

# Pathways for Labor Migration from Northern Central America: Five Difficult but Necessary Proposals

Research Paper

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The [North and Central American Task Force on Migration](#) is a non-governmental forum of academics, civil society and business leaders, and former policymakers in dialogue with current government officials created to facilitate a broadly driven solution dialogue among the countries involved in the crisis of migration and forced displacement in the region.

Initiated by the World Refugee & Migration Council with the Center for U.S.-Mexican Studies, El Colegio de México, the Migration Policy Institute and the Inter-American Dialogue, the task force will issue concrete recommendations for collective, regional action based on evidentiary research to promote responsibility sharing across North and Central America.

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## Introduction

Very few labor-based pathways for regular migration are available for people in Northern Central America (NCA), often called the ‘Northern Triangle’ of Guatemala, Honduras, and El Salvador. This note briefly summarizes the state of labor-based migration channels in the region. It then argues that extending those channels is a necessary complement to asylum reform even for the goal of humanitarian protection. It concludes by arguing that five recommendations for long-term reform, though difficult, are needed to unleash the maximum shared benefit of these pathways.

### Existing Labor Pathways for NCA Migrants

People in Northern Central America face severe constraints on their access to lawful pathways for labor migration. In Guatemala they are small and tightly constrained; in Honduras and El Salvador they are extremely limited. Almost all of these channels lead to the United States, Canada, and Mexico (IOM 2021). In a normal year before the COVID-19 pandemic, such channels provided a grand total of around 35,000 annual opportunities for lawful mobility of any kind, temporary or permanent (Table 1).

These lawful pathways are extremely few and highly skewed. Almost two thirds of the existing pathways are for Guatemalan farm workers, leaving all other workers in the region just 15,000 visas *per year*. For comparison, average apprehensions of NCA citizens at the southwest US border in 2021 have been 17,805 *per week*.<sup>1</sup> The tiny number of lawful pathways that exist brings economic benefits to typical participants that vastly exceed their best alternatives. For example, typical Guatemalan recipients of seasonal work visas in the US forestry sector multiply their monthly incomes by a *factor of 16* (Brodbeck et al. 2018).

These extreme limits on lawful pathways have contributed to a vast black market for the labor of NCA workers in the region. The number of people born in the NCA with long-term residence in the United States has risen by about 100,000 per year, net of departures, over the last decade.<sup>2</sup> The permanent, labor-based resident visas available to the same people in a typical year have numbered 135. Largely for this reason, about half the NCA-citizen workers in the US lack lawful permission to work. The sectors of the US economy most relatively dependent on NCA workers’ labor are services; natural resources, construction, and maintenance; and production, transportation, and material moving (Babich and Batalova 2021).

**Table 1.** All substantial labor-based pathways for international migration from Northern Central America before the pandemic (2019)

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<sup>1</sup> In the most recent statistics available as of October 10, 2021, encounters of NCA citizens at the Southwest Land Border have [totaled 569,746](#) for the eight months of January through August 2021.

<sup>2</sup> In the US Census Bureau’s Current Population Survey, the total number of NCA-born in the United States rises from 2.4m in 2010 to 3.4m in 2020 (Flood et al. 2021), see also Babich and Batalova (2021).

<i>Origin:</i>	Guatemala	Honduras	El Salvador	NCA total	Compare: Mexico
<i>Destination:</i>					
<b>UNITED STATES</b>					
Seasonal	5,806	1,135	810	7,751	261,097
Other non-immigrant	1,048	1,443	1,198	3,689	57,588
Immigrant	45	28	62	135	818
<b>CANADA</b>					
Temp. Foreign worker	11,925	380	50	12,355	30,885
Int. Mobility Program	75	110	150	335	4,830
Immigrant	125	655	735	1,515	145
<b>MEXICO</b>					
Guest Worker Card	10,015	---	---	10,015	---
<b>All types, destinations</b>	<b>29,039</b>	<b>3,751</b>	<b>3,005</b>	<b>35,795</b>	<b>355,363</b>
Population origin	16.6m	9.75m	6.45m	32.8m	127.6m
Visas per 1,000 pop.	1.75	0.38	0.47	1.09	2.78

Non-immigrant US visas that allow work: E1, E2, F-1, H-1B, H-1C, H-2A, H-2B, H-3, I, J-1, K-1, L-1, M-1, O-1, O-2, P-1, P-2, P-3, Q-1, Q-2, R-1, TC, TN. US immigrant visas include all employment preference permits for lawful permanent residence.<sup>3</sup> The vast majority of temporary work visas to Canada are for seasonal farm work: For example, 9,780 of the 11,925 visas to Guatemala are for agricultural work. The number for the Mexican Tarjeta de Visitante Trabajador Fronterizo includes all those entering Mexico at crossings that border on Guatemala, and may include a very small number of Belizeans.

