Choose your battles

How civil society organisations choose context-specific goals and activities to fight for immigrant welfare rights in Malaysia and Argentina

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Funding information
Deutsche Forschungsgemeinschaft, Grant/ Award Number: 374666841; Deutscher Akademischer Austauschdienst, Grant/Award Number: John F. Kennedy Memorial Fellowship

Abstract
How do the goals and activities of civil society organisations (CSOs) that are active in the field of immigrant welfare rights differ between autocracies and democracies? In this paper, we argue that a mechanism of CSO engagement plays out differently in these two political contexts because organisations adapt their goals and activities to the political regime they operate in. In the empirical analyses, we compare democratic Argentina and electoral-authoritarian Malaysia using data from CSOs' public mission statements as well as from interviews with CSO members from both countries. We find that in Argentina, more universalistic constitutional provisions and commitments to international treaties allowed CSOs to reference norms of equal treatment, arguing for immigrant access to a variety of programmes, including non-contributory social assistance benefits. In Malaysia, CSOs relied on moral frames of equality to a lesser extent. Instead, they advocated for inclusion in contributory schemes on the basis of deservingness of migrants given their contributions to society, focusing on minimum standards to guarantee that basic needs are met.

KEYWORDS
civil society, democratisation, immigrant rights, social assistance, social rights
More encompassing social protection is on the rise in the Global South. In recent years, an increasing number of countries have introduced new programmes and policies that aim to provide a minimum of social protection for citizens (Barrientos & Hulme, 2009). In light of a large and growing immigrant population in the Global South (OECD & UNDESA, 2013), the question to what extent immigrants are granted access to these benefit schemes seems highly important. An emerging literature is engaging with questions surrounding immigrant rights in the Global South (Hujo & Piper, 2010). While often focusing on only a limited number country cases, these studies attest that some countries in the Global South do grant immigrants access to one or several benefit schemes, whereas others extend no welfare rights to immigrants at all (Hennebry, 2014; Noy & Voorend, 2016).

Existing literature has identified welfare institutions, political parties, but also courts and civil society actors as relevant explanatory factors for exclusion and inclusion of immigrants in systems of social protection (see, e.g., Sainsbury, 2012; Römer, 2017; Schmitt & Teney, 2019; Koning, 2020). These studies, however, tend to be focused on the Global North. This paper wants to add to the debate on what explains differences in the Global South by further exploring the role of civil society organisations.

The importance of civil society in social policy development is increasingly recognised (Altman & Castiglioni, 2019; Niedzwiecki & Anria, 2019; Pribble, 2013). Civil society is often described as giving voice to the marginalised and assisting vulnerable groups (Habermas, 1996; Scholte & Schnabel, 2002). While immigrants tend to be excluded from formal involvement in political processes (Blatter, Schmid, & Blättler, 2017), civil society allows for informal modes of participation. Furthermore, individuals and groups which are not directly affected by marginalisation may extend solidarity to others through civil activism (Giugni & Passy, 2001). Taken together, civil society can likely be considered a highly relevant factor to take into account when wanting to explain the emergence or expansion of immigrant rights.

However, contextual factors play a crucial role in civil society organisations' (CSOs') opportunities to exert influence in the policy-making process (Koopmans & Statham, 1999). In this paper, we focus on political regimes, showing how domestic political institutions influence CSOs' goals and activities in their engagement with immigrant welfare rights. We contrast the cases of democratic Argentina and electoral-authoritarian Malaysia. The two countries are located in two different geographical regions, but both are middle-income countries with welfare systems that are dominated by social insurance and savings schemes. Both have a longstanding history of inflows of labour migrants. They thus share important similarities in regard to alternative factors that may influence the development of immigrant welfare rights.

In the first section of this paper, we outline our proposed mechanism of CSO engagement. We theorise that in democracies, goals of CSOs will be oriented towards equality, that is, a convergence of immigrant and citizen rights, whereas in autocracies, goals will rather point towards making sure that (existential) needs of immigrants are met. In regard to activities, we expect that in democracies, CSOs will choose confrontational and established insider strategies more often, whereas in autocracies, direct provision of benefits or services is more likely and attempts at policy advocacy are limited. Subsequently, we describe the two cases and the logic of case selection in closer detail.

In the empirical analyses, we then show how political regimes shaped CSOs' goals and activities, including the way they used transnational norms as discursive justifications in their advocacy. In Malaysia, CSOs concentrated on a narrow goal, lobbying for immigrant inclusion in contributory benefit schemes, most notably the employment injury scheme, using justifications related to equity and need. In contrast, in Argentina, civil society fought for immigrant access ‘across the board’, including access to non-contributory benefits, on the basis of equality.
state with an outcome. It outlines how CSOs’ choice of goals and activities is context-dependent. We understand context as ‘composed of multiple unsynchronized layers of institutions, policies, and background conditions’ (Falleti & Lynch, 2009, p. 1145; see also Koopmans & Statham, 1999, p. 228; Benford & Snow, 2000, pp. 628–629).

