



Temporary Worker Programs in Canada, Mexico, and Costa Rica

Promising Pathways for Managing Central American Migration?

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Executive Summary

In light of the marked growth of irregular migration from Central America since 2014, the Western Hemisphere faces a shared, long-term challenge to promote orderly and well-managed migration. Effectively addressing this challenge will require a multipronged approach. Strengthening humanitarian protection systems across the region would help those fleeing persecution and persistent violence, while expanding and improving employment-based migration programs would offer those seeking to improve their families' livelihoods legal options to do so while also meeting critical labor needs in destination countries. No amount of enforcement at the U.S.-Mexico border or across the region is likely to halt unauthorized migration from Central America without legal pathways that provide alternatives to irregular movement. Temporary or seasonal work programs that create new patterns of circular migration would allow migrants to remain rooted in their communities of origin and with their families for much of the year.

Although most of the focus on creating employment-based pathways has centered on the H-2 seasonal work programs in the United States, there are promising opportunities to simultaneously expand legal labor migration in other countries in the region as well. Canada, Costa Rica, and Mexico also have temporary work programs that, with the right adjustments, could help meet these regional goals and attract much-needed workers in key industries.

Canada's Temporary Foreign Worker Program, which recruits significant numbers of Guatemalans through a specialized recruitment program for these nationals, could expand this hiring model to attract larger numbers of Central Americans from other countries. Another possibility is to expand Mexico's Border Worker Visa (Tarjeta de Visitante Trabajador Fronterizo), which allows Guatemalan and Belizean migrants to work in states along the Mexico-Guatemala border. Finally, Costa Rica's recent efforts to incorporate Nicaraguans into its labor market during the COVID-19 pandemic could be built upon to provide opportunities for other Central American migrants to work legally, rather than informally, in the country.

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These employment programs offer considerable promise as legal alternatives to irregular migration for Central Americans, but policymakers, employers, and other stakeholders in Canada, Mexico, and Costa Rica would need to address a range of issues and concerns if this promise is to be realized. Each destination country would need to expand its programs across El Salvador, Guatemala, and Honduras, the three Central American countries with the highest rates of emigration. There is also a need to attend to concerns about exploitative recruitment practices, inadequate safeguards of workers' rights in destination countries, and gender imbalances within existing programs. Nevertheless, these employment-based programs, in tandem with U.S. efforts, can serve as the foundation for a regional web of legal migration pathways that leverages the strengths of the labor market in each country to better manage migration through the region while meeting key labor needs.

BOX 1**A New Approach to Regional Migration**

This publication is part of a series that focuses on the region from Canada to Panama, looking at the changing landscape of migration trends and policies. The series aims to develop actionable ideas, suggest implementation strategies, convene stakeholders inside and outside of government, and foster dialogue across issues, sectors, and countries on shared regional priorities. This work presents a new approach to managing regional migration that is centered around four specific pillars: effective humanitarian protection systems, targeted legal pathways, professionalized migration management, and informed investments in development and governance in countries of origin, transit, and reception. Such strategies should build on existing capacities of governmental and nongovernmental actors, as well as harmonized efforts across stakeholders.

To learn more about this series, see: bit.ly/MPI-RegionalMig.

For a related publication on U.S. employment-based immigration pathways for Central Americans, see: Cristobal Ramón, *Investing in Alternatives to Irregular Migration from Central America: Options to Expand U.S. Employment Pathways* (Washington, DC: Migration Policy Institute, 2021).

1 Introduction

The arrival of significant numbers of Central American irregular migrants at the U.S.-Mexico border, with more than 750,000 encounters in U.S. fiscal year 2021,¹ and the complex motivations that drove them to leave their home countries or places of residence once more demonstrated the need for comprehensive strategies to manage migration through the region. The lion's share of these migrants come from El Salvador, Guatemala, and Honduras, and some are eligible for humanitarian protection and may be able to access it via national asylum systems. Others are not but may still face immense pressures to migrate, including those related to poverty, food insecurity, and limited livelihood opportunities. Opportunities for Central Americans to move legally are currently scarce, but expanding them could promote safer, regular movement in the region and potentially reduce border pressures. The United States is the intended destination for many Central American migrants, and prior Migration Policy Institute research has outlined ways to better leverage U.S. temporary work programs, such as the H-2 visas, to assist with managing migration from Central America,² but similar opportunities also exist in other North and Central American countries. Canada, Mexico, and Costa Rica could also use their employment-based visa programs to create alternatives to unauthorized

Canada, Mexico, and Costa Rica could also use their employment-based visa programs to create alternatives to unauthorized migration and at the same time address pressing needs for foreign workers in industries where the domestic workforce is not meeting labor demands.

1 Migration Policy Institute (MPI) analysis of migrant encounters at the U.S.-Mexico border. See U.S. Customs and Border Protection, "National Encounters," updated May 13, 2022.

2 Cristobal Ramón, *Investing in Alternatives to Irregular Migration from Central America: Options to Expand U.S. Employment Pathways* (Washington, DC: MPI, 2021).

migration and at the same time address pressing needs for foreign workers in industries where the domestic workforce is not meeting labor demands.

Broadly, temporary worker programs appeal to both destination-country stakeholders and participating workers for a number of reasons. For migrants, these channels offer a legal way to work abroad for a set period of time, earning money they can bring back to their communities of origin and use to help their families advance. The circularity built into these employment-based programs is often attractive both to destination countries seeking a reliable but nonpermanent pool of labor in key industries, and to migrant workers who wish to remain rooted in their origin communities.³ If the host country sees value in retaining these workers permanently, it can also create pathways that allow these individuals to seek permanent residency.

To make good on the potential of temporary work opportunities in Canada, Mexico, and Costa Rica, many of these programs require reforms. Among other things, there is a need to ensure these programs offer employers a reliable, streamlined means of recruiting workers; to make them more accessible to Central Americans seeking work; and to safeguard workers' rights in the recruitment process and while abroad. These changes will require concerted and coordinated effort by destination- and origin-country governments, and the involvement of employers, recruiters, international organizations, and other key stakeholders. However, the payoffs in terms of meeting labor demands and creating alternatives to irregular migration would be considerable and mark a critical step in developing a more sustainable approach to managing migration in the hemisphere.

This report examines the framework and implementation of existing labor migration pathways in Canada, Mexico, and Costa Rica, informed in part by interviews with government officials, representatives of an employer organization and job placement agency, and other migration and industry experts in 2021 and 2022. The study identifies challenges that employers and migrant workers face in each country and outlines possibilities to expand existing labor pathways that could serve as alternatives to irregular movement for migrants from El Salvador, Guatemala, and Honduras. Among other promising pathways in the region, the report examines the Temporary Foreign Worker Program in Canada, Border Worker Visa (Tarjeta de Visitante Trabajador Fronterizo) in Mexico, and Costa Rica's Binational Agreement with Nicaragua. The report concludes with a discussion of important reforms that could improve these pathways, and how such efforts fit within a broader regional strategy to promote safe, regular, and orderly migration.

2 Canada

Among the three countries analyzed in this study, Canada has the most developed temporary worker pathways, housed under the Temporary Foreign Worker Program (TFWP). Broadly, the TFWP has multiple channels, known as "streams," that allow a diverse range of workers with different skill levels to fill temporary labor shortages in specific Canadian industries.⁴ The Seasonal Agricultural Worker Program (SAWP), which

3 Kathleen Newland, "Circular Migration and Human Development" (Human Development Research Paper 2009/42, United Nations Development Program, New York, October 2009).

4 Government of Canada, "Temporary Workers," updated July 26, 2021.

is based on agreements with Mexico⁵ and Caribbean countries,⁶ is the largest and oldest⁷ temporary agricultural program within the TFWP's streams. These agreements help meet demand for workers in agricultural sectors on the national commodities list, which determines the pay and eligibility of foreign nationals to work in agriculture.⁸ Among the TFWP's four streams that allow Canadian employers to secure foreign workers,⁹ the agricultural program most closely aligns with the common skill profile of Central Americans seeking work abroad. Specifically, the agricultural program has two subprograms—one for agriculture (covering industries on the national commodities list) and the other for low-wage positions in agricultural fields. In both subprograms, employers can contract workers from any country in the world to meet labor shortages.¹⁰

In recent years, Mexico and some Central American countries have emerged as major sources of temporary agricultural workers. Mexican nationals are the largest group of temporary foreign workers in Canada's agricultural sector, representing between 45 percent and 50 percent of these workers between 2016 and 2020 (see Figure 1).¹¹ Guatemalans have emerged as the second-largest group, with between 14 percent and 18 percent of these workers during the same period. Although Hondurans and Nicaraguans also work in this sector, they represent less than 2 percent of contracted foreign workers.

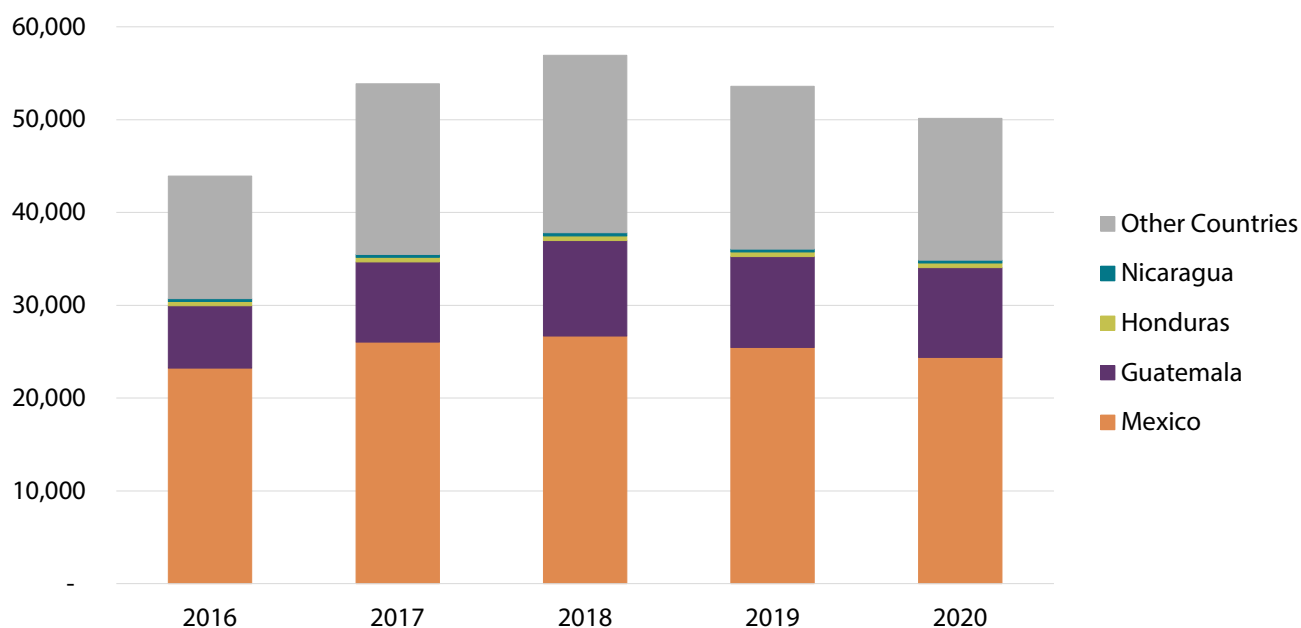
The Canadian government and its Central American counterparts have sought to establish more stable and robust processes to facilitate the recruitment of more Central American workers. The Canada/Guatemala Temporary Guest Worker Program (TGWP),¹² which is part of the TFWP, is an agreement that allows Canadian provincial governments to work with recruitment intermediaries such as the Guatemalan organization Amigo Laboral and the Foundation for Foreign Agricultural Worker Recruitment (Fondation des Entreprises en Recrutement de Main-d'œuvre Agricole Étrangère, or FERME) to contract workers from Guatemala.¹³ Employers submit a notice outlining their need for workers and recruitment plan to this program and must undergo a Labour Market Impact Assessment (LMIA), which determines whether Canadians are available for the position, the employer has made a sufficient attempt to recruit a Canadian worker, the employer is

