



## **'When migrants are second-class citizens, democracy is degraded'**



*Ahead of the publication of the 2018 State of Civil Society Report on the theme of 'Reimagining Democracy', we are interviewing civil society activists, leaders and experts about their work to promote democratic practices and principles, the challenges they encounter and the victories they score in doing so. CIVICUS speaks to Ana Paula Penchaszadeh, a technical advisor with the Network of Migrants and Refugees in Argentina and the Network of Migrant Leaders in Argentina, as well as a PhD in Social Sciences and Philosophy, professor at the University of Buenos Aires and researcher with CONICET (National Council for Scientific and Technical Research).*

### **1. You define yourself as a thinker and activist for migrant people's rights. What led you in that direction, and what platform do you use for this activism?**

Ever since I can remember, I have been worried about the problems of justice and exclusion. I have been a foreigner myself: during the last Argentine military dictatorship, my family lived in exile in Venezuela and France.

As a researcher, since the beginning of my career I have been interested in the dynamics of inclusion and exclusion that shape political communities. For my PhD dissertation I focused on the link between politics and hospitality in the contemporary world. From then on, I have believed that in a context of unprecedented human displacements, it is not possible to do research on the issue of hospitality - that is, the establishment of a non-destructive relationship with the 'other' who arrives - without maintaining links with the sphere of human rights activism and doing some kind of advocacy work regarding migration policies.

Between 2012 and 2015, I worked with the Migration and Asylum Programme of the University of Lanús' Justice and Human Rights Centre. During this period, I coordinated a project on Migration, Human Rights and Children in Argentina. Based on a multivariate diagnosis of the situation of children in the context of migration, we worked on discrimination in school settings and developed a set of [learning materials](#) so that the topic of migration would be addressed from a human rights perspective in schools.

Over the past few years, my research has revolved around two axes - one theoretical and philosophical, and the other practical and applied. I have tried to put thought at the service of human rights activism. I have done this by providing support to the work of two networks: the Network of Migrants and Refugees in Argentina and the National Network of Migrant Leaders in Argentina. Since 2015 I have regularly been a workshop facilitator on issues related to migration and political rights and a rapporteur for the meetings of the National Network of Migrant Leaders. I also lead a university volunteer project on migrants and the social economy, implemented jointly with the Network of Migrants and Refugees in Argentina. I have made numerous public appearances, including at the [hearing](#) of the National Congress' Permanent Bicameral Commission for Parliamentary Proceedings, to reject Emergency Decree 70/2017 - see below - and support Law 25,871 on Migration, as well as to express my support for a migrant vote bill. I have also contributed to creating awareness of the issue through interviews and [journal articles](#), and by means of a documentary short film, '[I, afro](#)', that I produced along with audio-visual artist Gabriela Messina. Similarly, when doing research, I listen to the voices of migrants and refugees and I have worked quite a lot on these groups' discourse and empowerment processes.

## **2. What are the theoretical and philosophical arguments that support your activism?**

In the theoretical and philosophical field, I do a deconstructive analysis of hospitality and the alien condition. On that basis, I analyse the tensions between citizenship and nationality. I argue that human mobility jeopardises the supposedly sedentary and atavistic structure, associated with the fact of being born in a territory or within a family, on which the modern political community has been erected. Novel forms of belonging, and their relationship with the processes of becoming a political subject, dislocate the spatiality of the nation state. There is a growing need to think of the transnational space as the basis of citizenship: on the one hand, by de-territorialising and virtualising belonging and upholding a 'portable' conception of citizenship, through the recognition of political rights to nationals living abroad; and, on the other, by re-territorialising belonging through the recognition of residence, and not just nationality, as the basis of full citizenship, by recognising the political rights of immigrants).

## **3. What is the current situation of migrants in Argentina? Do you see any advances or setbacks in their enjoyment of rights?**

Migration in Argentina is currently regulated by Law 25,871. Passed in 2004, this law replaced one issued by the dictatorship and settled a long-standing debt of democracy. It was the struggle of human rights organisations, organisations working with migrants and migrants' organisations, which shaped one of the most progressive migration laws in the world, which recognises migration as a human right along with a wide range of rights that are to be enjoyed by individuals regardless of their migratory status, legal or otherwise. This is a very good federal law, albeit one which still requires additional measures and regulatory adjustments at the provincial and municipal levels to be implemented effectively throughout the national territory.

Unfortunately, instead of moving in that direction, migration policies in Argentina have recently seen serious regression. Since the current administration led by the *Cambiamos* (Let's Change) coalition took office in late 2015, the hospitality paradigm has increasingly given way to a security paradigm. The current government closed a territorial programme that allowed thousands of migrants throughout the country to regularise their situation, reorganised the National Migrations Directorate from a security standpoint, and proposed the [creation of a detention centre for migrants](#). Finally, through Executive Emergency Decree 70/2017, key elements of the Migration Law were modified in 2017. Rights and guarantees were weakened to expedite the expulsion of foreigners.

This decree was issued with a total absence of consultation or parliamentary review, and was the last of a whole series of regressive measures, including an increase in police powers to determine the migratory status of foreigners and the persecution of migrants living in irregular situations. The decree confused migratory irregularity with criminality: according to the current Argentine law, however, migratory irregularities are not crimes, but administrative infringements that should be remedied by the state, which is solely responsible for regularising a person's status by providing them with identity papers. If anything, irregular migration is a tell-tale sign of the state's inefficiency and inefficacy in regularising the situation of people living in its territory. Every migrant wants to achieve the legal status that enables them to rent, buy, work and study legally.