We define goals as outcomes that CSOs regard as both desirable and feasible and differentiate between three types of goals, namely equality, equity and (fulfilment of) needs (see Deutsch, 1975). Each of these goals is linked to feasible discursive justifications that are used to promote them. Goals and justifications focusing on equality centre on combatting differential treatment between citizens and migrants, invoking human rights norms of non-discrimination. Arguments of equity highlight the deservingness of migrants given their contributions to society. Lastly, goals that focus on meeting basic needs and advocating for minimum standards are accompanied by justifications pointing to extreme grievances.

Activities may fall into two categories, namely policy advocacy and direct service provision (e.g., as in Kim, 2015). Direct service provision can take a number of different forms and may range from distributing food or shelter to providing legal support. Policy advocacy activities on the other hand can further be classified as ‘insider’ or ‘outsider’ strategies (Maloney, Jordan, & McLaughlin, 1994). The former are those that involve direct consultation with decision-makers during the policy process, while the latter are situated outside of formal policy making venues (Maloney et al., 1994, p. 8).

As depicted in Figure 1, the mechanism we propose is set in motion when grievances among migrants become a trigger for civil society to take up the issue, either through the self-organisation of affected immigrants or because existing domestic CSOs start engaging with the topic.

In democracies, far-reaching civil liberties ensure that civil society actors can freely organise themselves and advocate for the causes they represent. They have the option of using confrontational advocacy and ‘insider’ strategies that are suitable for their institutional contexts and the characteristics of the organisation (Dür & Mateo, 2013; Niedzwiecki & Anria, 2019). Their demands can also be taken up by political parties who compete for power in elections (see, e.g., regarding civil society demands for the expansion of social policy: Pribble, 2013; Garay, 2016). CSOs also have access to legal avenues to fight for migrants’ rights (see Joppke, 2001, for the importance of independent courts in the context of immigrant rights). Furthermore, international funding is an important source of income for many CSOs in general, but especially for those active in the field of immigrant welfare rights. In democracies, funding of this kind is less likely to be prohibited (Dupuy, Ron, & Prakash, 2016).

In contrast, authoritarian regimes will either try to incorporate CSOs or use repressive strategies to contain them (Heurlin, 2010). Coopted CSOs arguably have a restricted programmatic latitude and will not engage in open advocacy. Regimes may tolerate CSOs that instead of making broader political claims focus on providing social relief and services (Heurlin, 2010, p. 223; Spires, 2011). In regard to legal institutions and foreign funding, CSOs in authoritarian contexts are at a disadvantage, too. Courts in authoritarian regimes are often less independent than their democratic counterparts and used as tools for securing regime survival rather than for individual legal redress (Moustafa, 2014). Authoritarian regimes are also more likely to introduce restrictions to foreign CSO funding than democracies (Dupuy et al., 2016).
A final important difference between democracies and autocracies lies in the degree to which CSOs may successfully reference transnational norms. International Organisations (IOs), most notably the International Labour Organisation (ILO), have persistently supported immigrant inclusion into social security provisions (ILO, 2017). Higher levels of democratisation are correlated with higher ratification rates for ILO conventions (Kim, 2010), making it easier for CSOs in democracies to use these international instruments as leverage. We thus expect that CSOs in democracies have more opportunities to hold their governments accountable to international commitments and can more easily frame immigrant access as a normative matter of equality. Consequently, in autocracies, CSOs will instead evoke the need for minimum standards and are more likely to frame this as a matter of national interest than as a normative issue.

3 | COMPARING CONTEXTS OF CSO ENGAGEMENT: MALAYSIA AND ARGENTINA

To trace how a mechanism of CSO engagement plays out differently in two distinctive political systems, we chose two cases, Argentina and Malaysia. Our logic of case selection was based on two considerations: First, we selected countries in the Global South where CSOs have been actively promoting immigrant welfare rights. Second, Argentina and Malaysia diverge in regard to their political systems – Argentina is a democracy, whereas Malaysia is an electoral-authoritarian regime – but they are similar in regard to alternative explanatory variables (Rohlfing, 2012). Both could be expected to have similar resources to fund welfare benefits for migrant workers, as both are upper-middle-income countries (World Bank, 2020). Their welfare systems are dominated by social insurance or savings schemes, but both countries increasingly complement them with noncontributory social assistance benefits (on Argentina, see: Repetto & Potenza Dal Masetto, 2012; on Malaysia, see: Mohd, 2012; IPC-IG & UNICEF, 2019). Large-scale immigration has been a feature of both countries’ histories since the 19th century and both continue to be major migrant-recipient countries in their respective regions and hence can be expected to face similar dilemmas between openness and the costs of rights provision (Ruhs, 2013).

Malaysia, at least until 2018, can be classified as an electoral-authoritarian regime as elections were strongly skewed in favour of the Barisan Nasional (National Front, prior to 1973: Parti Perikatan; Tey, 2010; Weiss, 2020). Civil society was challenged by the lack of independence of the courts (Giersdorf & Croissant, 2011, p. 13), lack of freedom of the press and repressive laws (Dhanapal & Sabaruddin, 2015; Khoo, 2017), and therefore it was highly difficult to influence policy decisions. For instance, Irene Fernandez, then Director of one of the most prominent migrants’ rights NGOs, Tenaganita, was charged with spreading wrongful information after publishing a report on conditions in migrant detention centres in 1996 (Piper, 2006, p. 373).