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- 5 More recently, the Canadian and Mexican governments created the Labour Mobility Mechanism (LMM), a small program through which Canadian employers can work directly with the Mexican government to contract and recruit Mexican nationals. See Five Corridors Project, *Mexico to Canada: Fair Recruitment in Review* (London: FairSquare Projects, 2021).
 - 6 The current list includes Anguilla, Antigua and Barbuda, Barbados, Dominica, Grenada, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. See Government of Canada, "Hire a Temporary Worker through the Seasonal Agricultural Worker Program: Overview," updated February 8, 2022.
 - 7 The Canadian government signed the agreement with Mexico in 1974. See Organization for Economic Cooperation and Development (OECD), *Recruiting Immigrant Workers: Canada 2019* (Paris: OECD Publishing, 2019); Robert Falconer, "Grown Locally, Harvested Globally: The Role of Temporary Foreign Workers in Canadian Agriculture" (School of Public Policy Communiqué 13:17, University of Calgary, Simpson Centre for Agricultural and Food Innovation and Public Education, Calgary, July 2020).
 - 8 Government of Canada, "Hire a Temporary Worker"; Government of Canada, "Wages by Agricultural Commodity," updated February 19, 2022.
 - 9 These programs are Primary Agriculture, High-Wage, Low-Wage, and Global Talent. For an overview of these programs, see Employment and Social Development Canada, "Temporary Foreign Worker Program – Overview" (presentation, May 3, 2018).
 - 10 Government of Canada, "Hire a Temporary Foreign Worker through the Agricultural Stream: Overview," updated December 7, 2020; Government of Canada, "Hire a Temporary Foreign Agricultural Worker," updated January 12, 2022.
 - 11 The LMM program brings in smaller numbers of Mexican workers, however. Canadian employers only contracted 700 workers through the channel in 2019. See Five Corridors Project, *Mexico to Canada*.
 - 12 Center for Global Development, "Canada/Guatemala Temporary Guest Worker Program (TGWP)," accessed March 1, 2022.
 - 13 Christina Gabriel and Laura Macdonald, "After the International Organization for Migration: Recruitment of Guatemalan Temporary Agricultural Workers to Canada," *Journal of Ethnic and Migration Studies* 44, no. 10 (2018); Center for Global Development, "Canada/Guatemala TGWP."

offering a sufficient wage or salary and adequate labor conditions, and whether the employer is engaged in a labor dispute.¹⁴ If the government approves the employer's LMIA, the intermediaries seek out workers in Guatemala and prepare them for departure and arrival in Canada.¹⁵

FIGURE 1

Number of Workers in Canadian Temporary Agricultural Worker Programs, by Country of Nationality, 2016–20



Note: The "other countries" category in this figure includes 12 other countries from a range of global regions and a category from the Statistics Canada data set called "other countries."

Source: Statistics Canada, "Countries of Citizenship for Temporary Foreign Workers in the Agricultural Sector," accessed October 17, 2021.

The Guatemalan and Honduran governments also have programs that refer vetted individuals to Canadian employers seeking workers.¹⁶ The Guatemalan program works with private firms to send workers to agricultural employers in Quebec, and the Honduran program has partnered with FERME and the Foreign Agricultural Resources Management Service (FARMS) to place workers in positions across Canada.¹⁷ Between 2019 and November 2021, the Guatemalan government sent 306 workers to Canada through this program.¹⁸ The Honduran program, which began sending workers to Canada in 2017 after it signed an agreement with

14 Government of Canada, "Find Out If You Need a Labour Market Impact Assessment (LMIA), and How to Hire a Temporary Foreign Worker," updated July 23, 2021; Canadian Immigration, "Labour Market Impact Assessment (LMIA)," accessed April 26, 2022.

15 Center for Global Development, "Canada/Guatemala TGWP."

16 A description of this process appears in Ramón, *Investing in Alternatives to Irregular Migration from Central America*.

17 Author interview with agricultural employer association representative, October 12, 2021; author interview with Canadian academic with expertise in migration, October 15, 2021.

18 The program has also sent 724 workers to the United States during this period. Author email exchange with Guatemalan Ministry of Labor and Social Welfare official, November 17, 2021.

FERME, placed 150 workers through that organization between 2017 and 2018¹⁹ and another 436 workers through FARMS between 2017 and 2021.²⁰

A. *Challenges and Considerations for the SAWP and TGWP*

As the most mature set of programs in this study, Canada's temporary employment programs are well established and have mechanisms for regularly assessing program operations and addressing issues as they arise. In interviews, a representative of an employer organization and migration experts described the SAWP and TGWP as largely stable, robust, and well-managed legal pathways for workers in Mexico and Guatemala to meet Canadian employers' demand for temporary labor.²¹ The SAWP agreement with Mexico²² requires the Canadian government to host regional and national meetings each year in October and November as a part of its Annual SAWP Review Process.²³ These meetings allow government officials, employer groups, and consular staff from both countries to exchange information about the program and address any problems before foreign workers arrive in Canada at the start of the next season. One interviewed employer stakeholder said this review process strengthened the program's management and ability to meet its goals.²⁴ Finally, the Canadian government funds the Migrant Workers Hub, a British Columbia-based nongovernmental migrant rights organization that hosts regional meetings with a range of migrant worker stakeholders, Canadian government officials, and consular officers from key migrant-sending countries to address issues that affect migrant workers in the TFWP. The Canadian government is also taking steps to expand this program to other provinces.²⁵

Canada's temporary employment programs are well established and have mechanisms for regularly assessing program operations and addressing issues as they arise.

Even with these established structures and ongoing improvement efforts, however, employers and migrants face issues that can undermine the program's efficacy.²⁶ Although employers generally recognize the need for the LMIA process to protect Canadian and foreign workers, some interviewees expressed frustration that Canada's federalist model—where the federal government manages the TFWP and the provinces address labor compliance issues—complicates compliance with labor laws and results in duplicative compliance

19 The Foundation for Foreign Agricultural Worker Recruitment terminated the contract without any explanation in 2018. Author interview with Honduran Secretariat of Labor and Social Welfare official, May 18, 2021; author email exchange with Honduran Secretariat of Labor and Social Welfare official, October 19, 2021.

20 The Honduran program has sent 726 nationals to work in the United States since its inception in 2020. Author interview with Honduran Secretariat of Labor and Social Welfare official, May 18, 2021; author email exchange with Honduran Secretariat of Labor and Social Welfare official, October 19, 2021.

21 Author interview with Canadian agricultural employer representative, October 12, 2021; author interview with Canadian academic with expertise in migration, October 15, 2021; author interview with Canadian migration policy expert, October 22, 2021.

22 The Guatemalan program lacks these formal structures, and some interviewees said that the Canadian government is not interested in investing time and resources to change its informal nature. Author interview with Canadian agricultural employer representative, October 12, 2021.

23 Western Agricultural Labour Initiative, "Annual SAWP Review Process" (memo, September 28, 2018).

24 Author interview with Canadian agricultural employer representative, October 12, 2021.

25 Author interview with Canadian migrant rights expert, November 22, 2021; Migrant Worker Hub, "About the Migrant Worker Hub," accessed March 1, 2022; Migrant Worker Hub, "2020 – 2021 Regional Meetings," updated March 31, 2021.

26 A number of these issues also affect the H-2 program in the United States. For an overview, see Ramón, *Investing in Alternatives to Irregular Migration from Central America*.

inspection processes.²⁷ During the LMIA process, employers are required to seek Canadian workers before hiring migrants, but this can delay sending workers to farms. If employers want to hire migrant workers through the SAWP or any of the agricultural streams, they must advertise the vacancy for at least 14 days during the three-month period leading up to the submission of the LMIA and engage in recruitment activities for 14 days.²⁸ Employers that want to bring back foreign employees for subsequent seasons must go through the LMIA process every year (and shoulder the associated costs and processing times), hindering worker retention and professional growth for repeat employees.²⁹

The SAWP and TGWP also face persistent issues around the protection of workers. Chief among these are concerns that these programs' employer-sponsorship model creates a power imbalance between employers and migrant workers that can lead to or obscure abuse. Critics argue that this model disincentivizes participants from reporting violations—many revolving around the working

conditions these workers face in Canada³⁰—because doing so could lead to termination or jeopardize their opportunity to return to the country to work for the same employer in the future. The seasonal nature of this work reinforces these issues because the resources and time to pursue complaints may extend beyond the duration of a worker's visa. Although workers have the ability to switch employers, this process involves securing permission from their current employer, making it harder for them to leave abusive situations.³¹ These issues have prompted a discussion about expanding mobility within these programs, with some TFWP critics calling for this model to be eliminated,³² and others calling for temporary visas to be linked to specific occupations and provinces rather than specific employers, which would allow workers greater flexibility.³³

Critics argue that this model disincentivizes participants from reporting violations—many revolving around the working conditions these workers face in Canada.

27 Author interview with Canadian agricultural employer representative, October 12, 2021; author interview with Canadian academic with expertise in migration, October 15, 2021.

28 Government of Canada, "Find Out If You Need a LMIA"; Government of Canada, "Hire a Temporary Foreign Worker through the Agricultural Stream - Recruitment and Advertisement," updated January 1, 2022.

29 Author interview with Canadian agricultural employer representative, October 12, 2021; author interview with Canadian migration policy expert, October 22, 2021.

30 Five Corridors Project, *Mexico to Canada*.

31 Author interview with Canadian migrant rights expert, November 17, 2021; author interview with Canadian migration policy expert, October 22, 2021; author interview with Canadian academic with expertise in migration, October 15, 2021; Tanya Basok, "Canada's Temporary Migration Program: A Model Despite Flaws," *Migration Information Source*, November 12, 2007; Ian Van Haren and Claudia Masferrer, "Mexican Migration to Canada: Temporary Worker Programs, Visa Imposition, and NAFTA Shape Flows," *Migration Information Source*, March 20, 2019; OECD, *Recruiting Immigrant Workers: Canada 2019*; Five Corridors Project, *Mexico to Canada*.

32 Five Corridors Project, *Mexico to Canada*; Arthur Leigh Binford, "Assessing Temporary Foreign Worker Programs through the Prism of Canada's Seasonal Agricultural Worker Program: Can They Be Reformed or Should They Be Eliminated," *Dialectical Anthropology* 43 (2019): 347–66.

33 OECD, *Recruiting Immigrant Workers: Canada 2019*.

BOX 2**Efforts to Create Temporary-to-Permanent Pathways for Agricultural Workers**

The Canadian government has taken steps in recent years to create agricultural programs that offer qualifying migrant workers a direct path to permanent residence. In July 2019, the Canadian government announced a three-year economic immigration pilot, the Agri-Food Immigration Pilot, to fill job shortages in meat processing and mushroom production and to retain many of these workers through permanent residence. These developments are part of a broader push by Prime Minister Justin Trudeau's government to create and expand temporary-to-permanent programs for workers in a variety of sectors, including domestic workers, caregivers, and essential workers. Some provinces have taken similar steps: both Manitoba's Provincial Nominee Program and Quebec's immigration system allow certain classes of individuals to transition to permanent status.

In interviews, Canadian migration experts and agricultural employer representatives noted strengths and weaknesses that have emerged since the Agri-Food program's inception. They described the program as innovative, in that it offers a segment of migrant workers who have traditionally worked purely on a seasonal basis a pathway to seek permanent residence, which brings with it the same worker protections as other Canadians enjoy. The program also allows employers to retain valued employees without needing to submit Labour Market Impact Assessment (LMIA) applications each year. And from a migrant-rights perspective, having access to permanent status can mitigate some of the issues associated with employer-sponsorship models, including concerns about abusive employers, by allowing migrants to leave abusive situations and seek better employers. Indeed, the Minister of Immigration, Refugees, and Citizenship Canada, speaking in October 2021, stated that this type of pathway "strengthens the relationship between the employer and the employee by creating more of a balance." However, interviewees pointed out that the program's requirement that workers be able to speak English likely puts it out of reach for many otherwise qualified agricultural employees. Finally, by setting numerical limits on how many eligible workers can make this transition every year, the program will—at least for now—only be an option for some.

