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INCREASING OPPORTUNITIES TO ADDRESS MIGRATION IN NORTH AMERICA

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Increasing Opportunities to Address Migration in North America

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The North American agenda, to the extent it still exists, has never had a common idea around mobility and migration. There is one small exception: the North American Free Trade Agreement (NAFTA) visas, a part of the original agreement that remained in the United States–Mexico–Canada Agreement (USMCA), which allow for a degree of mobility among certain groups of professionals. This visa category has passed almost unnoticed among scholars, but it actually has generated a degree of short- and even long-term mobility among professionals. However, other discussions on migration have been far too sensitive for the three countries to discuss together. This was true at the outset, during the first NAFTA negotiations in the early 1990s, and the issue was even more contentious during the USMCA negotiations under the Trump administration.

But interestingly enough, the three partners are actually becoming more similar in their migration profiles than could have been imagined 30 years ago. It is probably a bridge too far to think of common or even coordinated migration policies any time soon, but there may be discrete areas of migration cooperation that could grow over the next few years. So far, *North America has experienced an increasing structural convergence in migration with significant policy divergence*. The question is whether the structural convergence could, at some point, lead to greater policy convergence and even coherence among the three countries.

This chapter presents a few ideas of how to build cooperation from the ground up, around discrete and useful areas of possible collaboration, in a way that one day could lead to a more comprehensive North American labor mobility and migration agenda. Mobility is defined here as the temporary movement of labor from one region to another—keeping permanent residence in the home country—while migration implies the movement of labor with a simultaneous change of residence. There are clear advantages for the competitiveness of all three countries in generating a common agenda around mobility and migration, but it is less clear when this will become realistically possible. In the meantime, small steps could serve as meaningful building blocks for future cooperation.

A Long-Term Convergence in Migration Profiles and Policies in North America

When NAFTA was first negotiated, the three countries could not be more different in their migration profiles and policies. Mexico was one of the largest migrant-sending countries in the world, as well as the largest source of immigration into the United States. Pressures were mounting in the United States to reinforce its border with Mexico to stop this flow—something that has happened in various stages over the past three decades. Mexico, by contrast, had little in the way of intentional migration policy. It did not even have an immigration law as such until 2011. Previous Mexican governments had made some efforts to court the diaspora in the United States, as well as limited engagements with prior refugee flows from Guatemala and El Salvador.

At the time of the NAFTA negotiations, Canada and the United States looked similar on paper from a migration perspective. Both were major immigrant-receiving nations that had robust visa programs for employment-, education-, and family-based migration, as well as a few programs for temporary migrants. But they were headed in profoundly different directions. The United States

was doubling down on its mostly family-based immigration policies, which also served as a de facto integration strategy, and keeping a clear distinction between temporary visas (including those for foreign students studying in U.S. universities) and permanent residency. Canada, meanwhile, was increasingly orienting its visa program toward those with high levels of human capital who could meet specific needs in the Canadian economy, while investing heavily in integration programs to ensure successful outcomes for those settling in Canada. Moreover, the Canadian government was intentionally building pathways between some temporary visa holders—especially students who excelled in Canadian universities—and options for permanent residency. Over the next decade, these differences would become even more accentuated, as Canada continued to refine its unique points-based approach to immigration, while successive efforts at immigration reform failed repeatedly in the United States.

Mexico, meanwhile, was a major migrant sending country, with most of its migrant population heading north to the United States. By 2010, there were 11.7 million Mexicans, roughly 10% of Mexico's population, living in the United States. Canada had a guest worker program with Mexico and a handful of Mexican immigrants, but migration patterns between the two countries were far less significant.

