



Regulatory Frameworks for International Labor Migration in Latin America and the Caribbean

Report Summary

Human Mobility Governance Series





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Prologue

**“THE MOMENT A REFUGEE GETS A JOB, THEY ARE NO LONGER A REFUGEE”,
HAMDI ULUKAYA¹.**

The new migration patterns in Latin America and the Caribbean present challenges for which none of our countries was prepared. These challenges range from providing humanitarian assistance to thousands of vulnerable migrants, to the adaptation of their immigration services, to the provision of social services and the promotion of their socio-economic inclusion.

On this path, which the majority of governments in the region have undertaken with a commitment and solidarity of which they can be proud, labor inclusion has enormous potential for the benefit, not only of migrants, but also of host countries.

With their youth, their talents and their innovative capacity, migrants can be an engine for the development of host communities, contributing with their efforts to economic growth and general well-being.

However, in our daily dialogue with the region’s immigration authorities, we find that there are multiple obstacles that limit the full integration of migrants into the labor market. Some of them stem from lack of operational and institutional coordination, others require bilateral information exchange between countries, while others are social and cultural, or regulatory.

As detailed in the publication *“Giving Migrants a Fair Chance in the Labor Market”* of the Migration Unit of the Inter-American Development Bank, there are important benefits for countries in achieving positive labor integration of the migrant population.

One of the issues to consider in this process are the rules and regulations that influence the labor inclusion of migrants. To respond to this need, this document, prepared by Dr. José Ignacio Hernández, consultant, and coordinated by the Migration Unit, analyzes immigration regulation in the 26 IDB borrowing countries with the objective of identifying the conditions under which migrant workers can access and participate in the formal labor market. In addition, it identifies the Inter-American standards applicable to migrant workers, allowing the comparison of the migratory labor regulations of each country.

From the Migration Unit of the Inter-American Development Bank, we support countries in their efforts to transform the challenges of migration into opportunities for their development. With that conviction, this document proposes a critical look at migrant labor regulation in the region as a call to action to advance regulations that favor the integration of the migrant population for the benefit of the entire population of our region.

Felipe Muñoz Gomez
Migration Unit Chief

¹ Hamdi Ulukaya is a Kurdish immigrant entrepreneur and activist, CEO of Chobani and founder of TENT, an NGO that brings together more than 300 companies committed to training, mentoring and hiring refugees.

I. Introduction

ABOUT 62% OF INTERNATIONAL MIGRANTS ARE MIGRANT WORKERS.

This figure from the International Labor Organization (2021: 11–15) reveals that financial factors are one of the main causes of international human movement, particularly the search for better working conditions. This has led analysts to view labor migration as being key to achieving the Sustainable Development Goals set out in the 2030 Agenda.²

This report by the IDB's Migration Unit analyzes labor migration regulations in the 26 borrowing countries of the Inter-American Development Bank. Its objective is to identify the conditions under which migrant workers can access and participate in the labor market. It also identifies the inter-American standards that apply to migrant workers, enabling a comparative evaluation of each country's labor migration regulations.



To conduct this study, 218 regulatory sources were examined, including constitutions, laws, labor codes, treaties, regulations, and administrative precedents (guidelines, manuals, and general online information provided by immigration authorities). Dozens of bilateral labor and social security agreements were also reviewed, most notably the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**, the main legal framework for the application of inter-American standards on this matter. The analysis ultimately provided an overview of the restrictions applicable to migrant workers in the region. It measured the impact of these restrictions on their economic integration and inclusion in the labor market, especially in terms of their ability to help spread productive knowledge and thus contribute to development, in line with the standards on safe, orderly, and regular migration.

It is important to note that for the purposes of this report, labor migration regulations in Latin America and the Caribbean have been examined with the sole purpose of comparatively assessing conditions of access for and the participation of migrant workers from the perspective of economic integration. **The legal interpretation of this framework by migration authorities or domestic courts may lead to different conclusions than those reached here.**

² SDG 10.7 seeks to “facilitate orderly, safe, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.” These standards have led to migration being viewed as a catalyst for development (Richter, 2013: 109).