Note: Agricultural workers can apply for permanent residence through other avenues, such as the country's points-based system, though relatively small numbers do. For example, just seven foreign agricultural workers who obtained their first permit in 2013 transitioned to permanent resident status in the five years from 2014 to 2018. See Yan Zhang, Yuri Ostrovsky, and Amélie Arsenault, *Foreign Workers in the Canadian Agriculture Industry* (Ottawa: Statistics Canada, 2021).

Sources: Organization for Economic Cooperation and Development (OECD), *Recruiting Immigrant Workers: Canada 2019* (Paris: OECD Publishing, 2019); Government of Canada, "Agri-Food Pilot: About the Pilot," updated June 6, 2021; author interview with Canadian academic with expertise in migration, October 15, 2021; author interview with Canadian migration policy expert, October 22, 2021; author interview with Canadian migrant rights expert, November 17, 2021; Government of Canada, "Temporary Public Policies: Temporary Resident To Permanent Resident Pathway – About The Program," updated November 8, 2021; Immigration, Refugees, and Citizenship Canada (IRCC), "Caregivers Will Now Have Access to New Pathways to Permanent Residence" (news release, February 23, 2019); IRCC, "Minister Mendicino Launches Plan to Accelerate Caregiver Application Processing" (news release, April 15, 2021); IRCC, "Applications Open Tomorrow for New Pathway to Permanent Residency for over 90,000 Essential Temporary Workers and International Graduates of a Canadian Institution" (news release, May 5, 2021); Anna Mehler Paperny, "Canada May Look at Making More Temporary Migrants Permanent, Mendicino Says," Reuters, October 21, 2021.

Unscrupulous recruiters are another set of problematic actors who undermine migrant rights. In the SAWP's agricultural stream and stream for low-wage positions, employers cover the majority of fees for sponsoring and housing foreign workers, including the procurement of third parties to recruit workers. SAWP workers must pay the work permit fee for the program directly to the Canadian government.³⁴ However, critics of these programs note that recruiters often charge workers fees for visas and flights to Canada in their home countries, a practice that Canada prohibits for employers and recruiters alike.³⁵ Yet this issue is beyond the reach of Canada's labor enforcement regime and immigration system, which largely focus on addressing migrant worker issues within Canadian borders.³⁶ This problem is especially acute in the TGWP, where large numbers of private recruiters play a central role in contracting workers.³⁷

The fact that Canada's provinces develop and enforce their own labor protections for agricultural and/or temporary foreign workers³⁸ and oversight policies for recruiters also complicates worker protection.³⁹ In addition to providing migrants in the TFWP with inconsistent protection standards across the country, this structure makes it difficult to expel noncompliant employers from the program.⁴⁰ Temporary workers also lack many of the protections afforded to permanent residents and citizens, such as the right to association across all provinces, which further compounds these problems.⁴¹ Although the Canadian Food Inspection Agency visits farms to address food safety issues, the agency cannot report or rectify worker rights violations it observes, even though it is one of the few federal offices that focuses on worker safety across the country.⁴²

34 Government of Canada, "Hire a Temporary Foreign Worker through the Agricultural Stream: Program Requirements," updated September 27, 2021; Government of Canada, "Hire a Temporary Worker through the Seasonal Agricultural Worker Program: Program Requirements," updated December 31, 2021; Government of Canada, "Program Requirements for Low-Wage Positions," updated May 9, 2022.

35 Author interview with two Guatemalan Ministry of Labor and Social Welfare officials, May 18, 2021; author interview with Honduran Secretariat of Labor and Social Welfare official, May 18, 2021; Dalia Gesualdi-Fecteau et al., *Who, How and How Much? Recruitment of Guatemalan Migrant Workers to Quebec* (Newfoundland: On the Move Partnership, 2017); Five Corridors Project, *Mexico to Canada*; Teresa Wright, "Concerns Raised over High Fees Charged to Temporary Foreign Workers," *The Canadian Press*, May 28, 2018.

36 Author interview with Canadian academic with expertise in migration, October 15, 2021.

37 Author interview Canadian migrant rights expert, November 17, 2021; Gabriel and Macdonald, "After the International Organization for Migration"; Center for Global Development, "Canada/Guatemala TGWP."

38 For instance, agricultural workers do not have the right to join labor unions in the provinces of Alberta and Ontario, essentially closing off this route to labor protections for workers in programs such as the SAWP. See Gesualdi-Fecteau et al., *Who, How and How Much?*; Five Corridors Project, *Mexico to Canada*.

39 Certain provinces, such as British Columbia and Manitoba, have laws that require recruiters to register with provincial agencies that govern these entities or receive licenses before recruiting foreign workers. Author interview with Canadian migrant rights expert, November 17, 2021; OECD, *Recruiting Immigrant Workers: Canada 2019*; author interview with Canadian academic with expertise in migration, October 15, 2021.

40 One interviewee, an academic migration researcher, stated that the COVID-19 protections enacted for temporary workers highlighted these discrepancies. The Government of British Columbia provided temporary workers with hotels in which to quarantine upon their arrival in the country and paid for half of their accommodation and meal costs as well as their salaries. Author interview with Canadian academic with expertise in migration, October 15, 2021.

41 Author interview with Canadian migrant rights expert, November 17, 2021; author interview with Canadian migration policy expert, October 22, 2021; Five Corridors Project, *Mexico to Canada*.

42 Author interview with Canadian academic with expertise in migration, October 15, 2021.

BOX 3**Efforts to Promote Safe Recruitment and Expand Labor Enforcement**

The Canadian government and the governments of countries of origin have taken steps to protect migrant workers. In July 2021, the Canadian government issued new regulations for comment that would prohibit employers from punishing workers who file complaints against them; prohibit employers and their agents from charging workers recruitment fees; hold employers responsible if recruiters or any agent acting on their behalf charges recruitment fees; require employers to follow all provincial laws governing labor rights and worker recruitment; and allow Canadian authorities to delay the issuance of a LMIA to employers if they detect potential noncompliance with the program's requirements.

In May 2019, the Canadian government created an "open work permit for vulnerable workers," which allows migrant workers at risk of abuse to apply for authorization to work for another employer. Canadian authorities granted 800 such visas by mid-2020. And in an interview, a migrant rights expert described the Canadian government as having adjusted the guidelines for the visa after discovering that the process and requirements for information to support a complaint against an employer made it difficult for workers to file successful applications for this visa.

Origin countries have also sought to protect their nationals during the recruitment process in their territories and to assess the workers' conditions in Canada. Guatemala is crafting a law that would require foreign labor recruiters to register with the Ministry of Labor and Social Welfare, which will oversee their activities. The Honduran government has adopted similar legislation, requiring foreign recruiters who want to contract large numbers of Honduran workers to register with the Secretariat of Labor and Social Welfare, which oversees these agencies. Honduran consulates also visit Honduran farm workers abroad to assess their labor conditions. The Guatemalan Ministry of Labor and Social Welfare works with the country's Ministry of Foreign Relations to conduct similar visits. Mexico's government also regulates the activities of recruiters, as will be discussed below in Box 4.

Note: After Prime Minister Justin Trudeau called for snap elections in August 2021, his government froze the regulation review process until after the September 2021 election. Once it was clear Trudeau would keep his premiership, his government resumed the process of receiving and processing comments for the regulation. Author interview with migration researcher, November 17, 2021.

Sources: Department of Citizenship and Immigration, "[Regulations Amending the Immigration and Refugee Protection Regulations \(Temporary Foreign Workers\)](#)," *Canada Gazette* 155, no. 28 (July 10, 2021); Employment and Social Development Canada, "[Government of Canada Proposes New Regulations to Improve Protection of Temporary Foreign Workers](#)" (news release, July 26, 2021); IRCC, "[Open Work Permits for Vulnerable Workers \[R207.1–A72\]: International Mobility Program](#)," updated June 11, 2021; OECD, *Recruiting Immigrant Workers: Canada 2019*; Five Corridors Project, *Mexico to Canada: Fair Recruitment in Review* (London: FairSquare Projects, 2021); author interview with Canadian migrant rights expert, November 17, 2021; author email exchange with Guatemalan Ministry of Labor and Social Welfare official, November 17, 2021; author interview with Honduran Secretariat of Labor and Social Welfare official, May 18, 2021; author email exchange with Honduran Secretariat of Labor and Social Welfare official, October 19, 2021; Mónica Barrantes and Mayling Aguilar, *Recruitment Practices of Migrant Workers in Belize, El Salvador, Guatemala, Honduras and Mexico* (San José: International Organization for Migration Regional Office for Central America, North America, and the Caribbean, 2021).

B. *Promising Policy Options*

To strengthen these programs, the Canadian and Central American governments could adopt a series of policies that build on recent efforts to address employer and worker challenges (see Boxes 2 and 3). These include the following:

- ▶ **Use the SAWP's management protocols as a model to strengthen the structure of the TGWP and future temporary work programs focused on recruiting Central Americans.** These present and future channels should adopt the SAWP's model of hosting yearly stakeholder meetings to allow Canadian officials, worker and employer group representatives, and consular officials to address employment and labor issues before workers arrive in Canada at the start of the season. In addition to improving a program's management, these meetings can help address potential issues with recruiters operating in origin countries and refine predeparture orientation practices for program participants.⁴³
- ▶ **Create multiyear TFWP visas that allow Canadian employers to retain the same worker without having to submit a LMIA every year.** Although the Canadian government has introduced temporary-to-permanent pilot programs, in part to address these LMIA issues (see Box 2), creating this type of visa could help mitigate the costs of filing LMIA's for the same temporary worker over multiple seasons. The Canadian government could offer this visa to employers who comply with the program's requirements and do not receive major complaints from their workers.⁴⁴ Relatedly, Canadian policymakers should consider whether to ask employers to file a narrower set of documents to maintain this visa after each season, including proof of compliance with the program's provisions and ongoing need for foreign workers.
- ▶ **Invest in creating a trusted employer and recruiter program.** The Canadian government allows migrants to seek agricultural jobs on the Canadian Job Bank website,⁴⁵ a portal where workers can look for a range of positions from Canadian employers who complete a registration process to post these positions. In addition to gradually incorporating use of the Canadian Job Bank website into the TFWP, the Canadian government could consider setting additional requirements for employers who register to contract temporary workers, creating a listing of vetted employers. These requirements could include disclosing information on any entities used for recruitment in workers' countries of origin, and the Canadian government could then verify their information with each country's embassy or consulate.

The Canadian government should also consider creating a recruiter registration program for entities that want to contract workers in Central America for the TFWP. Currently, provinces such as British

43 Along with refining predeparture meetings, organizations have called for improving these programs, including bringing in former workers to lead workshops that target groups with different levels of experience to help workers maximize their time spent in Canada. See Maxwell Brem, "Migrant Workers in Canada: A Review of the Canadian Seasonal Agricultural Workers Program" (policy brief, North-South Institute, Ottawa, October 2006).

44 Sweden utilizes a similar mechanism that provides certain employers who comply with existing immigration procedures with expedited processing. For more information, see Hanne Beirens et al., *Legal Migration for Work and Training: Mobility Options to Europe for Those Not in Need of Protection* (Berlin and Brussels: The Expert Council's Research Unit [SVR Research Unit] and MPI Europe, 2019).

45 Employment and Social Development Canada, "Government of Canada Proposes New Regulations to Improve Protection of Temporary Foreign Workers" (news release, July 26, 2021); and Government of Canada, "Temporary Foreign Workers: Find a New Job in Canada," Job Bank, accessed July 27, 2021.

Columbia and Manitoba have laws that require recruiters to register with the provincial agencies that govern these entities or receive licenses before recruiting migrant workers. The federal government could create its own version and explore how it can work with regional governments to assess the recruitment activities of these entities. However, if a federal program is created, its architects should aim to allow recruiters and employers to submit a core set of documents to both the federal and provincial programs to reduce redundancies in the registration process.

- **Harmonize the labor enforcement regime in Canada.** Although the structure of labor rights enforcement in Canada presents a challenge to providing migrant workers with consistent levels of protection across the country, federal and provincial authorities should explore how they can establish more consistent labor protections around the right of recruitment. Provinces could also adopt their own laws overseeing recruiters if the federal government does not do so. The monitoring of occupational health standards on farms, as an area of labor law enforcement that falls under federal jurisdiction, could be one avenue where the federal government can expand the scope of its compliance work.