Malaysia’s engagement with international migrant rights instruments is also limited: Of an ILO list of 43 relevant international conventions for labour migration (ILO, 2020), Malaysia has ratified 16. Foreign funding for CSOs is not formally restricted in Malaysia, but subject to intense public debate; foreign financial support to Malaysian organisations has at times been accused of being part of a plot to overthrow the government (Ismail & Abadi, 2017). With its neighbours, Malaysia has also not concluded stringent regional social security arrangements for migrants: The 2018 ‘ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers’ does contain provisions on social security, but these remain non-binding (ASEAN, 2018). In fact, Malaysia has blocked the creation of a binding regional instrument for migrants’ rights (Auethavornpipat, 2019). Rather, the country relies on bilateral agreements with sending countries (Kaur, 2014).

In comparison, Argentina’s democracy has provided significant room for CSOs to promote their causes (Mainwaring & Scully, 1995). While the institution of the Supreme Court suffered a great loss of legitimacy during the Menem presidency (1989–1999), when it was largely deferential to executive power, reforms from 2003 onwards have partly restored the institution’s independence (Ruibal, 2009). The court took the power of judicial review in 1863, but rulings are expressly limited to the case and parties before the court (Garro, 2007, p. 410). In the 2000s,
the Argentinian media was able to operate freely, with only some minor limitations, although the Argentinian government has sought to influence press coverage (Freedom House, 2006). Additionally, Argentina adopted no restrictions on foreign funding to CSOs between 1993 and 2012 (Dupuy et al., 2016).

Argentina has shown a much stronger engagement with international human rights instruments with relevance to migrant workers than Malaysia. Argentina ratified 28 out of 43 relevant conventions, including all ILO Fundamental Rights Conventions and UN Core Human Rights Instruments. The constitutional reform of 1994 elevated nine international human rights treaties to constitutional status, effectively incorporating them into the text (Levit, 1998, p. 310).

The Argentine human rights movement already developed extensive international links and acquired international funding during the dictatorship period of 1976–1983, when it sought allies for fighting against the regime (Brysk, 1993). The country continued to be an active protagonist on the international human rights scene, for example, by being one of the main sponsors for the creation of the International Criminal Court (Sikkink, 2008). At the regional level, Argentina played a leading role in including migration and social rights in the Mercosur arena and took initiative in the process of concluding the so-called Residence Agreement (Brumat, 2020). The agreement (signed in 2002 and entering into force in 2009) recognises the equal treatment of immigrants and citizens (Bernal, Prada, & Urueña, 2015, pp. 513–514).

### 4 CSOs AND IMMIGRANT WELFARE RIGHTS IN MALAYSIA AND ARGENTINA

In the first part of the empirical section, we will trace in more detail how immigrant welfare rights have evolved in the two countries. In the second part, we will then focus on an analysis of the goals and activities that CSOs themselves describe in their mission statements and bring these together with material from interviews with CSO members. We delimit our analyses to time periods where a specific policy change took place. For Argentina, we focus on the time between the 2004 Ley de Migraciones (Law on Migration) and the introduction of the ‘Asignación Universal por Hijo’ (AUH), a non-contributory benefit for families with children which was created in 2009 and to which immigrants were granted access with some restrictions. AUH is considered a major instrument for poverty relief in Argentina (Repetto & Potenza Dal Masetto, 2012, pp. 24–25).

A scheme which is roughly similar to AUH in Malaysia would be the non-contributory Bantuan Rakyat 1 Malaysia7 (BR1M) introduced in 2012, providing payments to families and singles (IPC-IG and UNICEF, 2019, p. 100). Nevertheless, for Malaysia we focus on the employment injury insurance under the country’s Social Security Organisation (SOCSO), to which migrants gained access in 2018. The reason for focusing on this scheme is that at no point in time migrants’ access to BR1M has been subject of advocacy by CSOs in Malaysia. Instead, CSOs have always concentrated on contributory benefits such as employment injury insurance.

The fact that CSOs in the two countries focused on different benefits is already indicative of differences in regard to their goals. Contributory benefits like the employment injury insurance are less likely to differentiate between immigrants and citizens than non-contributory benefits, because they are financed (at least to an extent) by the recipients themselves (Brubaker, 1989, pp. 155–156). Politically, it is thus less contentious to argue for an inclusion of immigrants in contribution-based benefits than for inclusion in tax financed benefits.

### 4.1 Malaysia: The inclusion of migrant workers in the employment injury scheme

While in the 1980s, migrant workers from Indonesia and the Philippines worked in agriculture mostly, since the 1990s, Malaysia has sought to diversify its migrant workforce to workers from other Southeast Asian countries as well as from South and Central Asia and has opened up further economic sectors, providing opportunities to low-
skilled workers in manufacturing, construction, services and domestic work (Devadason & Meng, 2014, pp. 21-6; Kaur, 2010, p. 14). By the late 2010s, the number of (low-skilled) migrants with a temporary work permit hovered around 2 million, while the number of undocumented migrants is subject to intense debate, with officials speaking of up to 4.6 million in 2014 (Lee & Leng, 2018, pp. 2–4). Migrant workers often take up jobs that are referred to as ‘3D’ (dirty, dangerous and difficult/demeaning; Lee, 2017, p. 567). Given precarious workplace conditions, the rate of accidents is high and the need for appropriate insurance especially relevant (ILO, 2016, pp. 20–1). In addition, civil society organisations have documented a range of labour rights violations such as forced labour, withholding of wages or gender-based discrimination (ILO, 2016, p. 3).