Considering the sum total of all lawful pathways for labor migration, Mexico's *per-capita* access is about double Guatemala's (or 2.4 times as high for pathways to the US and Canada), and about

<sup>3</sup> US non-immigrant visa statistics for FY2019 from [US Dept of State](#), immigrant visa statistics for FY2019 from [Report of the Visa Office 2019](#), accessed October 10, 2021. [Temporary Foreign Workers in agriculture](#) in Canada from Statistics Canada; for [International Mobility Program](#) from [Open Data Canada](#); [Temporary Foreign Workers in all sectors](#) from [Open Data Canada](#); [Admissions of Permanent Residents by Country of Citizenship and Immigration Category](#) from [Open Data Canada](#); accessed October 10, 2021. The core difference between the Temporary Foreign Worker visa and the International Mobility Program visa is that the former requires a labor-market test ([OECD](#)). Mexico data from Government of Mexico, Secretaría de Gobernación, Unidad de Política Migratoria, [Estadísticas Migratorias: Síntesis 2019](#), p. 26.

seven times that of Honduras or El Salvador. Almost no pathways exist for *permanent* labor migration from the NCA: In Table 1, these total just 1,650 per year. Moreover, these are essentially inaccessible to anyone other than the most educated and wealthiest people in the region.

### Asylum Alone Cannot Offer Sufficient Channels for Protection

For every 100 people from the NCA recently apprehended at the US border, *only two* could have accessed any existing lawful migration channel. For the other 98, there were no visas and no grants of asylum. They only had two alternatives: to migrate unlawfully, or to simply endure the conditions that drove them to this desperate and dangerous act.

I will dwell on this quantitative fact because it is not well known. The asylum system is frequently discussed in Washington as by far the most important (or even only) lawful channel of urgent interest for policy reform, a discussion that does not reflect current patterns of human mobility.

Consider the period January through July of 2021. During these months, there were 478,206 apprehensions of NCA citizens at the Southwest US border. The number of visas for regular migration that could have been received by these same people was just 8,641. This is the number of visas 1) issued to people physically present in the NCA countries, 2) during the same period, 3) that allow adults to earn a living at the destination, and 4) excludes people with US citizen spouses, children, or parents. It includes *all* visas, permanent (immigrant) and temporary (non-immigrant). During the same period, the US granted asylum to only 1,520 NCA citizens. The total of these lawful and regular channels (visas) and lawful but irregular channels (asylum) amounts to just 2.1 percent of the number of apprehensions.<sup>4</sup>

For the other 98 out of 100 migrants, no plausible expansion in accessing asylum—no matter how valuable and essential—could greatly reduce the number of NCA nationals with no lawful migration channel whatsoever.

To be sure, US asylum grants have been low in 2021 relative to other recent years. But suppose that monthly US asylum grants had returned to their all-time high levels for these countries—about 6,000 asylum grants to NCA citizens over a seven-month period, rather than the 1,520 that actually occurred. Even then, the number of lawful channels available (visas and asylum grants) would have only risen to 3.1 percent of apprehensions. That is, for every 100 NCA citizens apprehended, such asylum reform in the US could only reduce the number with *no possible lawful channel* from 98 to 97. That could fall just a bit more, from 97 to 96, if Mexico were to *double* the size of its current system of asylum and complementary protection.<sup>5</sup> But even this highly optimistic scenario would leave 96 out of 100 with no meaningful lawful channel for international protection.

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<sup>4</sup> Monthly apprehensions data from [Customs and Border Protection](#), visa data from Dept. of State Visa Office monthly visa data for [immigrant](#) and [nonimmigrant](#) visas issued abroad; all family sponsorship green cards excluded, all visas that ban legal work excluded. Monthly asylum data ('asylum granted', regardless of representation, by nationality) from Syracuse University [Transactional Records Access Clearinghouse](#). Accessed October 10, 2021.