Many of these recommendations apply whether the Canadian government pursues the path of reforming its existing temporary worker programs or creating new ones that allow workers greater flexibility to move between employers. A trusted employer program as the foundation for a job-listing platform and closer cooperation with the governments of countries of origin would provide Central American workers with better information about their migration options, serving both their needs and those of Canadian employers.

3 Mexico

Mexico has an important opportunity to proactively consider how to leverage labor migration for its future economic development. Its population is beginning to show signs of aging (even if it is still younger than its Canadian and U.S. counterparts).⁴⁶ At the same time, while Mexico has long been a country of emigration and transit, it is increasingly becoming a country of destination for migrants and asylum seekers.⁴⁷ The country's economic development over the past decades has also resulted in the Mexican population becoming more urban and obtaining higher levels of education, reducing incentives for low-wage agricultural work.⁴⁸ Fulfilling emerging labor gaps in agricultural occupations is likely to be a priority, but these demographic shifts may also influence the demand for workers in other occupations and industries over the coming decade.

46 Andrew Selee et al., *Laying the Foundation for Regional Cooperation: Migration Policy & Institutional Capacity in Mexico and Central America* (Washington, DC: MPI, 2021).

47 Agustín Escobar Latapí, Víctor M. García-Guerrero, and Claudia Masferrer, "Demographic Dynamics in North America" (working paper, Wilson Center, Washington, DC, December 2021).

48 Steven Zahniser, J. Edward Taylor, Thomas Hertz, and Diane Charlton, "Farm Labor Markets in the United States and Mexico Pose Challenges for U.S. Agriculture" (Economic Information Bulletin 201, U.S. Department of Agriculture, Economic Research Service, Washington, DC, November 2018).

Reimagining labor migration pathways is not the sole solution to the challenges that may accompany these demographic and migration changes, but expanding access for Central Americans who are in transit or seek to stay in Mexico can help regularize and bring order to migration and complement other efforts to satisfy workforce demands. Mexico's existing migration framework offers some flexibility

on labor mobility, but its implementation and reach have to date been limited to small groups of migrants, including workers in border states, temporary residents with an option to transition into permanent residency, and recipients of humanitarian visas. In the short term, the Mexican government could implement small reforms and regulations that lay the foundation for broader changes in the future.

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This is a particularly opportune moment to consider expansions to employment-based legal pathways, given burgeoning synergies in the region. Based on recent regional dialogues, such as the North American Leaders' Summit in November 2021, the Mexican government has shown its willingness to advance labor pathways for Central American migrants. Together with leaders from Canada and the United States, President Andrés Manuel López Obrador has committed to promoting "temporary seasonal worker visas, increasing industry education about the programs and their regulations, and expanding centralized migration resource centers in Central America."⁴⁹ Analyzing Mexico's existing labor migration mechanisms and their challenges can inform ongoing regional dialogue and build momentum for opportunities across countries, including in Canada and Costa Rica.

A. *Current Labor Migration Pathways for Central Americans*

Through its various iterations and reforms over the last two decades, the Border Worker Visa (Tarjeta de Visitante Trabajador Fronterizo, or TVTF) has been at the center of Mexico's labor migration pathways. The TVTF originated from the Migratory Form for Agricultural Visitors (Forma Migratoria de Visitante Agrícola, or FMVA), which was created by Mexico's National Migration Institute (Instituto Nacional de Migración, or INM) in 1997 to allow Guatemalan migrants to work in Chiapas' agricultural industry.⁵⁰ In 2008, Mexican authorities replaced the FMVA with the Border Worker Migratory Form (Forma Migratoria de Trabajador Fronterizo, or FMTF), expanded its eligibility requirements to include Belizean migrants, eliminated industry restrictions, and provided lawful status to spouses and children who accompanied FMTF workers (but without employment authorization).⁵¹ The TVTF replaced the FMTF in 2011, when Mexico reformed its migration law.

49 White House, "Fact Sheet: Key Deliverables for the 2021 North American Leaders' Summit" (news release, November 18, 2021). After a December 2021 accident in southern Mexico that killed more than 50 migrants, López Obrador reaffirmed his commitment to orderly and regular migration and pushed for the creation of a temporary work visa program. See *La Jornada*, "Gobierno prepara decreto a favor de migrantes haitianos," *La Jornada*, November 23, 2021.

50 International Organization for Migration (IOM), International Labor Organization (ILO), El Colegio de la Frontera Norte (El Colef), and Mexican Unit of Migratory Policy, Registry and Identity of People (Unidad de Política Migratoria, Registro e Identidad de Personas, or UPMRIP), *Personas trabajadores temporales guatemaltecos en Chiapas, México. Un diagnóstico a partir de la documentación para desempeñar actividades remuneradas* (Geneva, Tijuana, and Mexico City: IOM, ILO, El Colef, and UPMRIP, 2020).

51 Mexican Interior Ministry (Secretaría de Gobernación, or SEGOB) and National Migration Institute (Instituto Nacional de Migración, or INM), "Acuerdo que tiene por objeto establecer facilidades en la internación de nacionales guatemaltecos y beliceños que pretendan desempeñarse como trabajadores fronterizos temporales en las entidades federativas de Chiapas, Quintana Roo, Tabasco y Campeche de los Estados Unidos Mexicanos," *Diario Oficial de la Federación*, March 12, 2008.

In its current iteration, the TVTF allows Guatemalan and Belizean migrants with a valid employment offer to apply for a one-year authorization to work in any industry in the neighboring states of Chiapas, Tabasco, Quintana Roo, and Campeche. It allows migrant workers to enter and exit Mexico multiple times as well as change employers or industries without submitting additional government notification during the visa period.⁵² Workers' accompanying spouses and children are eligible for temporary lawful status, as they were under the FMTF. Moreover, migrants can apply for a new TVTF after one year if they continue to meet all requirements, and minimum-wage workers are exempt from paying the USD 23 fee to apply.⁵³ Notably, as security measures, employers are not allowed to confiscate workers' TVTFs, and migrants can report bad labor practices to INM, such as cases of noncompliance with contract terms, inadequate living conditions, or abuse.⁵⁴ Although poor labor conditions have been documented, migrant workers often do not report abuses to the authorities because they are unaware of their rights or may be afraid of reprisals.⁵⁵ There are no clear provisions to protect migrant workers who report abuses or clear procedures to access dispute-resolution processes or tribunals.⁵⁶

Given its geographic proximity, long-established sociocultural ties to southern Mexico, and historical labor migration patterns, Guatemala is the primary country of origin for workers issued TVTFs. In fact, less than 50 Belizean migrants have been issued TVTFs since 2011. Most Guatemalan workers are employed in the agriculture and livestock industries in Mexico, followed by construction, trade, and domestic services.⁵⁷ The occupational distribution of TVTF workers reflect traditional gender roles, with male and female migrants concentrated in agricultural and domestic services, respectively.⁵⁸

Since 2016, however, the number of TVTFs issued annually has been declining steadily. Between 2019 and 2020, there was a marked drop in the number of visas issued, partly explained by travel restrictions and economic instability in southern Mexico following the onset of the COVID-19 pandemic (see Figure 2). But despite easing travel restrictions and additional economic recovery efforts, the number of TVTFs issued in 2021 remained low—less than one-third of the number issued in 2019.

Other explanations for the declining number of TVTFs issued range from changes in market conditions to accessibility. As the minimum wage increases in Guatemala, thereby reducing the wage differential for similar work in Mexico, it is possible that Guatemalan workers have fewer incentives to work in agriculture in southern Mexico, and if they do seek work abroad, they may instead look to central and northern Mexico or the United States, areas where wages are generally higher. Reports also suggest that some migrants use the Regional Visitor Visa (Tarjeta de Visitante Regional, or TVR) to enter Mexico and obtain employment

52 IOM, ILO, El Colef, and UPMRIP, *Personas trabajadoras temporales guatemaltecas en Chiapas, México*.

53 The Border Worker Visa (Tarjeta de Visitante Trabajador Fronterizo, or TVTF) does not offer any pathways to long-term or permanent residence in Mexico. See Mónica Martínez de la Peña, Juan Bermúdez Lobera, Manuel Camargo Sánchez, and Rocío del Carmen Osorno Velázquez, "Dinámicas laborales en la frontera México-Guatemala, 2018," *Movilidades: Análisis de la movilidad humana* 3 (February 2020): 9–25.

54 Mariana Chaves and Estela Aragón, *Mechanisms for Labour Migration in Mesoamerica* (San José: IOM, 2021).

55 Alejandra Constanza, Ancheita Pagaza, and Gisele Lisa Bonnici, "Quo Vadis? Recruitment and Contracting of Migrant Workers and their Access to Social Security: The Dynamics of Temporary Migrant Labor Systems in North and Central America" (working paper 4, Institute of Studies and Dissemination on Migration, Mexico City, February 2013).

56 Chaves and Aragón, *Mechanisms for Labour Migration in Mesoamerica*.

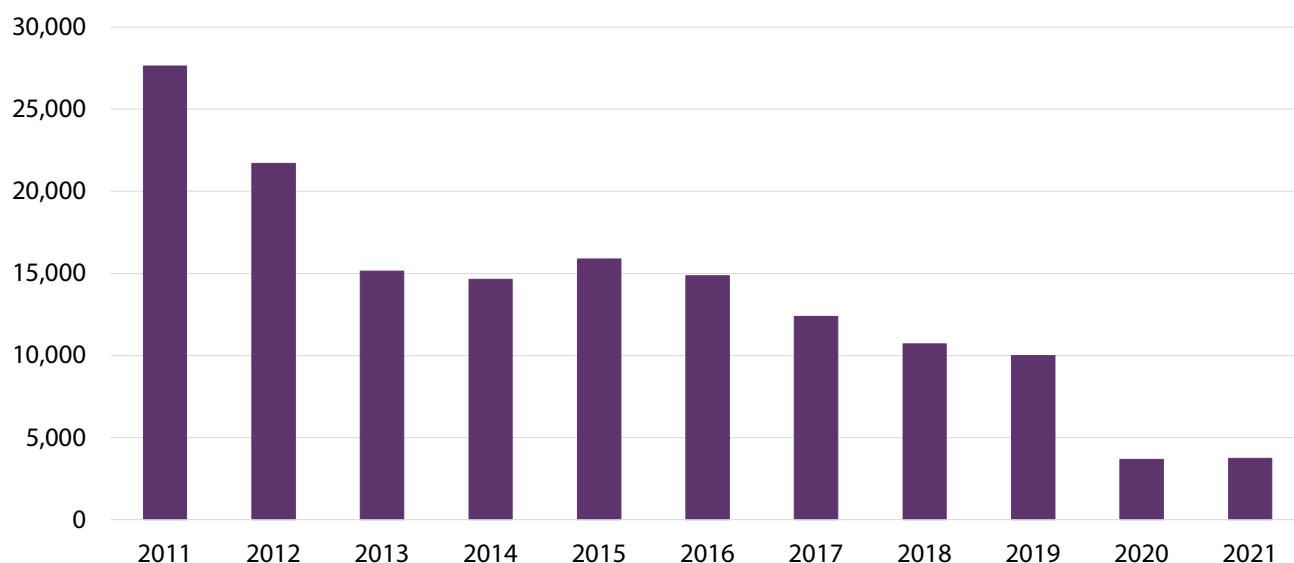
57 Mónica Barrantes and Mayling Aguilar, *Prácticas de reclutamiento de personas trabajadoras migrantes en Belice, El Salvador, Guatemala, Honduras y México* (San José: IOM, 2021).

58 IOM, ILO, El Colef, and UPMRIP, *Personas trabajadoras temporales guatemaltecas en Chiapas, México*.

in informal industries; the TVR does not grant employment authorization, but it is easier to access than the TVTF.⁵⁹ The TVR is free and valid for a five-year period, and it requires proof of personal identification for adults but not proof of an employment contract, which may be difficult to obtain in some informal occupations. The lack of oversight for informal jobs makes it difficult for the Mexican government to enforce penalties against employers and migrants who use the TVR in this way.