Growing symmetries

After three decades, however, the three countries may be more similar than they have ever been before. This structural convergence is likely to increase over the next two to three decades. The first and most dramatic change is that Mexico has ceased to be a country of net migration to the United States. A constant flow of Mexican migrants continues to enter the United States, mostly through legal channels, but even with that, the number of persons born in Mexico who live in the United States has dropped from 11.7 million to 11.3 million between 2000 and 2017.¹

Each year, around 150,000 to 200,000 Mexicans are apprehended at the border as they try to cross into the United States, though it appears that relatively few make it into the country. It is possible that the current global recession could lead to an increase in these numbers of irregular crossings, but there is little evidence of it at present. In addition, a little more than 50,000 Mexicans arrive in the United States each year with green cards, thanks to petitions from their relatives.² A further 250,000 to 300,000 Mexicans enter to the United States each year as temporary workers. Of this group, the largest number come through the H-2A agricultural worker program, another significant number through the H-2B nonagricultural worker program, and a smaller number through the TN NAFTA professionals visa program—a significant mobility flow.

However, even with this ongoing number of Mexicans coming to the United States, either as migrants or through temporary mobility pathways, more Mexicans have been returning to Mexico than those arriving in the United States. This dramatic turn-around from previous patterns appears to be the result of the combined effect of voluntary returns and increased enforcement. According to Mexico's 2015 census figures, more than 700,000 U.S.-born persons are living in Mexico; perhaps as many as 1.5 million or even more in reality, according to the U.S. Embassy. The largest spike in the U.S.-born population in Mexico comes from the children and spouses of Mexicans who have returned to their home country, including more than 550,000 U.S.-born children registered by the Mexican census. There is also a large community of U.S. citizens who have

retired (or semiretired) in Mexico, and another set of U.S.-born persons living on the Mexican side in border communities and commuting to jobs on the U.S. side. Finally, there is a growing number of U.S.-born persons who work in Mexico either because their employers have transferred them there, as part of the intense economic integration between the two countries, or because they are remote workers or self-employed and have chosen to live in Mexico.³

There is a similar pattern between the United States and Canada, with millions of Canadian and U.S. citizens living in each other's country, either temporarily or permanently. A large number of temporary workers from each country, mostly professionals, are part of the other's workforce, although the exact number is hard to know because of the ease with which the NAFTA visa operates between the two countries. (The U.S. and Canadian governments track only the requests for the visa, rather than people who receive them.) Hundreds of thousands of immigrants in each country have arrived through family-based green cards, student visas, or transitions from work-based visas or (in the Canadian case) student visas to permanent residency.

There are far fewer Canadians in Mexico and Mexicans in Canada, but the numbers of both groups have increased over time. Around 3,000 Mexicans migrate to Canada each year with visas for permanent residency, and another 2,000 to 3,000 apply for asylum. There are also agricultural guest workers who are invited each year, now more than 30,000 each year.⁴ Officially, there were fewer than 10,000 Canadians living in Mexico, though the real number is almost certainly much higher.⁵

Remaining structural asymmetries

To be clear, this is not a fully symmetrical set of relationships. There are temporary workers in all three countries, but only Mexicans come to the United States and Canada to work in agriculture and low-wage occupations in large numbers. And whereas all three countries now have notable populations from the other two, the Mexican-born population in the United States, at 11.3 million, remains by far the largest, and almost half of this population does not have legal status in the United States. These demographics are the legacy of a long period of irregular migration that lasted through most of the 20th century and early 21st century and continues in a much lesser measure today.⁶

Before the mid-1990s, there was much more of a cross-border, circular movement of labor between Mexico and the United States. However, as border enforcement expanded in the mid and late 1990s, many Mexican workers preferred to stay in the United States for fear that if they visited Mexico, they would not be allowed back into the United States. In the aftermath of the September 11th attacks, circular migration was reduced even further. The Mexican-born population in the United States grew exponentially as those who had sought labor mobility decided to stay as migrants.

Mexican migrant workers are essential for key sectors of the U.S. economy, including the dairy, fruit, vegetable, meat, and meat-packing industries. They are not exactly temporary seasonal workers; some have toiled for the same employer for 20 years or more, even if they may lack legal status. However, even the recognition of their role as essential workers has not led to an initiative to provide these workers with a path to regularization. In the United States, the DACA (Deferred

Action on Childhood Arrival) program, which would allow business, government, and economic activity in general to benefit from the talent of more than 600,000 immigrant youth (of which over three-quarters were born in Mexico), was targeted for elimination by the Trump administration, but survived because of a Supreme Court decision. Overall, Mexico has a labor force whose median age is much younger than that of Canada and the United States. Pooling resources could make the North American region even more globally competitive in comparison with other economic and trade blocs, such as Western Europe and East Asia.

