



# IPPDH

INSTITUTO DE POLÍTICAS PÚBLICAS  
EM **DIREITOS HUMANOS** MERCOSUL





# **PROTECTING THE HUMAN RIGHTS OF ALL MIGRANTS**

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**Fifth Global Meeting of Chairs and Secretariats of Regional Consultative  
Processes on Migration**

**Current Challenges of Migration Governance: Supporting follow-up to the  
outcomes of the 2013 High Level Dialogue on International Migration and  
Development**

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# **A new paradigm on migration policies in MERCOSUR**

### Southern Common Market (MERCOSUR)

- Member States: Argentina, Brazil, Paraguay, Uruguay, Venezuela and Bolivia
- Associate States: Chile, Colombia, Ecuador, Guyana, Peru and Suriname.

The integration process was established as an economical and commercial block, intergovernmental in nature and with no communitarian law. However, it has been developed from a political and social perspective.

MERCOSUR has achieved common regional and international positions concerning the migration agenda from a rights perspective.

The new paradigm in regional policy replaces the national security doctrine in the treatment of migrations.

- What are the major developments concerning migration and human rights in MERCOSUR?
- What is role played by IPPDH and other MERCOSUR institutions in this process?





**MERCOSUR, a region with high  
international protection  
standards**

## HIGH INTERNATIONAL PROTECTION STANDARDS

For a long time, the migration policy field remained outside of the human rights field, and vice versa.

Nowadays, a considerable amount of normative and political agreements regarding migrations are aimed at assuring the respect for the human rights of migrants.

### **International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.**

- First international instrument that guarantees the rights of migrants.
- Ratified by the majority of South-American countries.
- Positively impacts on the MERCOSUR countries.





## CHANGES IN NATIONAL LEGISLATION FROM A RIGHTS PERSPECTIVE

- Argentina and Uruguay: laws that consider migrants as subjects of rights and at the center of the migration policy.
- Other countries: migration legislations are still based in the security paradigm. However, there are emerging initiatives and draft amendments to include the human rights based approach (Chile, Brazil, Ecuador, Peru).
- MERCOSUR is at the forefront of the conception, debate and guarantee of the right to migrate as a fundamental human right.



## NATIONAL POLITICAL INITIATIVES

### Examples of MERCOSUR states best practices.

#### ***Brazil***

- First National Conference on Migration and Refuge (2014) "Comigrar": A broad social dialogue for the construction of a National Policy from a rights perspective. In partnership with IOM and ACNUR
- Humanitarian visa: 60.000 Haitians were received in Brazil over the last four years, with support from IOM regional office.

#### ***Argentina***

- Policies for regularizing the situation of migrants.
- "Patria Grande" or the Great Nation Program (2006-2008): 423.697 registrants, 98.539 permanent settlements and 126.385 temporary settlements.

#### ***Ecuador***

- State policy regarding the return of its emigrants.
- "Bienvenid@s a Casa" or the Welcome Home Plan (2008): facilitates the right to a dignified return for migrants who wish to return to Ecuador.





## MERCOSUR MIGRATION POLICY

### Respect for human rights and converging positions at regional level

- ***Bilateral, regional and sub-regional agreements:*** Recognize the human rights of migrants independently of their migratory condition, promoting a policy of free movement of people and the development of a progressive plan for regional citizenship.
- ***Important legal instruments:*** Social and Labor Declaration, Plan to Facilitate the Movement of Workers, Multilateral Agreement of Social Security and other instruments and projects related to the eradication of child labor.



## **Agreement on Residency for Nationals of the MERCOSUR States (2002)**

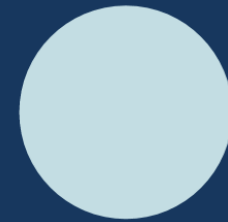
- Main regional instrument and key in terms of human rights of migrants.
- Adopted by almost all South American States: right to obtain legal residence of Member States' nationals, wishing to reside in the territory of other Member States.
- Explicitly recognizes the rights of migrants and their families.
- Practical effect: for South American citizens there is no reason for intraregional undocumented migration.

## **Action Plan for the MERCOSUR Citizenship Statute (2010)**

- Aims to fulfill fundamental rights and benefits related to a policy of free movement of people; equal rights; and civil, social, cultural and economic freedoms; jointly with equality in access to work, health and education.
- The construction of a common framework concerning the South American citizenship is also part of the Union of South American Nations (UNASUR).