FIGURE 2

Number of Border Worker Visas Mexico Issued to Guatemalans, 2011–21



Notes: Belizean migrants are eligible for Border Worker Visas (Tarjetas de Visitante Trabajador Fronterizo, or TVTFs) but were excluded from this figure because they comprised a very small fraction of visa issuances (less than 50 visas since 2011). Issuances for 2011 and 2012 include some Border Worker Migratory Forms (Forma Migratoria de Trabajador Fronterizo, or FMTFs) which were issued during the transition to TVTFs.

Source: Mexican Interior Ministry (SEGOB), “Boletín Mensual de Estadísticas Migratorias, 2011–2021,” accessed April 26, 2022.

B. Challenges with the TVTF

Several structural and programmatic challenges limit the TVTF’s effectiveness as an employment pathway for Central American migrants in Mexico. The first is linked to the program’s focus on the Mexican states along the Guatemala border, initially selected for the prominence of agriculture in these areas and the proximity to a supply of agricultural workers in neighboring countries. But by limiting employment authorization to the four southern Mexican border states, the TVTF may not reflect where migrant labor is most needed now, more than a decade after the visa’s creation, or where migrants are most likely to find favorable employment conditions.

59 The Regional Visitor Visa (Tarjeta de Visitante Regional, or TVR) allows qualifying migrants to visit the states of Campeche, Chiapas, Tabasco, Quintana Roo, and Yucatán for a maximum period of seven days at a time. Only migrants from Guatemala and Belize were eligible to apply for the TVR until April 2019, when the López Obrador administration expanded the TVR eligibility to include El Salvador and Honduras with the objective of regularizing migration from these two countries. Mexican authorities report that migrants’ use of TVRs instead of TVTFs may have started in 2016 and continued through 2018. See De la Peña, Bermúdez Lobera, Camargo Sánchez, and Osorno Velázquez, “Dinámicas laborales en la frontera México-Guatemala”; SEGOB, “Acuerdo por el que se reforman los lineamientos para trámites y procedimientos migratorios,” *Diario Oficial de la Federación*, April 23, 2019.

Unfortunately, the Mexican government's tracking of labor demand has been uneven across states and has focused on formal employment occupations. Approximately 57 percent of the Mexican population working or seeking employment is in the informal market, which makes it difficult to ascertain the demand and supply of native workers.⁶⁰ Data from the 2014 National Census and the 2019 Comprehensive Information System of the National Employment Service (Servicio Nacional de Empleo, or SNE) are the best-available proxies, offering a picture of the top occupations with unmet demand in different states. For instance, in Mexico City the highest demand is in the corporate sector, followed by wholesale trade, other services, and retail. In Guanajuato, governmental activities are most in demand, followed by the manufacturing industry, remediation and support services, and agriculture, livestock, forestry, fisheries, and hunting.⁶¹ Better and more regular assessment by SNE of labor needs in the different parts of the country could paint a more complete picture of where and in what sectors foreign workers are most needed and inform policies that enable Central American migrants to meet the identified labor demands.

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A second limiting factor is that only Guatemalans and Belizeans are currently eligible to apply for the TVTF, despite a 2019 commitment by the Mexican government to extend visa eligibility to Salvadorans and Hondurans.⁶² And a third is related to limited awareness of the program and accessibility to potential applicants. Survey evidence suggests that migrants entering and leaving Mexico are largely unaware of the TVTF, and those who know of its existence perceive the application process to be complicated, requiring migrants to reapply annually at one of seven border entry ports.⁶³ For some migrants, it may also be difficult to afford the application processing fees and transportation costs without employer assistance.

If the efficacy and reach of the TVTF are to be improved, some of the most important programmatic challenges to address are the lack of guidelines to promote the participation of migrant women and the lack of frameworks to assist migrants as they return and seek to reintegrate into their communities of origin at the end of their employment in Mexico. These two limitations have a compounding effect on migrant women's participation, with only 14 percent of all TVTFs issued in 2021 going to women. Concentrated

60 Instituto Nacional de Estadística, Geografía e Informática, "Indicadores de ocupación y empleo, Diciembre de 2021" (press release 21/22, January 20, 2022).

61 In Jalisco, the main vacancies were found in similar sectors as Guanajuato: governmental activities, remediation and support services, and the corporate sector. Hidalgo's highest demand was identified in the manufacturing industry as well as the corporate sector, retail, and the transportation, postal service, and storage sector. Other states have not been included as the data refer only to labor demands of newly established businesses. See labor market diagnostic reports for Mexico City, Guanajuato, Jalisco, and Hidalgo published in March 2020 from the Mexican Secretariat of Labor and Social Welfare, National Employment Service, "Diagnósticos del Mercado Laboral," accessed December 15, 2021.

62 It is unclear why the visa eligibility expansion has been delayed. See SEGOB, "Se ofrece trabajo y un salario a personas migrantes centroamericanas: SEGOB" (news release, January 23, 2019).

63 Results from the survey EMIF Sur suggest there is uneven awareness of the TVTF among Guatemalan migrants by department of origin. According to the survey, in 2019, 90 percent of Guatemalan migrants coming from Huehuetenango declared that they were unaware of the TVTF and did not know how to apply for it; in contrast, about 34 percent and 16 percent of migrants from Quetzaltenango and San Marcos, respectively, stated the same reason for not obtaining a TVTF. See IOM, ILO, El Colef, and UPMRIP, *Personas trabajadores temporales guatemaltecos en Chiapas, México*; Chaves and Aragón, *Mechanisms for Labour Migration in Mesoamerica*.

in informal domestic services and commerce, migrant women face additional barriers to meet TVTF requirements—including the need to show an employment contract—and they are also less likely to be the targets of government outreach campaigns, which often focus on agricultural work.⁶⁴ A considerably larger share of TVRs than TVTFs are granted to women—46 percent of TVRs issued between January and October 2021—which suggests that some migrant women seeking work in Mexico may enter the country with a TVR.⁶⁵

Recruitment is also a key challenge for efforts to expand the reach of the TVTF in Central America. Governments in the region have attempted to establish bilateral labor migration agreements, but their implementation has been unclear, making it difficult to build stable systems for recruitment and labor migration.⁶⁶ For instance, the governments of Mexico, Guatemala, El Salvador, and Honduras signed a Memorandum of Understanding on Labor Cooperation in 2016, but to date, this has not resulted in the implementation of specific guidelines on formal recruitment practices. The memorandum was expected

Without the implementation of formal guidelines, it is unclear whether and how employers are using ethical recruitment practices.

to lay the foundation for a Temporary Labor Migration Program across the four countries, starting with a pilot program in which Mexico's SNE would recruit up to 1,000 workers from each Central American country.⁶⁷ Further negotiations stalled because of disputes over how the benefits of this labor migration would be spread across participating countries, thereby undermining

efforts to implement recruitment protocols. Currently, INM requires all Mexican employers seeking to hire foreign workers to register with the closest INM office and meet certain requirements, such as providing proof of being a formally established business and being up to date with tax obligations.⁶⁸ But without the implementation of formal guidelines, it is unclear whether and how employers are using ethical recruitment practices. In Guatemala, for example, migrants are usually recruited informally either by Mexican employers or contractors who act as intermediaries and operate outside of any regulatory frameworks.⁶⁹

64 For women, one of the main obstacles to obtaining a TVTF is the job offer letter requirement that must be provided by the employer, who must be registered with INM. Central American women often work in sectors such as domestic work or street vending, which means that their employers are frequently not officially registered, or, in some cases, they may not have an employer at all. See ILO, “Central American Migrant Women in Mexico: Informality in Recruitment and Employment” (ILO brief, ILO Office for Mexico and Cuba, Mexico City, December 2020).

65 UPMRIP, “Cuadro 2.8.2: Tarjetas de Visitante Regional (TVR), según entidad federativa, grandes grupos de edad y sexo, 2021,” accessed December 22, 2021; Centro de Derechos Humanos Fray Matías de Córdova A.C. (CDH Fray Matías), Instituto para las Mujeres en la Migración (IMUMI), and Grupo de Trabajo sobre Política Migratoria (GTPM), *Programa de Regularización Migratoria como una Acción Afirmativa* (Tapachula and Mexico City: CDH Fray Matías, IMUMI, and GTPM, 2014).

66 A labor cooperation agreement between Guatemala and Mexico was first signed in 2014 and renewed in 2018 with the purpose of creating a temporary worker program for Guatemalan migrants in Mexico, a labor observatory of migrant workers, and a registry for authorized recruiting agencies. However, this agreement has yet to be implemented. See Barrantes and Aguilar, *Prácticas de reclutamiento de personas trabajadoras migrantes*; Chaves and Aragón, *Mechanisms for Labour Migration in Mesoamerica*; IOM and ILO, *Sistemas de información sobre mercados laborales en México, Guatemala, El Salvador y Honduras: Hacia una mayor integración de la migración laboral* (San José: IOM, 2019).

67 Mexican Secretariat of Labor and Social Welfare, “Suscribe México Acuerdo Migratorio Laboral con El Salvador, Guatemala y Honduras” (news release, October 14, 2016).

68 INM, “Obtención de constancia de inscripción del empleador,” accessed February 8, 2022.

69 Individuals who are interested in migrating normally gather at the park in their hometown, where intermediaries recruit them. These intermediaries take migrants to entry points so they can apply for their TVTFs, take care of all the paperwork on their behalf, and transport migrants to their workplace. See Barrantes and Aguilar, *Prácticas de reclutamiento de personas trabajadoras migrantes*.

To address some of these challenges, in November 2021 the Mexican and Guatemalan governments, along with the International Organization for Migration (IOM), launched a social awareness campaign: “For the Labor Rights of Guatemalan Migrant Border Workers.”⁷⁰ Financed in part by the U.S. State Department’s Bureau of Population, Refugees, and Migration, the campaign encouraged Guatemalans interested in working in Mexico to apply for a TVTF instead of working in the informal sector using a TVR.⁷¹ Through in-person events and promotional videos, it also sought to inform Guatemalan workers of safe hiring practices, recruitment options, and their rights in Mexico as well as which agencies to contact to report rights violations.⁷²

BOX 4

Lessons from the Recruitment of Mexican Workers for Employment Abroad

To improve Mexico’s recruitment protocols for hiring Central American migrant workers, policymakers could adapt key aspects of the country’s own labor mobility mechanism, which regulates the employment of Mexican migrant workers in the United States, Canada, and Germany. Administered by the National Employment Service (Servicio Nacional de Empleo, or SNE), this mechanism allows foreign employers to register with the government and list job openings online. Employers must prove that they have been authorized by their government to hire foreign workers and submit a detailed job offer. Once the SNE verifies these two prerequisites, the job opening is posted on the government’s Labor Portal (Portal de Empleo) and Labor Observatory (Observatorio Laboral).

Workers interested in a job posted on either of the two platforms must present their resumes and other employment documentation to a SNE office. The SNE then selects the candidates that best match the listed job requirements and submits their employment profiles to the employer. Once the employer selects candidates to interview for the position, the SNE can assist employers in setting up job interviews in person, via telephone, or virtually. After the employer has made their final selection among the candidates, the process differs depending on the destination country, but all migrants are required to obtain a work permit or visa. For those working in Canada, the SNE assists with the application process.

Sources: Mexican Ministry of Labor and Social (Secretaría del Trabajo y Previsión Social, or STPS) and National Employment Service (Servicio Nacional del Empleo, or SNE), “*Mecanismo de Movilidad Laboral*,” updated July 1, 2021; STPS and SNE, *Lineamientos Generales del Mecanismo de Movilidad Laboral* (Mexico City: STPS and SNE, 2019).

C. *Alternative Labor Pathways and Policy Options*

Mexico’s existing migration framework includes two pathways beyond the TVTF program that could facilitate the movement of Central American migrant workers. The first pathway is the country’s labor migration points system, which was written into law in 2011 but has yet to be formally operationalized and implemented. The points system is intended to be a pathway for qualifying immigrant workers to obtain

70 Coordinated by IOM, the campaign was a collaboration between Mexico’s Ministry of Labor and Social Welfare, INM, and Guatemala’s Ministry of Labor and Social Welfare. The materials of the campaign—which range from banners and brochures to videos and radio ads—will be distributed in the regions of Quetzaltenango, San Marcos, and Quiché and have been translated into three Indigenous languages (Mam, K’iche’, and Cakchiquel) so they can reach populations not fluent in Spanish. See Mexican Government, Guatemalan Government, and IOM, “*Lanzamiento Público Campaña: Por los derechos laborales de las personas trabajadoras guatemaltecas migrantes fronterizas*” (Facebook Live presentation, November 12, 2021).