However, underlying these complementarities are deep differences, reflecting an ongoing asymmetry within North America that still conditions its existence as a shared region. The United States and Canada are among the wealthiest countries in the world, while Mexico, despite significant gains along most economic and social indicators over the past three decades, remains an emerging economy with a fraction of the average income per person as that in the United States and Canada. According to the World Bank, the figures for per capita income in 2019 were \$9,863, \$46,194 and \$65,118 for Mexico, Canada, and the United States, respectively.⁷

Mexico's ongoing economic development has been sufficient to sharply reduce irregular migration and even attract Mexicans to return and U.S.- and Canadian-born people to move there, but not enough to make the profiles of those who want to migrate similar. The bulk of work-based mobility between the United States and Canada is about professional and skilled occupations, while between Mexico and the two other countries it is often about less compensated occupations.

Policy divergence

Notwithstanding this growing similarity among the migration positions of all three countries, their respective policies remain different. Migration was not on the table in any significant way during the NAFTA negotiations, because it was still a period of large-scale Mexican irregular migration to the United States, with some lesser flows to Canada. Although the U.S. government does apprehend some Mexicans at the U.S.-Mexico border each year, and the Canadian policymakers remain vigilant and concerned about overstays from Mexico's visa-free travel status in Canada, the main irregular flows into North America now come from other countries.

For the United States and Mexico, the main concern in recent years has been flows from Guatemala, Honduras and El Salvador, with additional migration from Cuba, Haiti, Venezuela, and a few countries in Africa and Asia. But while Donald Trump began his administration in 2017 by decrying unauthorized migration from Central America and seeking to build a wall on the border with Mexico, Mexico's Andrés Manuel López Obrador started his six-year term on December 1, 2018, by declaring "Our immigration policy is built on the basis of full respect to human rights with an approach that is multi-sectoral, pluri-dimensional, co-responsible, across-the-board, inclusive and with a gender perspective." López Obrador promised development support for Guatemala, Honduras, and El Salvador, and humanitarian visas for those who wanted to work in Mexico. Mexican policy eventually would shift under strong U.S. pressure, including a threat of tariffs on Mexican goods, to focus instead on enhanced border control in the south.

On June 7, 2019, the United States and Mexico issued a joint declaration, stating that under the Migrant Protection Protocols (MPP), asylum seekers who crossed the southern U.S. border would

be rapidly returned to Mexico to await the adjudication of their asylum claims.⁸ However, as of July 17, 2020, MPP had processed 63,623 individuals, of which only 523 had been granted relief; that is only eight out of every thousand cases.⁹ Although the Government of Mexico committed to providing documentation, education, healthcare, and employment for those waiting in Mexico under MPP, support for these migrants has been minimal. Furthermore, several human rights and humanitarian organizations who work with migrants and asylum seekers have pointed out that the MPP policy endangers their lives, as they are vulnerable and trapped in areas known for violence, extortion, and kidnapping.¹⁰

Even as the U.S. government, through a set of overlapping rules, programs, and agreements, has sought to limit the right to access to asylum at the border as a way of deterring migration, the Mexican government actually vastly increased its asylum system to accommodate those fleeing from violence in Central America and elsewhere.¹¹ The two countries have agreed on an enforcement-first strategy, imposed from Washington but accepted in Mexico City. Nonetheless, the Mexican government has maintained significant openness to asylum.¹²

Meanwhile, the Canadian government has continued to focus primarily on labor migration and maintained robust integration efforts to ensure long-term success in a high-immigration society. Immigration has emerged as a contentious issue in Canada and, to a lesser extent, Mexico, yet polls consistently show that most Canadians continue to support high immigration levels. Some Canadian politicians have raised concerns about irregular arrivals, but these protests are relatively few and far between compared to the experience of the other two North American countries.