From 1993 onwards, migrant workers were not covered under the general scheme for employment injury protection provided by SOCSO, but were moved to the less generous ‘Foreign Workers Compensation Scheme’ where they got a much lower (lump sum) payment than local workers in case of accidents (ILO, 2016, pp. 20–21). This issue was soon raised by civil society actors. Since the early 1990s, more and more NGOs had taken up the issue of immigrant workers’ rights (Ford, 2019).

Malaysian trade unions, who long had reservations about immigrant workers, started engaging around the early 2000s, encouraged by Global Union Federations (Ford, 2019). The Malaysian Trades Union Congress (MTUC) set up ‘Migrant Resource Centres’ with funding by the ILO (Viajar, 2018). Cooperation between trade unions and NGOs subsequently materialised in coalitions such as the ‘Migration Working Group’ and the ‘Migrant Workers Right to Redress Coalition’. The latter managed to convene four workshops in 2016, the result of which was a proposal for a sweeping reform of Malaysian immigration policies which included the demand for the inclusion of migrant workers in SOCSO and equal treatment in the Employees’ Provident Fund (Migrant Workers Right to Redress Coalition, 2017).

The demand for the inclusion of immigrant workers in SOCSO was raised again by the MTUC in May 2018, when the then newly elected government reached out to the union and asked for its views on policy priorities of the labour movement (interview, 14 August 2019). In October 2018, the government then announced that it would include migrant workers in SOCSO by 1 January 2019, with at least one newspaper stating this would include domestic workers and cover immigrant workers ‘just like local workers’ (Mok, 2018). By the time the proposal passed the cabinet in November 2018, coverage under SOCSO for immigrant workers was limited to the Employment Injury Scheme, not including the Unemployment Insurance and Invalidity Pension Schemes (Abas, 2018). The final proposal also excluded migrant domestic workers from coverage. At the request of the employers, a transition period was introduced that allowed employers to phase out the previously existing insurance coverage (interview, 9 August 2019).

4.2 | Argentina: A more general inclusion of migrants

According to the 2001 census, 1.53 million persons in Argentina were foreign-born – out of a total population of 36.26 million (INDEC, 2001). In 2009, 63% of migrant workers from South American countries were employed in construction, commerce, domestic work or in the textile, clothing and footwear industries (Baer, Benitez, Contartese, & Schleser, 2011, p. 68). While for the overall economy, the effect of migrant workers is limited, their high employment rates and concentration in certain sectors leads to a significant role of migrant labour in these areas (OECD & ILO, 2018, p. 16). Migrants are more likely to be informally employed (OECD & ILO, 2018, pp. 82–83) and this informality entails a more vulnerable labour market position with fewer labour protections (ILO, 2015, p. 56).

Around the turn of the millennium, significant civil society coalitions in favour of migrants’ rights emerged in Argentina. In the 1990s, a number of organisations formed the ‘Mesa de Organizaciones de la Sociedad Civil en la Defensa de los Derechos de los Migrantes’ (Roundtable of CSOs defending migrants’ rights) as a response to an increasingly xenophobic social climate (Caggiano, 2011, pp. 8–9). Among the participating organisations, some had extensive ties abroad. For example, the CSO Centro de Estudios Legales y Sociales (CELS) had been founded in 1979.
with financial support from USAID (Brysk, 1993, p. 265) and has had continued support from international donors such as the Ford Foundation (Berger & Blugerman, 2017). Another, the Comisión Argentina para Migrantes y Refugiados (CAREF), relies on funds from the World Council of Churches and the UNHCR (Casola, 2017).

The Roundtable played an important role in the discussions preceding Argentina’s 2004 Ley de Migraciones (Law on Migration; Brumat & Torres, 2015, p. 67). When it was passed in 2003, its sponsor, Rubén Giustiniani, explicitly thanked CELS and the catholic Pastoral Migratoria for their cooperation in a Senate debate (Cámara de Senadores de la Nación Argentina, 2003, p. 90). The law recognises migration as a human right and explicitly grants migrants access to social security (and a number of other public provisions) to the same extent and under the same conditions as citizens (Ceriani Cernadas, Cyment, & Morales, 2011, p. 2).