71 IOM, “*Campaign Launched to Strengthen Labour Rights of Migrant Border Workers*,” updated December 10, 2021.

72 Information presented during an event hosted by the Government of Mexico, Government of Guatemala, and IOM, “*Lanzamiento Público Campaña*”; IOM Mexico, “*Tarjeta de Visitante Trabajador Fronterizo*” (YouTube video, updated January 31, 2022).

temporary visas at Mexican embassies and consulates abroad, and it also provides an expedited pathway for temporary residents to obtain permanent lawful status in Mexico.⁷³ If the system is implemented, immigrants would submit these applications to INM, which would consider a wide set of criteria to evaluate applicants' potential contribution to the country's welfare.⁷⁴ Every three years the Mexican Interior Ministry (Secretaría de Gobernación, or SEGOB) is meant to review and publish in the federal registry the administrative procedures for operating the points system.⁷⁵ However, SEGOB has not published any administrative guidelines to date, despite Senate requests that the ministry make progress on the system's implementation.⁷⁶

Mexico's humanitarian visa framework also includes features that could be adapted to expand employment pathways for some Central Americans. In December 2021, the Mexican government worked with the United Nations High Commissioner for Refugees (UNHCR) and IOM to establish a small pilot program for vulnerable irregular migrants who want to stay in Mexico but are unlikely to be recognized as refugees and cannot be repatriated to their countries of origin.⁷⁷ The pilot program is currently only available to Haitian migrants in vulnerable situations, and it grants participants one-year humanitarian visas and relocates them and their families from southern Mexico, where employment opportunities are limited, to select cities in central and northern Mexico.⁷⁸ Participants are then matched with employers in high-demand industries and receive other integration support, including assistance with enrolling in school.⁷⁹ As an alternative regularization process, the program intends to increase the opportunity for participants to be sponsored by their employers for permanent employment authorization after a year of work and as they become better integrated into their communities. In the short term, expanding this pilot to Central Americans in vulnerable situations could improve their access to employment opportunities beyond Mexico's southern states.

These programs show that with small adjustments, the Mexican government could expand the short-term opportunities for labor mobility from Central America. The Mexican government should consider the following steps to maximize these opportunities:

- ▶ **Improve government mapping of short- and long-term labor demand in Mexico to inform migration policies and visa issuance.** As the Mexican population continues to age, immigrants can play an important role in helping meet demand in key industries and occupations. But federal efforts

73 SEGOB, "Regulations on the Migration Law (Reglamento de la Ley de Migración)," Articles 124 and 126, *Diario Oficial de la Federación*, September 28, 2012.

74 The selection criteria include the following: level of education, work experience in areas that have high demand and low supply in the country, potential to become investors in the country, capabilities in the areas of science and technology, Spanish-speaking skills, international awards record, and knowledge of Mexican culture. See SEGOB, "Regulations on the Migration Law," Article 125; Ana Paulina Ornelas Cruz and María Jesús Mora, "Institutional and Legal Migratory Framework of the United Mexican States" (working paper, MPI, Washington, DC, February 2021).

75 SEGOB, "Regulations on the Migration Law," Article 125.

76 Grupo Parlamentario de Movimiento Ciudadano, "Proposición con punto de acuerdo por el que se exhorta a la Secretaría de Gobernación para que emita y publique las disposiciones referentes al sistema de puntos enmarcado en la Ley de Migración y su Reglamento, presentada por el Diputado Clemente Castañeda Hoeflich, del grupo parlamentario de Movimiento Ciudadano," *Gaceta del Senado*, July 5, 2017.

77 United Nations High Commissioner for Refugees (UNHCR), "UNHCR Presence in Mexico" (newsletter, December 2021).

78 *La Jornada*, "Gobierno prepara decreto a favor de migrantes haitianos"; United Nations, "Un proyecto piloto ayudará a integrar a los migrantes haitianos en México," UN News, December 18, 2021.

79 These employment and education integration services are modeled on UNHCR's Local Integration Program, which was established in 2016 with the objective of integrating asylum seekers outside of southern Mexico. See United Nations, "La agencia de la ONU para los refugiados consigue reubicar a más de 10.000 personas en México," UN News, June 8, 2021.

to identify labor shortages at the state level have been inconsistent, resulting in an incomplete picture of the formal labor market. In tandem with state agencies, the federal government could work to measure short-term demand in occupations most affected by the COVID-19 pandemic and identify those where migrant workers can complement native-born workers. These efforts should also consider other local factors, such as public opinion and concerns about migrants competing with locals for jobs.⁸⁰

- ▶ **Extend TVTF eligibility to nationals of other Central American countries and expand its jurisdiction to other Mexican states.** With minor amendments to the *Migration Law of 2011*,⁸¹ the Mexican government could expand TVTF eligibility to nationals of Central American countries beyond Guatemala and Belize. In the short term and without congressional action, the López Obrador administration could also issue new rules and regulations to allow current TVTF holders to seek employment in central and northern Mexico. Efforts to expand this program should also include provisions that strengthen migrants' labor rights as well as improve oversight and enforcement of labor violations.
- ▶ **Expand the recruitment framework for Mexicans seeking work abroad to Central American workers seeking work in Mexico, with employer support.** Agricultural workers in Mexico are mostly recruited informally, which makes it challenging to regulate workers' recruitment and labor conditions. The existing system used to facilitate the recruitment of Mexican workers for jobs abroad is a promising model, and a similar framework could be used to recruit Central American workers and meet labor demands in Mexico in a way that is more formalized and could better protect workers' rights. This would, however, require employer support for a more regulated system. Efforts to garner this support should emphasize how such a system will benefit employers, including by offering more stability and predictability in worker supply.
- ▶ **Resume talks about labor mobility agreements between Mexico and Central American countries.** The Temporary Labor Migration Program established through the 2016 memorandum signed by Mexico, Guatemala, El Salvador, and Honduras was never implemented, but guidelines for the program were drafted by Mexico's Ministry of Labor and Social Welfare.⁸² Resuming talks about this or a similar program could pave the way for new labor pathways for Central American workers. Starting with a dedicated pilot program could help frame opportunities and resolve challenges that led to previous disagreements among the participating governments.
- ▶ **Evaluate regulatory barriers that can prevent migrant women from participating in labor migration programs and incentivize employer awareness of gender disparities in recruitment.** Providing alternatives to formal contracts as proof of employment, such as support letters from civil-society organizations, in the existing TVTF regulatory framework could help women domestic workers participate in this employment program. In addition, women could be included as a target

80 In Mexico, public opinion about migrants differs depending on their nationality. A 2019 public opinion survey suggested that the majority of the Mexican public has an unfavorable opinion of Central American migrants in transit through Mexico. See Washington Post, "Washington Post-Reforma Mexico Poll July 9-14, 2019," *Washington Post*, July 17, 2019.

81 As written, the *Migration Law of 2011* restricts TVTF access to nationals of countries geographically adjacent to Mexico. Extending access to nationals of countries that do not share a border with Mexico would require amending this definition. See Government of Mexico, *Migration Law 2011*, Chapter 2, Article 52, Subsection 3 (reformed May 20, 2021).

82 Alfonso J. Navarrete Prida and José Luis F. Stein Velasco, *Migración Laboral* (Mexico City: Universidad Nacional Autónoma de México, 2018).

for campaigns in Central America to raise awareness about Mexican temporary worker programs, and government agencies and international organizations could simultaneously target employers in domestic work and commerce to incentivize their participation and awareness of these programs. Consideration should also be given to how to identify jobs in the formal labor market that meet program requirements, match the employment profile of Central American women, and offer access to services and protection from labor rights violations.

Its shared history, familiar labor market, and geographic proximity to Central America make Mexico a critical stakeholder in efforts to improve legal pathways for Central American migrants seeking better economic opportunities. These short-term steps alone do not address the full complexities of labor mobility in Mexico, but they do provide a starting point for policymakers and stakeholders to rethink how migrant workers can contribute to Mexico's future economic development and stability.

4 Costa Rica

Compared to Canada and Mexico, Costa Rica has a much less developed labor migration system for Central American migrants. Costa Rica's 2010 migration law includes four broad migration categories: permanent residents, temporary residents, nonresidents, and special categories. The most relevant categories for Central Americans are the special categories, through which they can apply to be cross-border workers, temporary workers, or workers in a specific occupation.

Special category workers can hold jobs in economic sectors and with employers that the General Directorate of Migration and Foreigners (Dirección General de Migración y Extranjería, or DGME) authorizes based on labor market studies by the Ministry of Labor and Social Security (Ministerio de Trabajo y Seguridad Social, or MTSS) that determine which employment sectors and economic activities require foreign workers, as a

complement to the country's existing workforce.⁸³ Specifically, the studies identify sectors and occupations in which there is a mismatch between native-born workers' interest and skillsets and market demand, as measured by a national unemployment rate of more than 7 percent. Using these studies as a reference, the MTSS sends recommendations to the DGME of the maximum number of foreign workers who should be hired per sector and occupation to fulfill the labor market's demands.⁸⁴ Domestic, construction, and agricultural work are important special occupation categories that have long employed large numbers of migrants, mostly Nicaraguans. The DGME also determines the conditions and time frame under which migrants are allowed to work in the country. Independent workers can also hold this status if the DGME determines that their employment or occupation fits the needs of the country.⁸⁵

Domestic, construction, and agricultural work are important special occupation categories that have long employed large numbers of migrants, mostly Nicaraguans.

⁸³ Costa Rican Legislative Assembly, *Ley General de Migración y Extranjería*, No. 8764 (2009): Chapter IV, Articles 94 and 99.

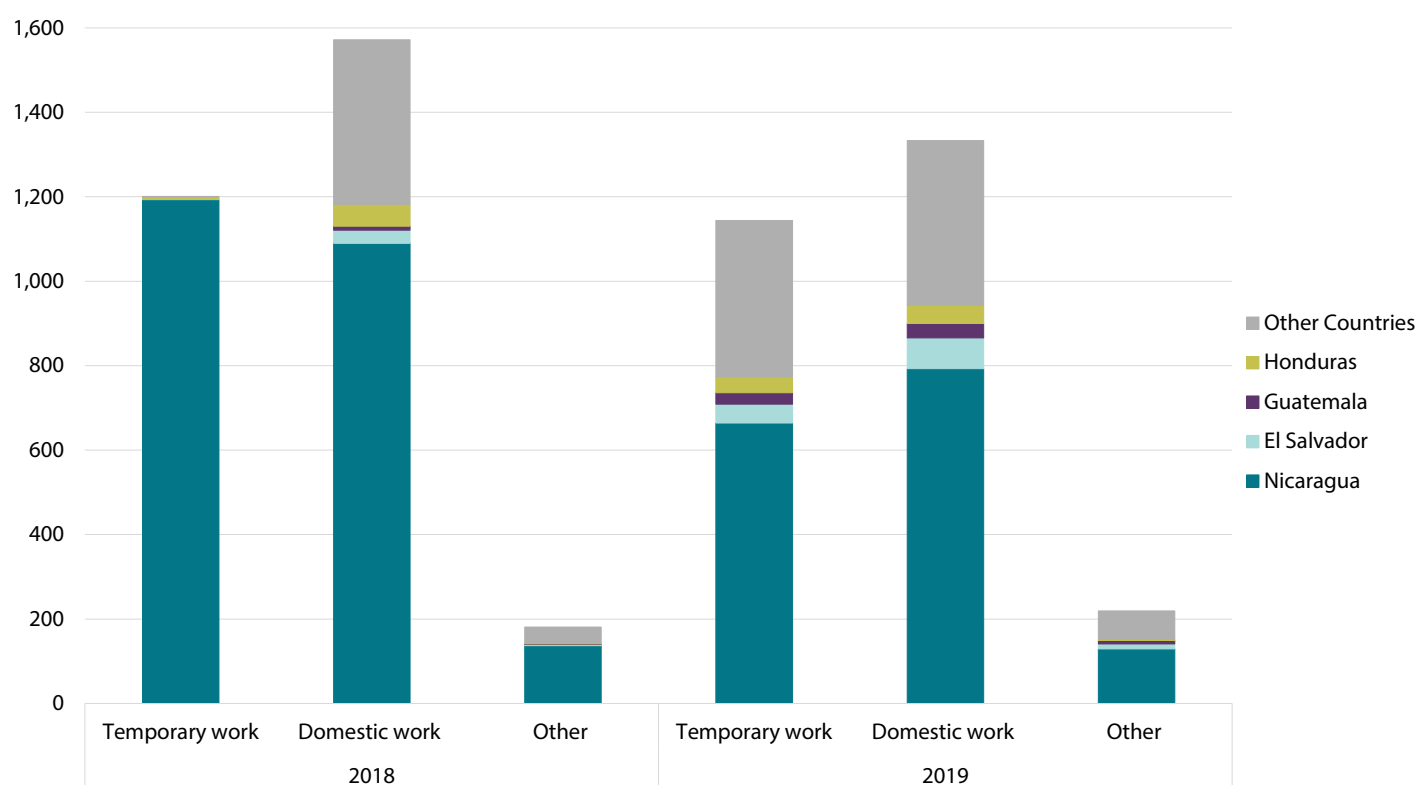
⁸⁴ After the General Directorate of Migration and Foreigners (Dirección General de Migración y Extranjería, or DGME) receives and evaluates these recommendations from the Ministry of Labor and Social Security (Ministerio de Trabajo y Seguridad Social, or MTSS), it decides whether to accept them. The DGME is not bound by law to do so, but in practice they seldom dispute MTSS's recommendation. Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