<sup>5</sup> In Mexico recently, grants of asylum or complementary protection for NCA nationals during a seven-month period have run between 4,000 and 5,500. Grants of asylum or complementary protection to NCA nationals in Mexico during a 12-month period were 7,158 in 2019, and 9,142 in 2020. This corresponds to roughly 4,000–5,500 for a seven-month period comparable to the one discussed in the text. Figures from UNHCR [Refugee Data Finder](#), Asylum Decisions, accessed October 10, 2021. The calculation is  $5,500/478,206 = 1.2\%$ .

This is severely inadequate. A large portion of those other 96 migrants, lacking any lawful channel for protection in the United States, are survival migrants. These are “*persons outside their country of origin because of an existential threat to which they have no access to a domestic remedy or resolution,*” people “*with an obvious need for international protection, but who have generally been seen as ... not being refugees yet not being voluntary, economic migrants*” (Betts 2010, 362; term coined by Melissa Fleming).

This criterion for “survival migrants” plainly describes much more than four in 100 irregular migrants from the NCA to the United States. For example, 41 percent of them cite fear of death from generalized violence in the region, and 40 percent state that their economic opportunities in their home country do not allow basic sustenance for their families (Abuelafia et al. 2018). Economic deprivation and fear of death are not separate drivers of migration; deprivation exacerbates the effect of violence, and vice versa (Clemens 2021a; Bermeo and Leblang 2021; Ibáñez et al. 2021).

In other words, the asylum system alone cannot come close to meeting the protection needs of the vast majority of NCA migrants, in any realistic scenario. That is not at all a reason to avoid reform and expansion of the asylum system. Instead, it is a reason that serious discussion of protection for NCA migrants must include lawful pathways for migration outside the asylum system. For almost all of these migrants—those without established foreign citizens in their immediate families—that means employment-based pathways. Almost no others exist. It is nevertheless common for well-meaning and effective advocates to assert that asylum reform is the exclusive legitimate policy tool to expand access to lawful channels, until a total overhaul of the US immigration system arrives at an unknown date.<sup>6</sup> Temporary work visas, in particular, are often described as an inappropriate—even unethical—response to migrants’ need for protection.

In reality, 84 percent of all lawful channels for NCA labor migration are visas for vocationally-skilled, seasonal work (Table 1). Any serious plan to expand access to regular migration channels for this region must start there, considering that such channels are the principal ones that destination-country societies have been willing to create so far. Channels for temporary work are also vastly superior to black-market labor migration for everyone involved, as migrants who have done both attest (e.g. Izcara 2010, 159–178; González 2018). They cannot be ignored. A more promising path is to simultaneously pursue the expansion of access to existing lawful channels in the short term and build more clearly mutually beneficial lawful channels in the long run (Selee and Soto 2021; Clemens 2021b; Monico and Pitts 2021).

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<sup>6</sup> This view is expressed, for example, by the Centro de los Derechos del Migrante in “[Immigrants need the safety that asylum can provide—not temporary work visas](#)”, *The Hill*, June 3, 2021. The article states, “*Asylum seekers need safety and permanence. And internationally recruited workers need visa programs that shift control from employers to workers, elevate labor standards, respect family unity, ensure equity and access to justice, and give migrant workers an accessible pathway to citizenship. Guestworker visas are not a response to the root causes of migration.*” The non-asylum lawful migration pathways referred to in this passage—large-scale employment-based channels for permanent migration by workers without university degrees and specialized knowledge—do not exist. Their creation would require top-to-bottom reform of the fundamental immigration law in place since 1965.

## Five proposals for long-term reform

Expanding access to lawful, labor-based migration from the NCA in the most mutually beneficial way possible is a long-term project. All of the proposals below are politically difficult and unlikely to occur on a timescale relevant to people considering or preparing for migration now. They nevertheless offer some of the greatest potential for protection of survival migrants from the NCA and for tangible, shared gains by both destination and origin countries.