After the introduction of the Ley de Migraciones, CSOs also litigated for migrant workers’ access to various non-contributory benefits. Prominently, CELS, CAREF and the Law School of the University of Buenos Aires had set up a legal clinic for migrants’ issues already in 2002. In a case that was widely reported on, they represented Daniela Reyes Aguilera, a 12-year-old child from Bolivia with a severe disability (interview, 17 December 2019). Despite her condition, she was unable to claim non-contributory disability benefits since she did not fulfil the residency requirement of 20 years. The Supreme Court ultimately decided in her favour (ESCR, 2020), but the case did not overturn the residency requirement, because judicial review in Argentina does not take immediate effect in cases beyond the specific case that is ruled on (see Garro, 2007). However, the case was highly publicised, and may have had a signal effect on legislators and the executive, as it showed long residency requirements to be unconstitutional (see Arcidiácono & Gamallo, 2011).

Civil society also continued to push for universal social protection benefits: In 2005, the trade union CTA published a report debating various options for universalisation of family benefits (Lozano, Rameri, & Raffo, 2005). In several reports, CELS criticised the existing programs, which were limited in their accessibility, thereby not living up to the human rights discourse developed around them (Pautassi, Rossi, & Campos, 2004). A number of legislative proposals for a universal child benefit were debated in the Argentinian parliament, particularly in 2009, many of which did not distinguish between nationals and immigrants (Díaz Langou, 2012, pp. 29–31). In the end, the benefit was introduced by the government through a ‘Necessity and Urgency Decree’ with a 3-year residency requirement for immigrants (D’Iorio, 2019).

4.3 | CSOs goals and activities in their own words

The previous section has traced CSOs’ work on immigrant rights in the respective time periods in the two countries, pointing to differences in regard to both goals and activities between Malaysian and Argentinian CSOs. We now turn to an analysis of mission statements to see whether these differences are also apparent in organisations public self-descriptions. While arguably mission statements might contain rather lofty goals to appeal to funding bodies, they also need to represent realistic benchmarks on which to evaluate the organisations’ success. To complement the mission statements with more detailed in-depth insights, we furthermore draw on a sample of 27 interviews with members of CSOs in Argentina and Malaysia.

We start with a sample of 52 Argentinian and 72 Malaysian organisations that engage with immigrant welfare rights (for a descriptive overview and a description of the sampling procedure, see Table A1). The larger number of CSOs in Malaysia should not be interpreted as an indicator for a stronger civil society in Malaysia. Quite a number of the Argentinian CSOs in the sample are significantly larger than their average Malaysian counterparts, both in regard to yearly budget and personnel.8

For some of the organisations, no public mission statement could be located. We also excluded mission statements that made no direct reference to immigrant rights. This resulted in 17 statements for Argentina and 23 statements for Malaysia. When coding the statements, we differentiate between four different goals or principles: ‘Human rights’, ‘Equality/non-discrimination’, ‘Recognition of immigrant contributions to society’ and ‘Minimum
standards’. Whereas the first two are both associated with the ‘equality’ justification, the third is related to the ‘equity’ justification and the fourth points to ‘needs’. Table 1 depicts the percentage of mission statements in which the respective goal/principle was mentioned at least once.

In both countries, ‘Human rights’ and ‘Equality/non-discrimination’ are mentioned by the majority of organisations. Differences occur in regard to ‘Minimum standards’ and ‘Recognition of immigrant contributions’ which are each mentioned by roughly 20% of Malaysian CSOs, but only once in all Argentinian statements. Furthermore, whereas almost 80% of all Argentinian statements reference equality/non-discrimination, only half of the Malaysian ones do so.

Interestingly, all 10 Argentinian CSOs that name ‘Human rights’ as a goal also evoke ‘Equality’. This is the case for only six of the 10 Malaysian CSOs that mention human rights. A possible interpretation could be that even though both Malaysian and Argentinian CSOs reference human rights, they attach different meanings to the term. In Argentina, pursuing human rights is mostly understood as putting immigrants and non-immigrants on an equal footing. In Malaysia, it is referenced to call attention to a lack of even minimum standards. In line with this hypothesis, the category ‘Recognition of immigrant contributions’ is used more often by Malaysian CSOs. This is a potential hint for a stronger prevalence of market-oriented principles of social protection.

This tendency became clearer in the interviews. In Malaysia, migrants’ rights issues are often referred to as avoiding extreme forms of exploitation. In the words of one trade union leader, ‘this basic issue came up. Basic fundamental issues of basic human rights. There’s passports being withheld, their movements being curtailed, restrictions on what they should do, what they cannot do, ... that’s a basic fundamental breach’ (interview, 5 August 2019).

Another trade union leader pointed to the contributions migrants make to the Malaysian economy, stating that ‘[t]hey are ... contributor[s] of the development of this country. Without these people, all the mega-projects, you cannot do [them]. It is with their help’ (interview, 18 July 2019).

But inclusion of migrant workers in social protection is also seen in the context of other policy goals such as incentivizing regularisation of the country’s large irregular migrant workforce. As another trade union member asserted: ‘[T]he only objective is to get them registered. It’s ... not about the benefit. They just want to get them documented so that they know how many workers are there’ (interview, 14 August 2019). Another interviewee stressed the high costs of medical treatment after accidents as motivation for the government (interview, 19 July 2019). In 2010, news had surfaced that public hospitals reported to have outstanding medical bills of 18 million Ringgit (Devadason & Meng, 2014, p. 31). At the same time, the reform was within close reach. In the words of one NGO representative, the government initiated the reform ‘[b]ecause it’s doable! It’s not as if it’s something that is difficult for the government. The SOCSO system is there already’ (interview, 2 August 2019). From these quotes, it becomes discernible that the arguments that are put forward are not related to migrants’ rights to equal treatment, but are rather pragmatic in nature.