⁸⁵ Costa Rican Legislative Assembly, *Ley General de Migración y Extranjería*, No. 8764 (2009): Chapter IV, Article 100.

Although the number of Salvadoran, Guatemalan, and Honduran migrants approved for employment visas is small—especially compared to the number of Nicaraguans—increases between 2018 and 2019 suggest they may be interested in work opportunities in Costa Rica. Most visa approvals for migrants from these countries were in temporary and domestic work (see Figure 3).⁸⁶ These figures, however, should be interpreted with caution; many workers in these occupations are part of the informal market, meaning these data likely offer only a partial picture of migrant employment in these fields. As in Mexico, the informality of these sectors makes it easier for employers to hire migrants through channels other than these formal visa pathways.

FIGURE 3

Number of Approved Employment Visas for Special Categories in Costa Rica, by Visa Subcategory and Migrants' Country of Origin, 2018–19



Notes: In 2018, “other” special occupations included driver, construction, agriculture, and others. In 2019, “other” special occupations included independent work, agriculture, and construction. Disaggregated data for 2020 and public data for 2021 are unavailable.

Sources: General Directorate of Migration and Foreigners (DGME), *Informe Anual 2018* (San José: DGME, 2019); DGME, *Informe Anual 2019* (San José: DGME, 2020).

⁸⁶ Temporary work forms part of the special category visa. Domestic work is treated as a separate class, also under the special category umbrella. Central Americans rarely apply for the agricultural special occupation category, despite their prominent role in this field. In 2018, 90 percent of Guatemalans, 89 percent of Salvadorans, and 87 percent of Hondurans under special category visas were domestic workers. In 2019, as their approval rates for temporary work increased, their shares for domestic work fell and hovered between 56 percent and 49 percent. In contrast, Nicaraguans worked in largely equal shares in domestic work and temporary work during these two years. See DGME, *Informe Anual 2018* (San José: DGME, 2019); DGME, *Informe Anual 2019* (San José: DGME, 2020).

In response to the pandemic-induced economic crisis and high unemployment rates among native-born workers, the Department of Labor Migration within MTSS recommended restricting these labor pathways. The government imposed restrictions on hiring migrants in 23 service occupations and 26 “qualified and semi-qualified” occupations in 2020, and increased restrictions to 74 and 46 occupations, respectively, in 2021.⁸⁷ Despite the stable need of migrant workers in the domestic work sector, MTSS stopped the hiring of domestic workers in July 2020 and October 2020.⁸⁸ This temporarily eliminated the labor pathway most commonly used by Central American migrant women, and the largest special occupation category. This pathway was re-established in April 2021, after it became clear that many migrant women applying for these positions were already in Costa Rica and that domestic work positions were not being filled by native-born workers, despite these restrictions and general high unemployment.⁸⁹

A. *The Evolution of Costa Rica’s Management of Migrant Workers*

Historically, Central Americans have faced both legal and accessibility barriers to utilizing these legal pathways. Some occupations are not officially available to migrant workers, and even if Central American migrants are employed in such sectors in practice, this work offers no way for them to gain regular immigration status.⁹⁰ In the case of approved occupations, the number of documents required to apply for a visa, high application costs, and the general informality of these occupations tend to deter northern Central Americans and Nicaraguans from accessing these programs and employers from sponsoring them.⁹¹ In particular, few Central Americans have used the agricultural work special category to work in that sector. They have relied instead on irregular crossings into Costa Rica and informal hiring.

Agreements between Costa Rica and Nicaragua that have sought to create new pathways have faced implementation issues. In 2007, the two countries ratified the Co-Development Agreement, which allows employers to hire agricultural workers and to coordinate their recruitment through Nicaragua’s Ministry of Labor.⁹² But despite its intention to incentivize Costa Rican agro-industrial employers to hire Nicaraguan workers legally, many employers have found the process to be too complex and lengthy due to limited coordination with the government, which has led them to hire employees informally.⁹³

87 MTSS, *Ocupaciones no Recomendadas para las Categorías Migratorio-Laborales de “Residencia Temporal” y “Trabajador de Ocupación Específica”* (San José: MTSS, 2019); MTSS, *Ocupaciones no Recomendadas para las Categorías Migratorio-Laborales de “Residencia Temporal” y “Trabajador de Ocupación Específica”* (San José: MTSS, 2020).

88 Koen Voorend and Gustavo Gatica López, “Notas de Conjuntura Migratoria en Costa Rica” (Note 1, Centro de Investigación, Cultura y Desarrollo, San José, 2021); MTSS, *Recomendación Colectiva Trabajador de Ocupación Específica* (San José: MTSS, 2020); MTSS, *Ocupaciones no Recomendadas para las Categorías Migratorio-Laborales de “Residencia Temporal” y “Trabajador de Ocupación Específica”* (San José: MTSS, 2021).

89 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

90 For instance, an analysis of Nicaraguan Miskito seasonal and semipermanent workers shows they work in occupations that are banned for migrants. See Millaray Villalobos Rojas, “La población indígena Miskita nicaragüense y el Estado costarricense: Regularización migratoria y empleo formal,” *Trama Revista de Ciencias Sociales y Humanidades* 7, no. 1 (2018): 10–26.

91 Diego Chavez-González and María Jesús Mora, *The State of Costa Rican Migration and Immigrant Integration Policy* (Washington, DC: MPI, 2021).

92 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021; IOM et al., *Flujos migratorios laborales intrarregionales: Situación actual, retos y oportunidades en Centroamérica y República Dominicana. Informe de Costa Rica* (San José: IOM, ILO, MTSS, Coordinación Educativa y Cultural Centroamericana, and Red de Observatorio del Mercado Laboral, 2011); Chaves and Aragón, *Mechanisms for Labour Migration in Mesoamerica*.

93 Gloriana Sojo-Lara, “Business as Usual? Regularizing Foreign Labor in Costa Rica,” *Migration Information Source*, August 26, 2015.

Another limitation is that the agreement does not fully allow the government to track the foreign agricultural workforce in Costa Rica.⁹⁴ For individual employers, the MTSS approves the requested number of work permit slots, and for employers petitioning collectively, the MTSS recommends a number of permit slots needed in an agricultural area which are then approved by the DGME.⁹⁵ In both cases, neither the MTSS nor the DGME knows the actual number of workers hired by employers, the identity of these workers, or their working conditions. In the case of collective petitions, the MTSS does not know which companies operate in the area and are seeking foreign workers, nor does it know which types of labor contract they are given. Without a tracking system, the government lacks a critical tool that would help policymakers understand the agreement's outcomes and inform the design of labor migration policies.⁹⁶

The lack of effective oversight measures in the agreement has contributed to the exploitation of some migrant workers. Although migration experts and civil-society representatives have long criticized migrant workers' labor and living conditions, the pandemic has brought issues of labor exploitation to the general public's attention as well.⁹⁷ During the first months of the pandemic, the MTSS confirmed that many agricultural workers employed on farms near the Nicaraguan border—predominantly migrants—do not receive a minimum wage, are not paid overtime, and are not affiliated with the legally mandated social security system that grants access to health insurance.⁹⁸ Furthermore, many experience wage theft by their employers or third-party contractors, the latter of whom operate without regulation. Lack of labor inspections and enforcement have compounded these issues, making these behaviors rampant.⁹⁹

After Costa Rica closed its borders to foreigners in March 2020 in response to the pandemic, the country made major changes to its migration policies to address some of these issues.¹⁰⁰ When agricultural employers were unable to recruit a sufficient number of native-born workers, Costa Rica's Ministry of Agriculture and Livestock and Nicaragua's Ministry of Agriculture signed the Binational Agreement to Legalize the Temporary Hiring of Nicaraguan Workers in Costa Rica, superseding the implementation of the Co-Development Agreement.¹⁰¹ The Costa Rican government facilitated the implementation of the Binational Agreement through the General Protocol to Address Labor Migration during the Harvest Season

94 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

95 Collective petitions by employers stopped being allowed in 2019 due to the inherent lack of traceability in the process. Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

96 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

97 Monserrat Cordero Parra, "Precariedad laboral preparó el terreno para explosión de contagios en la zona norte," *Seminario Universidad*, June 17, 2020.

98 Diego Bosque, "Pandemia desnuda injusticias laborales en fincas de la zona norte," *La Nación*, June 24, 2020.

99 Cordero Parra, "Precariedad laboral preparó el terreno"; Eugenio Guerrero, "Migración detecta explotación laboral de trabajadores nicaragüenses en Guanacaste," *CRHoy.com*, April 12, 2013; Bosque, "Pandemia desnuda injusticias laborales."

100 Sebastian Rodriguez, "Costa Rica cierra sus fronteras hasta el 12 de abril," *AmeliaRueda.com*, March 16, 2020.

101 In addition to the Binational Agreement, migrants who reached Costa Rica between January 15, 2016, and January 15, 2020, could apply for regularization and work in the field of agriculture. This was the first successful attempt to regularize agricultural migrant workers, with the government receiving more than 20,000 applications and approving 13,000. However, the Costa Rican government now provides rejected applicants additional review and appeal with the intention of considering more for approval to meet labor demands. According to government officials, the two key factors that explain the regularization initiative's success are the lower requirement and cost of filing, and close coordination with the private sector. Author interview with the Vice Minister of Agriculture and Livestock, November 3, 2021. See Chavez-González and Mora, *The State of Costa Rican Migration*; President of Costa Rica, Minister of Agriculture and Livestock, and Minister of Government and Policy, "Procedimiento para acceder al régimen de excepción para la regularización migratoria de las personas trabajadoras de los sectores agropecuario, agroexportador o agroindustrial" (Executive Decree No. 42406-MAG-MGP, June 16, 2020).

under the COVID-19 Emergency, 2020–2021, followed by a second iteration with slight changes for the 2021–22 harvest season.¹⁰²

The protocol allows employers to hire Nicaraguans to work in the agricultural sector under the special category of temporary workers, without requiring changes to the existing labor framework. The protocol pushes government agencies to expand communication and coordination with the private sector, elements that were previously lacking and obstructed labor migration processes.¹⁰³ In short, the document marks the first time that representatives of the agricultural industry worked hand in hand with the government to ensure safe, biosecure, and orderly labor migration. Also for the first time, this pathway was accessible for both workers and employers.