In the case of the global migration paradigm, Mexico and Canada also diverge from the United States in their approaches to the issue. The former two countries have formally signed and ratified most international instruments, promoted by the United Nations, that promote the respect of the human rights of migrants.¹³ By contrast, the Trump administration derided calls from the United Nations and human rights networks to protect the rights of migrants and asylum seekers regardless of their immigration status. To date, Washington has neither signed nor ratified the above-mentioned instruments.

Opportunities for Policy Coordination in the Near-Term

It will be many years before the three countries of North America can discuss common migration policies and practical applications for these policies. Their asymmetries and sharply divergent approaches to policy mean that there are simply too many differences to make any formal attempt at common strategies meaningful. Sensitivity around national sovereignty in all three countries compound this further. However, in several bounded areas of policy, it would make sense to look at common efforts in order to learn from each other's migration systems. There are specific opportunities to be more coordinated around border management, at least in learning proactively about the similar but also slightly distinct approaches between the two pairs of borders. During the COVID-19 pandemic, for example the three countries of North America have reached agreements (in a Canada-U.S. negotiation and a separate Mexico-U.S. negotiation) on the kind of restrictions to put in place. That said, there are always ways of continuing to develop a joint management of borders that makes them both safer and more secure.

Should future governments of Canada, the United States and Mexico wish to cooperate more closely on migration issues, the meaning of smart border management will slowly translate into joint border management, constructing common approaches to shared border challenges. Indeed, some key efforts already are underway to co-manage border installations, experiment with preinspection facilities inside each other's countries, and create trusted traveler programs.¹⁴

There is also an opportunity to discuss priorities for attracting global talent within the framework of USMCA, not as coordinated policy but as an attempt to create the optimal conditions for economic success within the regional trading bloc. This discussion could include looking at how the three countries are approaching the issue and what approaches in each country might help ensure greater long-term competitiveness. Although any such conversation would need to focus on specific national decisions at this point, it provides an opportunity for learning among the three countries and encouraging more in-depth thinking about how to jointly attract and retain talent.

Finally, there are opportunities to address the massive, forced migration of people from several different countries in the region. A mixture of economic, political, and climate shocks have generated a massive amount of movement unlike anything seen in the hemisphere in decades. The largest flow has come from Venezuela: in recent years more than five million Venezuelans have left their country. Most have settled in other countries in South America, though a significant number of Venezuelans have arrived in the three North American countries as well. However, recent climate events in the Caribbean, such as hurricanes, have forced many individuals and families to look to North America for better opportunities. A slow but steady outmigration also has continued from the collapsing economies of Haiti and Cuba, and forced migration flows out of El Salvador, Guatemala, Honduras, and Nicaragua are all part of the regional migration dynamics.

The future is likely to provide huge opportunities to rebuild the protection system in the hemisphere to address these forced migrations, bringing the joint leadership of the three North American countries to bear on how to best address the root causes and provide protections to those fleeing systemic violence, natural disasters, and state collapse. Restoring asylum at the U.S.-Mexico border will be an essential ingredient in this new architecture.

In the case of the U.S.-Mexico bilateral relationship, a group of six former U.S. ambassadors to Mexico and six former Mexican ambassadors to the United States gathered in Texas in January 2020 to discuss a shared agenda. On the specific issue of migration, they generated key recommendations, including that the United States and Mexico should develop a bilateral migration framework which, to the extent possible, facilitates legal migration and modernizes border management while prioritizing the humane treatment of migrants and refugees. According to the group: "Though cooperation has increased, the United States and Mexico have yet to find the best or most sustainable framework to address migration. Historical precedent makes clear that bilateral cooperation is preferred to unilateral action. Ultimately, migration is a transnational challenge requiring solutions that embody shared responsibility and reflect the shared opportunity that comes with an integrated framework."¹⁵

The above statement is about the U.S.-Mexico relationship, but it could as easily be applied to all three countries and the larger North American partnership. The United States, Mexico, and Canada

have a unique opportunity to enter a new era of cooperation to manage, rather than suppress, the ongoing flow of migrants who inevitably will move within the free trade zone that has been created among the three countries.¹⁶ Issues of migration have remained largely off the table to date in the discussion of North American integration, but their inclusion would help build a more prosperous, equitable, and sustainable future for all who live within the North American region.