**Regional institutions and public  
policies to protect and promote  
the human rights of migrants**



### Specialized Migration Forum (FEM)

- Created in 2003 for cooperation, policy coordination and elaboration of common mechanisms aimed at deepening the regional integration concerning migration. Its approach maximized the human rights perspective.
- *Declaration of Santiago of Migration Principles (2004)*: recognizes that migration must be address through multilateral mechanisms of open dialogue and express MERCOSUR vocation to work towards a new immigration policy based on the respect for human rights.

### National Committees for Refugees (CONAREs)

- Jointly work agreement between MERCOSUR States.
- Objectives: to maintain the highest international and regional protection standards; implement innovative solutions for refugees and displaced people; and eradicate in the region the difficult situations faced by stateless people.



### South American Conference on Migrations (CSM)

- Process created in 1999 with IOM's technical cooperation.
- Participants: 12 South American governments, international organizations, civil society and specific governments' representatives, as observers.
- Integral approach: the migrant person is considered a subject of rights with a leading role in migration policy.
- *Declaration of Migration Principles and South American Plan for the Human Development of Migrations.*

### MERCOSUR's Institute for Public Policy on Human Rights (IPPDH)

- Regional organization created in 2009 under the scope of the Meeting of High-Level Human Rights Authorities of MERCOSUR.
- Policy coordination and technical cooperation to MERCOSUR: design, implementation and evaluation of public policies on human rights.
- Migration and human rights: applied research, technical instruments and articulation of common positions among MERCOSUR States.



### Some data about Latin America and the Caribbean

- 28.5 million people have migrated to other regions (mainly North America and Europe) or to other countries inside the region.
- In LAC there are 7,5 million people of foreign origin.
- A growing number are children and adolescents.

### Request for Advisory Opinion before the Inter-American Court of Human Rights on the protection of migrant children and adolescents' rights.

- Unprecedented action in MERCOSUR, carried out by Argentina, Brazil, Paraguay and Uruguay, with IPPDH's technical cooperation.
- Result: instrument that sets the highest standards on the international level regarding the protection of migrant children.
- Statement of the Court determines the minimum level obligations for States of origin, transit and destination to guarantee the protection of migrant children rights. It also established the principle of non-detention of children for they migratory condition and ruled on the application of the principle of non-refoulement.



## **Actions and Activities Program to guarantee the rights of migrant children and their families**

- Promotes the fulfillment of the migration agreements in the region.
- Encourages the harmonization immigration laws and standards of human rights procedures.
- Strengthen enforcement mechanisms of the principles of family reunification and non-refoulement.
- Guarantees the access to social rights for migrant children.

## **Consensus of Member States positions and articulation with social, academic and international organizations.**

- The agreement between IOM and the IPPDH: an example of a coordinated action.
- The IOM's experience at international and regional level in the migration field + IPPDH's expertise in public policy on human rights.
- Common working plan: applied research; training on human rights and migration policy; elaboration of protocols, manuals, guides and regional instruments to support the States.





# **Challenges and opportunities for the region**



- Deepen regulatory adaptation of national legislation from the human rights perspective and reduce the gaps between these regulations and migratory practices.
- Achieve higher levels of harmonization of national legislation to establish a legal and political culture of non-discrimination, effective protection of rights and violations' prevention.
- Incorporate in public policy a development and migration perspective with focus on human rights, banishing the national security focus of migration policies.
- Develop indicators to assess progress towards meeting legal obligations; promote policies based on empirical evidence and encourage improvements in the collection and analysis of data from different players.
- Strengthen public institutions for the promotion and protection of migrants' human rights, including interagency coordination mechanisms at global, regional, national and local level.

- The history of the South American region coincides with the history of migration.
- Human mobility is the principal source of our deepest human bonds.
- We are connected on a global scale by the imperative of living.
- Migration and human mobility are vectors that demonstrate a community of social memory, aspirations and common future.
- Regional integration processes are relevant political space for expansion of rights.
- We have the opportunity to implement a plural regional citizenship: equality and non-discrimination perspective + human rights based approach + positive view of human mobility.
- The human rights of migrants and their full social integration conditions are essential for the promotion of national policies, strategies for regional cooperation and adherence to new processes and international mechanisms.





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