In a second step, we coded the activities mentioned in the public mission statements, distinguishing between policy advocacy, service provision, efforts to organise and recruit, legal support and networking. Table 2 depicts the percentage of mission statements in which the respective concrete activity was mentioned at least once.

| Goals mentioned in public mission statements of CSOs in Malaysia and Argentina | Malaysia | Argentina |
|---|---|---|
| Equality/non-discrimination | 52.17% (12) | 76.47% (13) |
| Human rights | 43.48% (10) | 58.82% (10) |
| Recognition of immigrant contributions to society | 21.74% (5) | 5.88% (1) |
| Minimum standards | 17.39% (4) | 5.88% (1) |

Note: N = 40 statements (17 Argentina, 23 Malaysia). Absolute number of self-descriptions that mention the respective goal at least once in parentheses.
Based on our theoretical discussion, we would have expected that Malaysia and Argentina differ in regard to the emphasis that is put on policy advocacy, service provision and legal support. Interestingly, however, at first sight there is little difference between the two countries. The majority of CSOs in both countries mention policy advocacy and service provision as an activity and around 40% (Malaysia) to 50% (Argentina) engage in legal support. As was mentioned earlier, potentially this could be attributed to the fact that mission statements tend to refer to rather broad catchphrases that will resonate with a wider audience. However, again the similarity dissolves at closer inspection. For service provision, we coded subcategories ‘Education’ and ‘Welfare’ and find that in the Malaysian context, ‘Service provision’ refers to provision of goods and services, such as housing, food and clothing, twice as often as in Argentina, where service provision more often means the provision of education. In line with our theoretical reasoning, it seems as if CSOs in Malaysia take on service provision that the state does not want to offer, thereby potentially moderating public unrest.

Similarly, a look at sub-categories in the category ‘Legal support’ is highly informative. CSOs in Argentina refer to legal support against the state, whereas in Malaysia, legal support in the majority of cases refers to support against the employers. Thus, whereas in Argentina, CSOs target policies themselves, in Malaysia, the focus is on the adherence to existing policies. Finally, the apparent similarity between the two countries in regard to the use of policy advocacy dissolves when consulting the interviews. Both the Malaysian and the Argentinian CSOs attempt to use inside strategies of policy advocacy, however, their success varies significantly.

In Malaysia, contacts between CSOs and the government exist, yet encounters are not formalised and immigrants’ rights advocates often rely on support from other institutions. This is in part because of the CSOs’ lack of resources. As one NGO representative said: ‘the rights-based NGOs are totally underfunded, can’t do [anything.] ... if you can find a human rights NGO in Malaysia with five staff, ... that’s a big thing’ (interview, 19 July 2019). One NGO representative in Malaysia recalls how their coalition resorted to a trick to secure government attendance at one of their meetings: ‘We did this with the University of Malaya, ... we asked them to send out the invitations, because a lot of government officials actually come to the university for all kinds of courses and trainings. ... So ... quite a number of them came’. (interview, 7 August 2019). Migrant-led organisation are at times careful to avoid confrontational approaches: ‘You know, because we really care for our members also, the security. So you have to stay underground’ (interview, 22 July 2019).

In Argentina, the situation is starkly different. As a representative of a large human rights organisation describes, the government often actively cooperates with CSOs by hosting working groups on topics raised by the organisations: ‘[W]e asked different public agencies to act as hosts of [three] interinstitutional working groups. So the Ministry of Education hosted one, ... Health, ... and then the ... Defensoría General de la Nación’ (interview, 17 December 2019). On the other hand, strategic litigation is an important part of the organisations’ strategy. As a prominent migration lawyer recalls: ‘We started to do litigation, strategic litigation before national court or local courts or international... using international human rights mechanisms, like [the] Inter-American Commission of Human Rights or UN Committees’ (interview, 17 December 2019).

### Table 2: Activities mentioned in public mission statements of CSOs in Malaysia and Argentina

|                  | Malaysia | Argentina |
|------------------|----------|-----------|
| Service provision| 69.57% (16) | 70.59% (12) |
| Policy advocacy   | 69.57% (16) | 58.82% (10)  |
| Legal support     | 43.48% (10)  | 52.94% (9)    |
| Organize/recruit  | 34.78% (8)   | 47.06% (8)    |
| Networking        | 17.39% (4)   | 41.18% (7)    |

*Note: N = 40 statements (17 Argentina, 23 Malaysia). Absolute number of self-descriptions that mention the respective goal at least once in parentheses.*
5 | CONCLUSION

This paper proposed a mechanism of CSO engagement which is set in motion when CSOs react to migrant workers’ grievances that arise from a lack of inclusion in social protection. When engaging with the issue of migrant workers’ welfare rights, organisations formulate goals and choose activities for their advocacy work. We argued that the respective choices of goals and activities are crucially shaped by the context in which CSOs operate, in particular political regimes. Whereas in democracies, CSOs can mostly organise without restraints, authoritarian regimes can directly impede CSO activities through bans or other restrictions, also limiting CSOs’ recourse to important institutions for voicing grievances such as courts or the media. Furthermore, political regimes affect CSO goals and the discursive justifications that are available to them. In particular, democracies are more likely to adhere to international human rights instruments, creating the possibility for CSOs to appeal to their governments’ duty to respect them and the principles of equality that are at their heart. In less democratic countries, CSO goals refer to principles of equity and fulfilment of needs more often.