On top of this political turn there is an ongoing economic crisis, which tends to exacerbate xenophobic discourse at the level of both society and the state. Discrimination against and the criminalisation of migrants is exacerbated by recession: we often hear that they take our jobs, that they live off the government, that they do not pay taxes, that they are a nuisance in city streets. Needless to say, not just any immigrant functions as a scapegoat, but those of Latin American and African origins. Xenophobic discourses hide Eurocentric and racist perspectives.

The normalisation of prejudice makes violence more acceptable, as shown by the recent [case](#) of a Senegalese street vendor who was attacked and seriously injured by the police in Buenos Aires. It is a cycle that begins and ends with the state's action and inaction. Senegalese immigrants are literally sent out onto the streets to make a living as street vendors, since they are from outside the Mercosur region and therefore do not have access to papers and do not fit into any migratory category. They are doomed to informal employment and therefore constantly subjected to police harassment and persecution. The state, whose job should be to provide them with the means to regularise their migratory status, pushes them towards the informal economy and then punishes them for it.

#### **4. How has civil society reacted to these setbacks?**

Human rights organisations, including those that bring together refugees and migrants, have mobilised in the face of every rights violation, be it a case of discrimination or violence, or a normative change affecting migrants and refugees. Regarding Executive Decree 70/2017, the Centre for Legal and Social Studies (CELS), the Argentine Commission for Refugees and Migrants (CAREF) and the Collective for Diversity

(COPADI) submitted a collective *amparo* – constitutional rights - petition. Many others accompanied their initiative: for example, we at the Migrations area of the Gino Germani Research Institute (University of Buenos Aires) submitted an *amicus curiae* - friend of the court - brief to support the *amparo* petition. Thanks to all these efforts, in March 2018 the court [ruled](#) that the Executive Decree was unconstitutional, and did so with a series of arguments that became a valuable contribution to the defence of migration from a human rights perspective.

Migrants in Argentina are well organised: they have formed many organisations that advocate for their rights, some of which are further grouped into networks. The Argentine Network of Migrants and Refugees, for example, brings together around 30 migrants' organisations from Bolivia, Colombia, the Dominican Republic, Ecuador, Haiti, Jamaica, Paraguay, Peru, Senegal, Ukraine, Uruguay and Venezuela. These organisations and networks see themselves as political actors, and consider Law 25,871 as an achievement that resulted from their activism. In the face of Decree 70/2017, they went to the Congress and the Inter-American Commission on Human Rights to complain that the government had not summoned them, nor even accepted to receive them, to hear their opinions, and they demanded a real policy against crime to replace the measures that currently use immigrants as scapegoats.

It is important to underline that these organisations are not merely reactive. They have repeatedly taken the initiative and presented innovative proposals. In December 2016, they [succeeded](#) in submitting to Congress a [bill on migrant voting](#), seeking to extend political rights to foreign holders of permanent residence. Along the same lines, the fourth meeting of the National Network of Migrant Leaders of Argentina, held in September 2017 at the National University of Lanús, resulted in the [Lanús Declaration](#), which seeks to deepen democracy through the recognition of full citizenship for all people who inhabit our country.

## **5. Do you see the recognition of political rights as a key element for the integration of migrants?**

Absolutely. Foreigners are scapegoats. They are the 'other' who bears the guilt for all our ills. In times of economic crisis, one of the first things that is always proposed is the restriction of migrants' access to public goods that are essentially rights. The idea that immigrants should not access certain rights, such as university education, results in a stratified democracy, with first- and second-class citizens. This contradicts the principle of equality, and therefore degrades democracy.

When xenophobic discourse gains ground, it is very easy for government officials to echo that narrative and blame immigrants for the problems that the government is unable to solve, because they do not pay any political cost for doing so. Although migrants in Argentina are among the largest minorities, accounting for 4.5 per cent of the population, most cannot vote. Within a representative system based on the distribution of rewards and punishment through voting, it is not surprising that officials do not feel accountable to them. On the contrary, they find it very easy to blame them for all of society's problems, from drug trafficking to the housing deficit to high

unemployment, which are in fact structural problems not just in our country but in most of the world.

The only democratic way out of this situation is through political rights, which are ultimately the best guarantee that we will not be deprived of other rights. Migrants suffer as a result of the policies enacted by the state that receives them; they must obey the laws and abide by the binding decisions issued by the state's public authorities. Hence, they should have a voice and a vote in the making of those decisions, just like any other citizen. Only then will they be taken into account. In the city of Buenos Aires, for example, foreigners account for 13.5 per cent of residents, but due to the ways laws regulate migrants' political rights, only 0.6 per cent of them are allowed to vote. In the context of runoff elections, where candidates may win by very thin margins, if migrants who are city residents could vote, politicians would be much more careful to avoid xenophobic expressions and migrants would to a large extent cease to be used for political and electoral purposes.

**Civic space in Argentina is rated as 'narrowed' by the [CIVICUS Monitor](#).**

**Get in touch with [Ana Paula Penchaszadeh](#), the [Network of Migrants and Refugees in Argentina](#) and the [National Network of Migrant Leaders in Argentina](#) through their websites and Facebook profiles.**