The protocol also tackles safe recruitment issues, including requiring employers to verify that the worksite and accommodations they provide to workers comply with safety standards and are of sufficient capacity before recruiting workers; this addressed the lack of oversight that facilitated poor working conditions.¹⁰⁴ Similarly, employers are now

The protocol pushes government agencies to expand communication and coordination with the private sector, elements that were previously lacking and obstructed labor migration processes.

required to fund workers' transportation and coordinate it with the National Transportation Council. The council either schedules the trip or redirects employers to transport agencies;¹⁰⁵ this reduces the power of third-party contractors, which often took advantage of migrant workers left to arrange their own travel.

A key aspect of the protocol, the digitization of the Migratory Labor Traceability System (Sistema de Trazabilidad Laboral Migratoria, or SITLAM) has also improved migration management and addressed health issues. Recruited agricultural workers must register with SITLAM at the Nicaraguan-Costa Rican border¹⁰⁶ and receive their SITLAM cards.¹⁰⁷ In addition to providing a physical work permit, the SITLAM is also a portal through which employers can report worker COVID-19 symptoms to the Ministry of Health and through which workers can petition to change employers. Such reports and requests can also be made through an Android phone application called CR-Café.¹⁰⁸ When workers leave an employer, the new employer is responsible for notifying migration authorities through this platform.¹⁰⁹

102 Ministry of Agriculture and Livestock (Ministerio de Agricultura y Ganadería, or MAG) et al., "Protocolo General para la Atención de la Migración Laboral para la Época de Cosechas en el Marco de la Alerta por COVID-19, 2020–2021," January 25, 2021. In the protocol's second iteration, the Costa Rican government is no longer involved in the transportation of Nicaraguan migrant workers to the Nicaragua-Costa Rica border port of entry. See MAG et al., "Protocolo General para la Atención de la Migración Laboral para la Época de Cosechas en el Marco de la Alerta por COVID-19, 2021–2022," September 27, 2021.

103 Chavez-González and Mora, *The State of Costa Rican Migration*; author interview with Vice Minister of Agriculture and Livestock, November 3, 2021.

104 In the case of coffee companies, the Costa Rican Coffee Institute is in charge of compliance and verification.

105 MAG et al., "Protocolo General para la Atención de la Migración Laboral, 2021–2022," Item 6.4.

106 At Peñas Blancas, the border crossing between Nicaragua and Costa Rica, workers must present their documents—a valid passport or their neighborhood permit—and the MTSS recommendation authorizing their employment.

107 MAG et al., "Protocolo General para la Atención de la Migración Laboral, 2021–2022," Item 7.1.

108 If a worker wants to change employers, the worker must submit an official request and the new employer must upload to the portal a job offer letter signed by the worker and the new employer. See MAG et al., "Protocolo General para la Atención de la Migración Laboral, 2021–2022," Item 3.

109 MAG et al., "Protocolo General para la Atención de la Migración Laboral, 2021–2022," Item 10.1.

Even with these policy and migration governance innovations, some challenges remain. While the SITLAM identity card and platform are highly popular among government authorities and agricultural employers for their efficiency and accessibility,¹¹⁰ some workers prefer the previous identity card, the Immigration Identification Document for Foreigners (Documento de Identificación Migratorio para Extranjeros, or DIMEX). DIMEX allows them to remain in Costa Rica for 12 months, whereas the SITLAM only lasts 7 months.¹¹¹ And although employers generally prefer the SITLAM, some have voiced concerns about its shorter duration due to the variability in harvesting cycles.¹¹²

Despite the increased diligence in labor inspections and heightened formality of agricultural work under the protocol, deplorable conditions on some farms and wage theft are still being reported. For instance, some employers have charged migrants a fee for transportation or deducted it from their salaries, although the protocol states that employers must assume this cost.¹¹³ In 2021, employers of migrants under the protocol complained that nonregistered employers were tricking migrant workers waiting at ports of entry into taking company buses to nonregistered worksites, instead of taking preapproved buses used to transport migrants directly to the worksites of the employers sponsoring them. The nation's police force, as a result, started carrying out operations to identify and penalize nonregistered employers by seizing their buses' license plates.¹¹⁴ Moreover, some employers are reportedly still hiring irregular migrant workers without providing them health insurance, as is required for all legal hires, and utilizing third-party contractors who still take advantage of them.¹¹⁵

In recognition of its success in easing administrative barriers faced by employers and migrant workers, the Costa Rican government made the SITLAM permanent via a presidential decree on May 5, 2022, creating a specific subcategory for agricultural workers.¹¹⁶ This formalizes the temporary, pandemic-prompted collaboration between key government institutions to manage and process temporary labor migration. Though the SITLAM was available only to Nicaragua workers during the pandemic, the decree leaves open the opportunity to expand eligibility to workers from other nationalities, including Salvadorans, Guatemalans, and Hondurans. It is unclear whether the decree will maintain operational procedures established in the COVID-19 protocol, including the seven-month period of employment previously authorized by the SITLAM, as well as labor compliance requirements and enforcement.

110 The Immigration Identification Document for Foreigners (Documento de Identificación Migratorio para Extranjeros, or DIMEX) costs USD 98, while the Migratory Labor Traceability System (Sistema de Trazabilidad Laboral Migratoria, or SITLAM) card costs USD 60. The DIMEX administration process can take up to eight months and occurs while the worker is already in Costa Rica, which means that many workers do not get theirs in time. This obstructs their right to access social services while in Costa Rica. Instead, the SITLAM process takes four days and is granted before workers enter Costa Rica. Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021; MAG et al., "Protocolo General para la Atención de la Migración Laboral, 2021-2022," Item 6.5.

111 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

112 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

113 Cindy Regidor, "Más de 5500 trabajadores nicas han entrado a Costa Rica por convenio bilateral," *Confidencial*, January 20, 2021.

114 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

115 Monserrat Cordero Parra, "Flujo migratorio, relajamiento de medidas y renuencia a vacunación disparan nuevamente contagios en Zona Norte," *Semanario Universidad*, August 18, 2021; Vinicio Chacón, "Durante la pandemia se intensificó uso de xenofobia para justificar la explotación laboral en piñeras," *Semanario Universidad*, December 7, 2021.

116 Titled "Special Category for the Regularization of Foreigners to Work Temporarily in the Agricultural Sector," this executive decree was implemented as a last-minute action by the administration of Carlos Alvarado Quesada before leaving office, and it remains to be seen whether the decree will be kept in place by the new administration of Rodrigo Chaves Robles. See Costa Rican President et al., "Categoría Especial Para La Regularización Migratoria De Personas Extranjeras Para Laborar De Forma Temporal En El Sector Agropecuario" (Executive Decree No. 43527-MGP-S-MAG-MRREE-MTSS, May 05, 2022).

B. *Building on Recent Policy Innovations*

The emerging dialogue between the Costa Rican government and agricultural employers, the digitization of migration procedures, and reforms of government protocols have led to a more secure agricultural labor migration process able to stave off the potential loss of an important migration flow between Nicaragua and Costa Rica during the pandemic.¹¹⁷ The following steps could enable Costa Rica to build on and maximize the impact of these recent changes:

- ▶ **Expand SITLAM eligibility to northern Central Americans and increase its employment authorization period to better match employers' needs across seasonal crop cycles.** Because the recent presidential decree that formalized SITLAM does not set nationality requirements for migrant workers' participation, a regulation would be needed to officially expand eligibility to nationals of El Salvador, Guatemala, and Honduras. Such a regulation should also seek to address transportation, language, and information barriers specific to these other Central American migrants to encourage their successful recruitment under the SITLAM. Additionally, increasing the SITLAM's employment authorization period from 7 to 12 months—the same duration as the DIMEX card—may better suit the length of different seasonal crop cycles and facilitate migrants' opportunity to work with multiple employers.
- ▶ **Initiate bilateral conversations with Guatemala, Honduras, and El Salvador.** Costa Rica has benefited from the creation of a coordinated agricultural labor traceability system (the SITLAM) and an international recruitment process with Nicaragua. The country should consider opening up bilateral conversations with northern Central American states to establish similar effective and mutually beneficial seasonal labor pathways. In particular, the discussions should seek to determine how workers from these partner countries can help fill existing and nascent labor gaps in the Costa Rican economy.
- ▶ **Expand pathways to permanent residency for special category workers.** The Costa Rican government should consider creating a pathway for special category workers—and particularly those who meet ongoing labor demands—to become permanent residents, an option that does not currently exist in the country's migration law. Because most Central Americans who hold a visa to work in the country do so under that category, this step would allow those who want to remain in Costa Rica permanently a pathway to do so legally, while addressing the country's longer-term labor needs.
- ▶ **Offer labor migration pathways that are more accessible to Central American women.** Central American women mostly hold positions in domestic work and the service sector, meaning they do not benefit from the 2020 protocol, which focuses on agriculture. The MTSS and the DGME should seek to understand from migrant women and their employers what challenges they face under the current migrant categories and to explore options for making them more accessible. For instance, it is difficult for domestic workers with multiple employers to formalize their work due to short periods of employment across several households, consequently limiting their access to benefits and adding to their precarious labor conditions.

117 Author interview with the Director of the Department of Labor Migration at the MTSS, November 5, 2021.

- ▶ **Expand coordination and communication mechanisms with private-sector representatives beyond the agricultural sector.** Public-private partnerships were key to the success of the Binational Agreement and the subsequent protocol, especially in terms of providing more effective oversight of migrant arrivals. Authorities should leverage this momentum and expand these partnerships to provide the same benefits to other sectors in which large numbers of Central American migrants work, creating a broader, more secure, and orderly labor migration system.
- ▶ **Strengthen enforcement to ensure migrant workers' safety and dignified work conditions.** Although government oversight increased during pandemic, reports of malpractice are still common. To counter this, the Costa Rican government should develop regulations that address the exploitation of workers, including regulations focused on the entities that recruit migrant workers. The government should also increase its investments in the enforcement infrastructure in sectors that employ large numbers of migrants, including agencies that inspect workplaces and address wage theft.

5 Conclusion

Canada, Mexico, and Costa Rica have a wide range of opportunities to adapt and finetune existing labor pathways in ways that could enable Central Americans to pivot from irregular forms of migration to formal work programs, all while meeting the economic needs of these receiving countries. The recommendations in this report outline strategies to improve the programs' capacity to meet these goals and mitigate known issues, but this cannot be a one-time effort; the improvement of migration management systems must be a continuous process if these systems are to address new challenges as they emerge. For example, the increased migration of Haitians living in South American countries, such as Brazil and Chile, to Mexico and the United States shows the importance of ensuring that the region's labor migration programs are able to incorporate and manage new populations as migration patterns continue to change.

As destination countries consider their options for leveraging labor pathways to better manage migration in the region, a key challenge will be to expand the visibility and reach of these programs within Central America. In many communities, irregular migration is perceived as the only real option for seeking work abroad and improving a family's living conditions. Although the foundations for such efforts exist in the recruitment programs of countries such as Honduras and Guatemala, a robust outreach strategy would help potential migrants see that they have a viable, safe path to work in another country. At the same time, better communication with employers would help ensure that policymakers understand their labor needs and that they are able to ethically recruit workers whose skills align with those needs. These various efforts to improving the operations and reach of labor migration pathways would also benefit from meaningful long-term coordination between Canada, Mexico, and Costa Rica—as well as the United States and Central American countries of origin. For example, governments receiving migrant workers could share lessons through forums and adjust their programs accordingly, and work with Central American governments to improve recruitment mechanisms, especially as migration from El Salvador, Guatemala, and Honduras continues to evolve over time.

More broadly, expanding labor migration pathways for Central Americans should serve as one component of a multifaceted approach to addressing the evolving challenges and opportunities of migration in the region. Other components should include robust humanitarian protection systems through which individuals with viable claims can receive protection in a timely manner, enforcement policies that can promote orderly migration without compromising on human rights, and a regional framework able to surge resources to countries dealing with extraordinary migration events. In other words, while temporary work programs offer a valuable opportunity for Central Americans with skills aligned to destination countries' labor needs to work abroad legally for a fixed period, they cannot be the only tool in the region's migration management toolkit. Moving towards a comprehensive regional approach to migration will take time and resource investments, but it is the only way to fully tap into the promise of these individual components.

Expanding labor migration pathways for Central Americans should serve as one component of a multifaceted approach to addressing the evolving challenges and opportunities of migration in the region.

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