de Migraciones Internacionales*), which includes questions identifying migrants.

Health Registers. Vital statistics are not disaggregated by country of birth; this does not allow estimates of mortality rates nor causes of death or other information to be made.

Annual Household Survey, City of Buenos Aires. This survey includes questions on access to health care services, fertility, and child care; however, INDEC does not include these questions in the public database.

Ministry of Education. The Annual Students and Establishments' data gathering does not provide reliable information on school indicators by migration condition. These data provide information on the numbers of migrant students per school, but migration condition is not included in the information on performance indicators (over-grade age, repetition, promotion, completion rates). The quality tests do not include a question on student's place of birth.

The Administración Nacional de la Seguridad Social (ANSES) is responsible for cash transfer programs, specifically the AUH, noncontributory pensions, and contributory pensions. The information on the distribution of cash transfers to migrant and natives is not made public.

The ANSES database includes beneficiaries identity card numbers, which can help identify migrants and nonmigrants.

The Ministry of Labor (MTSS) undertook a survey in 2009 on access to social protection (ENAPROS). The data have not been released.