All of these proposals share one foundation: They are feasible ways for labor migration pathways in the region to *respond to conditions in the region*. This is a fundamental departure from how labor migration has been regulated in the past. In the United States, the core laws regulating migration were crafted 56 years ago deliberately to place all nations in the world on equal footing. This was a carefully-considered backlash against earlier and explicitly racist policies that limited or banned immigration from named countries and regions (e.g. Yang 2020). The result is that today, people considering migration to the United States face equal policy barriers, whether they are in Honduras or Bhutan. Such pathways by design cannot respond to conditions in Central America.

Nor can they respond to changing conditions in the United States: All potential labor migrants to the US today face the same basic quantitative limits on new labor migration outside the farm sector – permanent or temporary—that were fixed in law 31 years ago.<sup>7</sup> Such an extremely rigid system, by design, cannot respond to economic conditions anywhere in the region. A series of reforms in the United States and elsewhere could change that.

### 1. Bilateral and multilateral regulation

Immigration policy debate is often paralyzed by the common feeling that there is an effectively infinite supply of migrants from lower-income countries. Creating a *right* for some, it seems, implies an uncontrolled invitation to the rest. The debate is dominated by metaphors of powerlessness: oceans (*floods, waves, tides, inundation, floodgates, surge*) and chain reactions, by which each migrant brings more (Collier 2013). This is a barrier to effective regulation of migration: a policy that is facially nondiscriminatory towards Hondurans versus Bhutanese cannot respond to the geographic and historical realities that distinguish migration from the two countries. Regional migration policy for Mesoamerica and the Caribbean does exist, but as a patchwork of arbitrary, opaque, and unreliable policies that follow a breakdown in regulation—temporary protected status for some countries, sometimes (El Salvador, Honduras, Nicaragua); special status for people from certain countries at certain times (Cuba and Haiti); adjustments of status (NACARA); and others.

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<sup>7</sup> The current quotas on US employment preference green cards and on the main non-agricultural temporary work visas (H-1B and H-2B) were set by the Immigration Act of 1990. In some years since then Congress has made a special dispensation for additional H-2Bs who are returning to their US employers in previous years, thus I add the qualifier 'new'. In 2004 there were an additional 20,000 H-1B visas created for applicants with current J-1 status and a US master's degree or higher, who again would not be 'new' migrants.



There is a better way. US immigration is mostly regulated unilaterally by the United States. But bilateral and multilateral partnerships built around regional realities can include provisions to regulate international labor mobility in ways that do not create rights applicable globally. The United States could renegotiate the Central America Free Trade Agreement to include, along with other needed reforms, a provision for labor mobility. NAFTA created a new channel for Mexican labor mobility to the United States from Mexico. CAFTA contains no provision for labor mobility at all, built on the discredited idea that trade and investment render it unnecessary (Clemens 2015a). Unlike the visa created by NAFTA, accessible only to workers with a university degree and specialized knowledge, this new channel would need to be accessible to the vocationally-skilled workers who are so essential to growing US economic sectors now (Gutierrez et al. 2016).

This reform would focus on labor mobility and would require Congressional approval, avoiding the common criticism that related visa provisions in the past amounted to a backdoor immigration reform by the Executive Branch officials who negotiated the overarching trade agreement. An alternative, also effective but less efficient, would be for the United States to negotiate separate bilateral labor agreements with each NCA country.

There is ample precedent for bilateral and multilateral regulation of labor mobility in this region. Canada has regulated its Temporary Foreign Worker program with Guatemala under a bilateral agreement starting in 2003—now the largest lawful channel for labor mobility in the entire region—and has done so with Mexico since 1974. These agreements could expand beyond the farm sector to which they are currently limited. The United States itself regulates labor mobility with Mexico, Singapore, Chile, Australia, Micronesia, and others under bilateral or multilateral agreements. No legal barrier would prevent one or more similar agreements with the NCA. Mexico and Guatemala in 2014 signed a formal agreement, between their respective labor ministries, to design and implement a large-scale program to regulate temporary labor migration between the two countries (MTPS 2014) beyond the four southern states currently eligible for Mexico’s Guest Worker Card, though this has yet to be implemented.

## **2. Investment in skill**

The labor mobility channels created by these agreements must be accessible to workers at all education levels for which there is strong labor demand in the US, Canada, and Mexico. That certainly includes workers with high school education or less: this includes most of the jobs with the fastest-growing demand over the next two decades (Gutierrez et al. 2016).