II. Legal instruments

THIS SECTION PRESENTS SOME OF THE LEGAL INSTRUMENTS THAT GOVERN LABOR MIGRATION. THE REFLECT A CHANGE IN PERSPECTIVE IN LABOR LEGISLATION.

In Latin America and the Caribbean, the main factor motivating countries to regulate international labor migration is the protection of national workers. The host country's right to regulate to achieve this end gives it significant discretionary power for controlling both foreign workers' access to the local labor market and the participation of workers who enter the country regularly. This right to regulate has its origin in both labor law and immigration law. International law also has a broad impact on labor migration through the United Nations and more specific effects through regional agreements in force in Latin America and the Caribbean. The first of these regional agreements applies to the entire region and derives from the Organization of American States (OAS), through inter-American standards that apply to labor migration.

International human rights law does not contain any specific regulations on the rights of migrants. For this reason, for much of the 20th century, the main standards for measuring migration regulations focused on the principle of equality between migrant workers and native-born workers, especially concerning the prohibition of discriminatory, abusive, and degrading treatment. However, at the end of the 20th century and particularly at the

start of the 21st, international standards began to be expanded to frame human movement as being favorable for development.

This new vision began to take shape in 2016, following the United Nations General Assembly's New York Declaration for Refugees and Migrants, which was expanded in 2018 through the Global Compact for Regular, Safe and Orderly Migration. Through this agreement, countries committed to designing and implementing policies to promote migration, especially labor migration, recognizing the positive effects it can have in fostering development. The Global Compact goes beyond the obligations arising from respect for human rights and the prohibition of discriminatory treatment. It seeks to promote public policies that remove unnecessary barriers to the entry of migrants and their participation in the labor market. It also encourages the entry of migrants taking into account the role their skills could play in promoting development. To achieve this, the Global Compact formulates three fairly broad standards: safe migration, orderly migration, and regular migration.

Although not all countries in the region originally signed the Global Compact, a consensus has emerged around the importance of promoting safe, orderly, and regular migration as a means of promoting development.³ In fact, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Panama, and Peru were among the “champion countries” for the Global Compact—that is, countries that voluntarily chose to participate in a pilot program to advance

³ See *Data and information on migration in Latin America and the Caribbean*, an IDB database available at datamig.iadb.org.

the design and implementation of public policies related to this new vision.⁴

To promote economic diversity and foster inclusive development, this approach suggests promoting policies that encourage workers with the productive skills required by a given labor market to be able to access this and participate in it. This approach is based on a premise endorsed in the New York Declaration, namely that labor migration laws that facilitate safe, orderly, and regular migration do not create rivalry between national and foreign workers but rather promote complementarity, as foreign workers bring new productive knowledge.

This comprehensive approach to human mobility was also reflected in the Los Angeles Declaration on Migration and Protection, signed in 2022

by Argentina, Barbados, Belize, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, the United States, and Uruguay at the IX Summit of the Americas.⁵ The declaration reflects a political commitment to advancing labor migration policies that guarantee international standards based on human rights and nondiscrimination, and that also favor the safe, orderly, and regular access of migrant workers to the labor market as a catalyst for development.

The Los Angeles Declaration is a milestone in inter-American legislation on migrants, refugees, and human mobility, and paves the way for updating the existing legal framework, taking into account the trends summarized in the New York Declaration, the Global Compact on Migrants, and the Global Compact on Refugees.

⁴ See the full list of champion countries at migrationnetwork.un.org/champion-countries.

⁵ See the full text here: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/>.

III. Standards for Evaluation

This section summarizes the standards applied to evaluate the impact of the regulatory framework on migrant workers in Latin America and the Caribbean. Taking into account the international instruments that have an impact on the inter-American sphere, this section presents some of the general principles or standards that create favorable conditions for the promotion of safe, orderly, and regular labor migration.