This mechanism was subsequently exemplified by the two cases chosen for this paper: We show that in electoral-authoritarian Malaysia, civil society’s room to maneuver was restricted. Particularly associations led by migrants themselves were refraining from confrontational advocacy. Human rights frames in themselves were ineffective and CSOs often argue for migrants’ rights by also pointing to the economic benefits of regulating migrant labour. Furthermore, even though inclusion in a contributory benefit, the employment injury insurance, was achieved, members of civil society organisations described their role in this process as limited at best. In Argentina on the other hand, civil society actors had greater room for advocacy, and engaged, among other things, in legal action in favour of immigrants’ access to non-contributory benefits. Prevailing justifications pointed to universalism and the human right to social protection. The fact that immigrants were conditionally included in a major non-contributory scheme could thus be interpreted as at least partly stemming from the continuous engagement of CSOs.

While we do touch upon bilateral and regional agreements on migration and migrants’ rights briefly, more remains to be said about policies beyond the confines of the nation state. As migration is an inherently transnational issue, further research should be directed at how regional integration processes both contribute to establishing migrants’ rights and become a point of reference for national political actors.

ACKNOWLEDGEMENTS
The authors thank Susanne Schmidt and Christina Grabbe as well as workshop and conference participants in Harvard and Bremen for many helpful comments and suggestions.

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ENDNOTES
1 The claim that civil society is always of a benevolent nature is, however, not uncontested (see, e.g., Howell, 2002).
2 We focus on the de jure access to benefits granted to documented immigrants in destination countries. We acknowledge that formal access does not necessarily ensure de facto access. For pragmatic reasons, we do not include the rights of undocumented migrants, but recognize that these are a closely related policy field. Finally, we are using the welfare rights of citizens as a benchmark, not as the dependent variable. More specifically, we do not aim to explain the emergence of citizens’ rights, but instead, we assess whether immigrants are granted access to a benefit that was/is being created for citizens.
3 Similar distinctions include those between ‘inside’ and ‘public-related’ strategies (Kriesi, Tresch, & Jochum, 2007) or ‘direct’ and ‘indirect’ strategies (Binderkrantz, 2008).
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How to cite this article: Henninger J, Römer F. Choose your battles. *Soc Policy Adm*. 2021;1–17. https://doi.org/10.1111/spol.12721
## APPENDIX

### TABLE A1 CSO sample

|                | Argentina | Malaysia |
|----------------|-----------|----------|
| **NGOs**       |           |          |
| Migrants' rights (domestic) | 6         | 3        |
| Migrants' rights (migrant-led) | 23        | 8        |
| Not exclusively migrants' rights (domestic) | 12        | 11       |
| Migrants' rights (global) | 0         | 1        |
| **Trade unions** |           |          |
| National       | 2         | 36       |
| International  | 1         | 5        |
| **Networks**   |           |          |
|                | 7         | 4        |
| **Other**      | 1         | 4        |
| **Total**      | 52        | 72       |

#### Coded mission statements: Argentina

| Name                                                                 | Founded in |
|---------------------------------------------------------------------|------------|
| 1. Abogados y abogadas del NOA en Derechos Humanos y Estudios Sociales (ANDHES) | 2001       |
| 2. Agrupación Bartolina Sisa                                         | 1980       |
| 3. Área de Migrantes – Somos Barrio de Pie                           | 2001       |
| 4. Asoc. Civil de Migrantes ‘Los Emprendedores’                      | 2006       |
| 5. Asoc. de Ecuatorianos Residentes en Argentina (AERA)               | 2000       |
| 6. Asoc. de Mujeres Unidas, Migrantes Y Refugiadas En Argentina (AMUMRA) | 2001       |
| 7. Central de Trabajadores de la Argentina (CTA)                      | 1992       |
| 8. Centro de Estudios Legales y Sociales (CELS)                       | 1979       |
| 9. Centro Integral de la Mujer Marcelina Meneses                      | 2001       |
| 10. Colectividad Boliviana en Argentina                              | 1998       |
| 11. Colectivo Para la Diversidad (COPADI)                            | *          |
| 12. Comisión Argentina para Refugiados y Migrantes (CAREF)            | 1973       |
| 13. Comisión Episcopal de la Pastoral de Migrantes e Itinerantes (CEMI) | 1951       |
| 14. Coordinadora de la Colectividad Boliviana                        | *          |
| 15. Fundación Comisión Católica Argentina de Migraciones (FCCAM)       | *          |
| 16. Movimiento Afro-cultural                                          | 2001       |
| 17. Movimiento Ecuménico por los Derechos Humanos (MEDH)              | 1976       |