However, NCA workers need not have the precise, often highly idiosyncratic skills demanded by destination employers, even within broad groups defined by level of schooling. A central advantage of the bilateral regulation of labor mobility is that it can and must include systems to invest in new skills for potential and actual migrants, designed to ensure mutual benefit.

One of many ways to do that is through a Global Skill Partnership or GSP (Clemens 2015b), endorsed by name in Marrakesh in the 2018 Global Compact for Safe, Orderly, and Regular Migration, by 152 countries including all three NCA countries.<sup>8</sup> A GSP is a bilateral agreement in which the migrant

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<sup>8</sup> General Assembly resolution [A/RES/73/195](#). Country votes recorded [here](#).

destination country agrees to support technical training *inside* the country of origin, for both potential future migrants *and non-migrants*, in partnership with employers at the destination. The approach has been piloted in North Africa and the South Pacific, and shows promise in sectors including basic health care, construction, and information technology (Adhikari et al. 2021). The United States and Canada, at a minimum, could negotiate a GSP with any or all of the NCA countries, binding labor mobility to skill investment. This would require a new type of visa for vocationally-skilled workers in the United States, since the only expandable current visa for this type of labor is restricted to parts of the agricultural sector alone. This second proposal is therefore intimately linked to the first.

### **3. Provisional visas**

A major design feature of future labor pathways is the extent to which they allow only a time-bound presence or allow permanence and a pathway to citizenship. Temporary pathways are often criticized as being designed to create a large and rotating workforce with limited rights and no prospect for future political participation or family formation. On the other hand, the real outcome of the last 56 years of modern immigration policy reform has been that permanent, labor-based pathways for the NCA are almost nonexistent (Table 1). The *de facto* alternative to temporary labor-based pathways has been two generations of mobility in a vast regional black market for labor (Gutierrez et al. 2016).

The idea of strictly temporary or even seasonal pathways for vocationally-skilled workers (which approximates the current state of labor pathways for the NCA), as well as the idea of hypothetical large-scale pathways conveying immediate permanent residence, represent two extremes. Policymakers can craft a compromise, between these two extremes, for NCA workers.

*Provisional* visas allow work for a certain period, fixed in advance. If certain conditions are met—usually continuous employment and no criminal record—the worker becomes eligible for permanent residence (Orrenius and Zavodny 2010; Orrenius et al. 2013). The length of this period has been variously proposed as 5 years (Peri 2012), 15 years (Bush and Bolick 2013), or somewhere in between. Other potential provisions for permanence might include skill formation: basic language skills, or for those without high-school completion initially, the completion of a GED or secondary vocational certificate.

There are few legitimate arguments to deny any pathway to permanence whatsoever to workers who have proven their positive contribution to the destination-country economy and society over a period of several years. Concerns about potential short-run fiscal effects of permanence, especially at the level of local governments, could be addressed by proper design of such a program (Peri 2012). Accessibility of this pathway to permanence need not be nationality-blind. It could be limited to countries of national security interest to the United States whose nationals are already crucial to entire sectors of the US economy, such as the NCA countries. The United States has had a special pathway to permanent residence for nationals of Cuba since the Cuban Adjustment Act of 1966, which remains in force.

#### 4. Institutions of US governance

Another consequence of immigration policy that is formally nationality-blind, in the US and Canada, is the lack of institutional capability to wield migration policy as a tool of regional policy. In other words, not only do the countries lack work-based visas specific to the region, there is essentially no one in government whose *job it is* to direct available visas to any country when that is in the national interest.

Both the United States and Canada urgently need independent, apolitical, credible agencies to recommend regulations for immigration in line with national interests (Meissner et al. 2006; Gutierrez et al. 2016). Immigration debates are so politically polarized that policy responses to regional differences or changing conditions are not guided by evidence, are not transparent, or simply do not occur. A prime example is the current regulation of the US's only employment-based visa for non-farm, vocationally-skilled work that is accessible by a substantial share of the NCA: the H-2B visa. The annual statutory quota of 66,000 was set 31 years ago, when economic conditions in the US and the NCA were radically different, and has never changed. But the actual number of visas issued can extend up to 64,716 additional visas—a maximum set opaquely in each recent year by Congress buried within budget bills—and within that maximum, each year's quota is set at the discretion of the Department of Homeland Security using criteria that are not public.<sup>9</sup> The rigidity and opacity of this process are products of its extreme politicization.