The following tables summarize general standards relating to [\(1\) access to work](#) and [\(2\) worker participation in the labor market](#), while also recommending measures that could help strengthen compliance on the part of migration authorities. This study only takes into account the standards derived from the resolutions of the UN General Assembly under the OAS Charter and the precedents of the IACHR, as they apply to the 26 countries of Latin America and the Caribbean that are the subject of this study. These standards are a parameter for measuring the quality of labor migration policies in terms of their impact on labor inclusion, based on the assumption that this favors inclusive development in Latin America and the Caribbean, in line with the Global Compact on Migration.

To evaluate the impact of migrant labor regulation on inter-American standards, it was necessary to formulate an indicator methodology that would allow us to analyze the regulations adopted in each of the 26 borrowing countries of the Inter-American Development Bank in Latin America and the Caribbean. **After applying this methodology (which is explained in annex I of the full report), 15 indicators were identified, which can be grouped into three categories:**

1. **Labor market access for migrant workers**—that is, the conditions under which migrants enter the labor market to provide services through a formal employment relationship.
2. **The labor market participation of workers** who have accessed the labor market via regular means—that is, the rights of such workers.
3. **The practical implications of international law**, taking into account regional or binational agreements that modify migrant workers' conditions of access and participation.

These indicators, which allow us to compare labor migration regulation in Latin America and the Caribbean, are shown in [Figure 1](#), classified into groups.

It is important to note that the measurement of this impact is based on a comparison of inter-American standards and the labor regulations adopted in the 26 borrowing countries of the Inter-American Development Bank. In other words, it is based on *de jure* factors. The potential gap between the *de jure* and *de facto* spheres (that is, the differences between the regulatory framework on paper and how it is actually implemented) is beyond the scope of this study.

TABLE 1: Standards and measures related to access to employment

STANDARD	RECOMMENDED MEASURES
<p>» The administrative procedures for migrant workers to access the labor market must guarantee their right to defense and be based on certain response times and verifiable public information.</p>	<p>» Immigration and labor authorities should provide the public with clear, simple information on access procedures, particularly through the use of information and communication technologies. If there is more than one regulatory authority, there should be adequate coordination policies to facilitate immigration procedures.</p> <p>» Immigration procedures should be simplified, and advisory services and digital procedures should be made available to users.</p>
<p>» Decisions regarding migrants' access to the labor market must not be discriminatory, all other things being equal. This means that even though the country may condition access to promotion policies for native-born workers, it must treat foreign workers with comparable profiles in the same way.</p>	<p>» The discretionary powers of the authorities can be limited by administrative criteria and a set of practices that make it possible to predict, as far as possible, the criteria for the admission of foreign workers.</p>
<p>» Applicants should have effective access to administrative and legal remedies in the event of any decision by immigration authorities.</p>	<p>» Applicants should receive a response to their request within a reasonable time and should have access to effective administrative and legal remedies.</p>

Source: Compiled by the authors.

TABLE 2: Standards and measures relating to worker performance

STANDARD	RECOMMENDED MEASURES
<p>» The administrative process for renewing work permits, changing jobs, gaining access to permanent residence, and obtaining citizenship must comply with the standards already mentioned above: clear information, decisions made on an equal basis, and access to legal remedies that guarantee the right to defense.</p>	<p>» Procedures should be designed and implemented to promote the regularization of migrants. The mismanagement of these procedures can create circumstances that are conducive to irregular and precarious working conditions.</p>
<p>» Access to economic and social rights should be based on the principle of equal rights, taking into account the vulnerable circumstances of migrant workers, including with regard to social security portability.</p>	<p>» Countries must establish and strengthen cooperation mechanisms on international migration to ensure that it is safe, regular, and orderly.</p>

Source: Compiled by the authors.

FIGURE 1: Classification of indicators affecting international labor migration



Source: Compiled by the authors.

IV. Overview of International Regulation

The comparative analysis of labor migration regulations in Latin America and the Caribbean using each of the 15 variables described below provides an overview of the conditions affecting the inclusion of migrant workers in host country labor markets. These conditions depend on the regulations in place, in accordance with inter-American standards for safe, orderly, and regular migration.