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² U.S. Department of State, *Report of the Visa Office for 2019*, 2019

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³ Selee et al., *Investing in the Neighborhood*.

⁴ Ian Van Haren and Claudia Masferrer, "Mexican Migration to Canada: Temporary Worker Programs, Visa Imposition, and NAFTA Shape Migration," Migration Information Source, March 20, 2019, <https://www.migrationpolicy.org/article/mexican-migration-canada>.

⁵ Ana Melisa Pardo Montañón and Claudio Alberto Dávila Cervantes, "Extranjeros residentes en México, perfil sociodemográfico, ocupación y distribución geográfica en 2015," *Carta Económica Regional* 28, no. 117 (January-June 2016).

⁶ Selee et al., *Investing in the Neighborhood*.

⁷ World Bank, "GDP per capita, current US\$ - Mexico, Canada, United States,"

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⁸ U.S. Department of State, "U.S.-Mexico Joint Declaration" (Media Note, Office of the Spokesperson), 2019 <https://www.state.gov/u-s-mexico-joint-declaration/>.

⁹ U.S. Department of Homeland Security, "Migrant Protection Protocols Metrics and Measures," 2020, https://www.dhs.gov/sites/default/files/publications/migrant_protection_protocols_metrics_and_measures_0.pdf.

¹⁰ United Nations High Commissioner on Human Rights, "Opening Statement by UN High Commissioner on Human Rights Michelle Bachelet, 42nd Session of the Human Rights Council," Geneva, September 9, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24956&LangID=E>; Médecins Sans Frontières, "The Devastating Toll of 'Remain in Mexico' Asylum Policy One Year Later," 2020, <https://www.msf.org/one-year-inhumane-remain-mexico-asylum-seeker-policy>; Washington Office on Latin America, "One Year After U.S.-Mexico Migration Deal, a Widespread Humanitarian Disaster," 2020, <https://www.wola.org/analysis/one-year-after-mexico-migration-deal-humanitarian-disaster/>; and Instituto para las Mujeres en la Migración, "Recursos para entender el protocolo 'Quédate en México,'" 2020, <https://imumi.org/wp-content/uploads/2020/02/Qu%c3%a9date-en-M%c3%a9xico-2020-1.pdf>.

¹¹ Ariel Ruiz Soto, "One Year after the U.S.-Mexico Agreement: Reshaping Mexico's Migration Policies," Policy Brief, Migration Policy Institute, June 2020, <https://www.migrationpolicy.org/research/one-year-us-mexico->

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¹² Ariel Ruiz, “One Year After.”

¹³ These include, among many others, the Global Compact for Migration (Marrakesh, December 10 2018; United Nations [UN] General Assembly, December 19, 2018); the Global Compact on Refugees, affirmed by the member states of the UN General Assembly on December 17, 2018; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted by UN General Assembly Resolution 45/158, December 18, 1990.

¹⁴ Andrew Selee, *Vanishing Frontiers: The Forces Driving Mexico and the United States Together* (New York: PublicAffairs, 2018), ch. 2. These efforts are well underway at both the Canada-U.S. and Mexico-U.S. borders.

¹⁵ Wilson Center, “CONVOCATION: A Vision for a Stronger U.S.-Mexico Partnership,” Mexico Institute and the U.S.-Mexico Foundation, 2020,

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¹⁶ Douglas S. Massey, “America’s Immigration Policy Fiasco: Learning from Past Mistakes,” *Daedalus, the Journal of the American Academy of Arts & Sciences* 142, no. 3 (Summer 2013): 5–15, https://www.mitpressjournals.org/doi/pdf/10.1162/DAED_a_00215.