A better way would be for an independent and nonpartisan agency, sharing some aspects of the United Kingdom's Migration Advisory Committee, to recommend to the US Congress and Administration the best migration policies to suit current conditions in the US economy, at the US border, and in migrant countries of origin. A similar problem in trade policy—the extreme politicization and rigidity of debates on tariff-setting—was well addressed a century ago by the creation of the International Trade Commission. An analogous International Migration Commission could be crucial for design decisions of NCA migration policy, such as the right mix of permanent, temporary, and provisional visas; the sectors of priority for Global Skill Partnerships; and how visa caps could respond to changing conditions in a way that protects and enhances the sovereignty of the US federal government to control who crosses the border. The alternative forum for such decisions—once-a-generation legal reforms, or opaque bureaucratic decisions that flip along with control of the White House—is worse for everyone involved.

#### 5. Responsiveness to climate change

Climate change is very likely to cause additional pressure for emigration from the NCA in particular (e.g. Feng et al. 2010; Ibáñez et al. 2021; Bermeo and Leblang 2021). This will occur both through slow-onset temperature change (e.g. Cattaneo and Peri 2016) and sudden-onset disasters (e.g. Mahajan and Yang 2020).

Unfortunately, the world lacks any effective unilateral or multilateral system to regulate the mobility of people displaced by climate change. The 70 year-old humanitarian system of regulating forced

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<sup>9</sup> *Federal Register* [82 FR 32988](#).

migration rests fundamentally on a system of proof at the *individual level*. Under that system, people can sometimes claim an exception to destination countries' work-based or family-based migration barriers if they can prove to officials that they as individuals face a credible threat of violent persecution. No such individual standard can ever be met by people displaced by climate change. A farmer could never conclusively prove to any official that the crop pests or hurricanes that forced him or her to move were caused by climate events.

Roughly speaking, the world has three broad categories of lawful migration: family-based, work-based, and humanitarian. Unless and until a category that can *legally define* a climate migrant is created—either by the addition of a fourth category or by a (difficult) extension of the humanitarian category—migration caused by climate change will be experienced by many migrants and officials as “economic” migration. Most climate migrants will be people seeking economic security elsewhere because they can no longer meet that need at home. The underlying reason for that increased economic security is unlikely to be provable at the individual level as a criterion for visa issuance.

For this reason, if migration policy is to assist the NCA in adapting to the effects of climate change, it may well have to occur within a labor-migration pathway. Pathways of this type exist: New Zealand's Pacific Access Category visa is a regionally-specific visa that is facially a way to regulate “economic” migration, since it is not based on family ties and does not mention climate change. It was deliberately established, however, as a mechanism to partially address migration pressure in the region expected to result from climate change (ESCAP 2014). Most climate migration, both in Mesoamerica and worldwide, will be regionally specific. This is another reason why labor pathways to the United States, Canada, and Mexico must extend special status to NCA countries. Criteria related to climate could be explicitly included in the regulatory apparatus proposed above. Bilateral agreements and the International Migration Commission could propose and enact transparent criteria by which labor pathways should respond to slow-onset and sudden-onset events likely to be influenced by climate change.

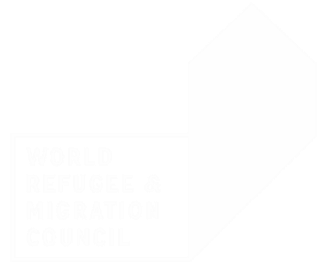
## Conclusion

It will take more than asylum to build a system for NCA survival migrants to access the protection they need. Lawful pathways for labor mobility must be a core tool for countries in the region to manage the pressure for mass migration. Just as Colombia and other Latin American countries have determined that asylum systems could not be the only or even the principal tool to manage the Venezuelan exodus (Ochoa 2020), so must the United States, Canada, and Mexico construct better pathways for labor mobility from Guatemala, Honduras, and El Salvador. These pathways do not replace asylum; they complement it, reflecting the reality that current migration pressure is too complex to be adequately managed with a single policy tool. Indeed, the near-total lack of access to lawful labor mobility pathways itself is a core cause of current high pressure for irregular migration. The place to start building a regional labor mobility policy is bilateral or multilateral labor mobility agreements between NCA countries and their neighbors further north.

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