Indicator 1. Migration authority

There are three migration authority models in Latin America and the Caribbean, according to which the oversight of labor migration is the remit of either a single migration authority, a specific labor migration authority, and a migration authority and a labor authority working in parallel. The single migration authority model may result in more efficient management, while the oversight provided by a labor migration authority may result in a focus on labor policies. Although the dual authority model requires coordination, it can lead to the effective integration of migration and labor policies.

The most common model in Latin America and the Caribbean (found in 19 of the 26 countries) is the single migration authority, which entails a sole agency overseeing all immigration controls. Five countries have adopted a model that requires labor and migration authorities to work together. In the remaining two countries, access to the labor market is managed by the labor authorities.

In addition, this authority may be attached to three areas of the national government:

- » security,
- » labor,
- » or foreign policy.

The most common model (used in 19 countries) is one in which the migration authority is part of the government's security sector, often resulting in a border-control approach to migration policy. In some countries, this oversight is jointly assigned to labor authorities, leading to parallel procedures. In the second most common model (used in four countries), the foreign policy sector is responsible for migration, which creates incentives for coordinating migration and labor policies.

Leaving aside the possible application of bilateral labor agreements and the provisions of regional agreements that may specify more favorable conditions, market access for migrant workers in the region is subject to authorization by the competent authority. Consequently, regular access to the labor market is conditional on the capacity of that authority to carry out transparent, efficient, expeditious administrative procedures needed to issue the authorization in question.

According to best management practices, coordination capacities should be strengthened so that the immigration authority takes labor policies into account, in coordination with security needs.

Similarly, in countries using the dual authority model, it is advisable to strengthen inter-administrative coordination by implementing mechanisms to simplify procedures and reduce the regulatory costs associated with the dual authority model.

Indicator 2. Entry permits

Broadly speaking, there are two types of entry permit: the authorization granting foreign workers the right to work, which is usually called a work permit, and the entry visa, which authorizes foreign workers to apply for regular entry into the host country.

The difference between these permits is not always clear. Visas are official endorsements authorizing foreigners to apply for entry into the host country and are typically issued by foreign service authorities, while work permits authorize migrants to be hired within the framework of an employment relationship. There are countries that require migrant workers to hold both a visa and a work permit authorizing their employment.

One aspect that stands out in Latin America and the Caribbean, where there is a diversity of regulatory frameworks for work permits, is that **in addition to the applicable laws and regulations, there is also a large variety of administrative practices, some of which have been systematized on government websites.** This reveals that the criteria underlying the granting of these permits are not always clear, which may contravene the standard of secure access.

In addition to digitizing migration procedures, **it would be advisable for authorities to design information mechanisms to help labor migrants navigate complex labor migration regulations.**

These digital information mechanisms could be supported by artificial intelligence technologies such as *chatbots*, which would foster a favorable environment for safe labor mobility.