#### Coded mission statements: Malaysia

| Name                                                                 | Founded in |
|---------------------------------------------------------------------|------------|
| 1. All Malayan Estates Staff Union (AMESU)                           | 1927       |
| 2. Archdiocesan Office for Human Development (AOHD)                  | *          |
| 3. Asosasyon ng mga Makabayang Manggagawang Pilipino Overseas (AMMPO) | 2014       |
| 4. Asylum Access                                                      | 2007       |
| 5. CARAM Asia                                                         | 1997       |
| 6. Electrical Industry Workers’ Union                                | 1971       |
| 7. Foreign Spouses Support Group Malaysia (FSSG)                      | 2009       |
| 8. Health Equity Initiatives                                          | 2014       |
| 9. Malaysian Trades Union Congress (MTUC)                             | 1949       |
| 10. Migrant Care                                                      | 2004       |

(Continues)
### TABLE A1 (Continued)

| Coded mission statements: Malaysia\(^a\) | Name                                                                 | Founded in |
|----------------------------------------|----------------------------------------------------------------------|------------|
| 11.                                    | Migrant88                                                            | *          |
| 12.                                    | Migration Working Group Malaysia                                     | 2006       |
| 13.                                    | National Union of Seafarers Peninsular Malaysia (NUSM)                | 1996       |
| 14.                                    | National Union of Transport Equipment and Allied Industries Workers (NUTEAIW) | 1971       |
| 15.                                    | Non Resident Nepali Association (NRNA)                               | 2003       |
| 16.                                    | North South Initiative                                               | 2011       |
| 17.                                    | Paper and Paper Products Manufacturing Employees' Union              | 1964       |
| 18.                                    | Penang Stop Human Trafficking Campaign                               | 2012       |
| 19.                                    | Persatuan Sahabat Wanita, Selangor                                   | 1984       |
| 20.                                    | Pravasi Nepali Co-Ordination Committee (PNCC)                        | 2009       |
| 21.                                    | SERANTAU                                                             | 2015       |
| 22.                                    | Suara Rakyat Malaysia (SUARAM)                                       | 1989       |
| 23.                                    | Tenaganita                                                           | 1991       |

Note: To identify CSOs that were active in the field of immigrant (welfare) rights at the point in time when and at least 3 years before the respective policies were introduced, we used the following strategy: we start by identifying relevant actors as they were mentioned in the literature (e.g., Domenech, 2008; Ford, 2019). We exclude individuals that are not affiliated with an organization, as well as political parties, but include trade unions. Through a snowball system we identified the first version of the list of relevant organizations. We triangulated the data with lists of participants in important CSO forums and widely shared calls for migrants' rights.

\(^a\)Some of the founding years, marked as * could not be determined precisely.
| No. | Person                                | Country         | Date             |
|-----|---------------------------------------|-----------------|------------------|
| 1.  | Researcher                            | Malaysia        | 17 July 2019     |
| 2.  | Representative of women’s rights NGO  | Malaysia        | 17 July 2019     |
| 3.  | Trade unionist                        | Malaysia        | 18 July 2019     |
| 4.  | Representative of human rights NGO    | Malaysia        | 19 July 2019     |
| 5.  | Representative of migrant rights NGO  | Malaysia        | 20 July 2019     |
| 6.  | Representative of association of migrants | Malaysia    | 22 July 2019     |
| 7.  | Trade unionist                        | Malaysia        | 23 July 2019     |
| 8.  | Politician                            | Malaysia        | 24 July 2019     |
| 9.  | Representative of association of migrants | Malaysia    | 29 July 2019     |
| 10. | Representative of migrant rights NGO | Malaysia        | 29 July 2019     |
| 11. | Representative of an International Organisation | Malaysia | 31 July 2019    |
| 12. | Representative of migrant rights NGO | Malaysia        | 2 August 2019    |
| 13. | Trade unionist                        | Malaysia        | 5 August 2019    |
| 14. | Representative of migrant rights NGO | Malaysia        | 6 August 2019    |
| 15. | Representative of women’s rights NGO  | Malaysia        | 7 August 2019    |
| 16. | Trade unionist                        | Malaysia        | 7 August 2019    |
| 17. | Activist                              | Malaysia        | 8 August 2019    |
| 18. | Employer Association Representative  | Malaysia        | 9 August 2019    |
| 19. | Immigration lawyer                    | Malaysia        | 12 August 2019   |
| 20. | Researcher                            | Malaysia        | 13 August 2019   |
| 21. | Representative of human rights NGO    | Malaysia        | 13 August 2019   |
| 22. | Researcher                            | Malaysia        | 14 August 2019   |
| 23. | Trade unionist                        | Malaysia        | 14 August 2019   |
| 24. | Representative of migrant rights NGO  | Argentina       | 11 December 2019 |
| 25. | Representative of migrant rights NGO  | Argentina       | 12 December 2019 |
| 26. | Researcher                            | Argentina       | 12 December 2019 |
| 27. | Representative of human rights NGO    | Argentina       | 17 December 2019 |