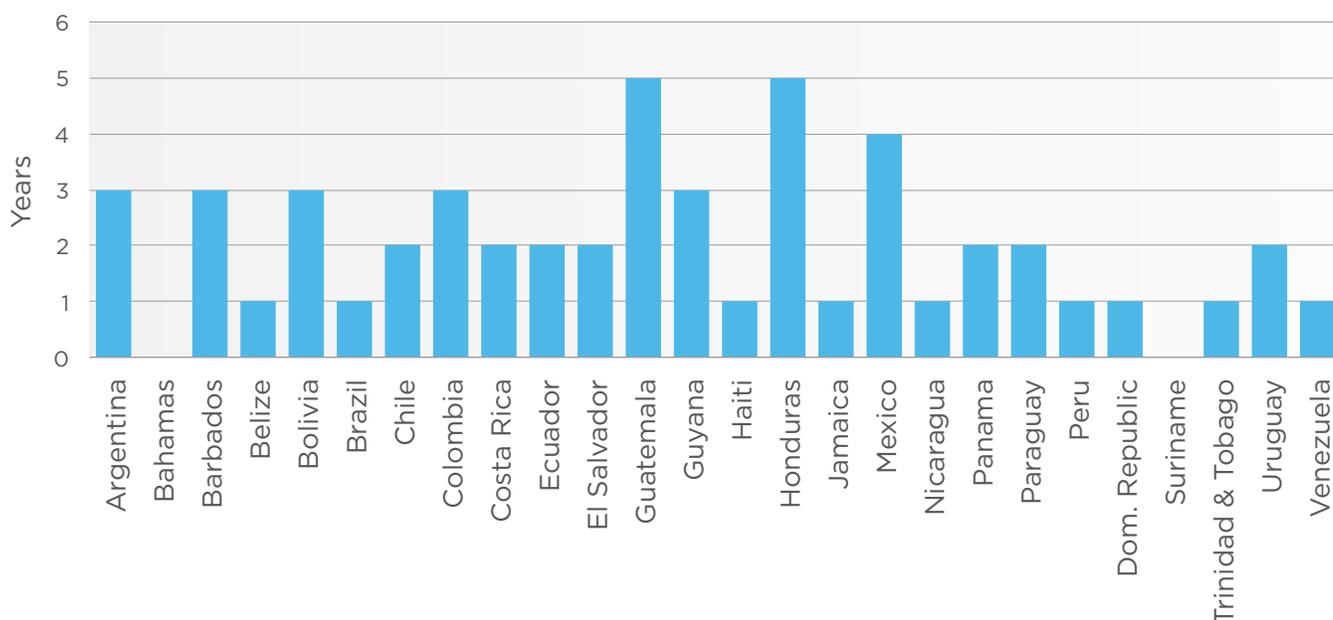
Indicator 3. Duration of entry permits

Making entry permits valid for longer and better regulating the process of renewing them would improve the prospects for economic integration. In Latin America and the Caribbean, migrants are granted access to the labor market for a limited time (two years, on average). In some countries, this period is determined on a discretionary basis (See [Figure 2](#)). This forces workers to apply for renewal if they wish their stay in the country to remain regular. In countries where renewal is not regulated, workers must apply for a new permit, which may eventually cause them to leave the country.

Twenty-one countries in the region allow the extension of work permits, while four have no regulations on the matter. In these cases, workers' permission to stay depends on discretionary decisions, creating unfavorable conditions for safe migration.

From the perspective of inter-American standards, it is advisable to increase legal certainty during the temporary stay granted by the work permit authorizing the bearer to access the labor market. If permits are only valid for a very short time—a year, for instance—this creates uncertainty that can affect integration, even if the permits can be renewed. Automatic renewals are one possible approach to simplification: employees request renewals, but the permit is deemed to have been automatically renewed if the relevant authority does not respond within the specified time.

FIGURE 2: Duration of the main work permit



Source: Compiled by the authors.

Indicator 4. Who requests permits?

There are several models that determine who must apply for work permits: **the worker, the employer, the worker and the employer together, or any of the above.** In addition to considering who will take financial and administrative responsibility for the process, it is important to note that workers almost always need to have a contract or job offer to apply for a permit—only in exceptional circumstances are workers without this allowed to enter some countries. Along with complicated application procedures, this requirement can create a barrier that disadvantages migrant workers in comparison with native-born workers who do not have to meet additional requirements to be hired.

This indicator also allows us to distinguish between access systems in which employers decide to hire foreign workers (the demand system, which is the most common) and those in which workers can choose to enter the host country and look for work (the supply system, which is very exceptional).

The most common model in Latin America and the Caribbean (in place in 16 countries) is one in which workers bear the regulatory burden of obtaining access to the labor market—that is, they are the ones who apply for work permits and interact with the authorities. According to good practices recommended in international forums, it is employers who should bear the financial costs of the hiring process, since the vulnerable position of migrant workers exposes them to risk during hiring processes, which may entail abusive fees or loans at unduly high interest rates. This increases their vulnerability to labor exploitation (Institute for Human Rights and Business, 2017: 16).

To mitigate these risks, it is recommended that employers bear the costs of the hiring process. However, even models that place the burden on the employer are subject to information failures that can undermine the standard of orderly labor mobility, as employers who need to hire foreign workers may face problems in locating potentially interested candidates.

Indicator 5. General restrictions

The most common conditions for accessing the labor market are a contract or job offer, a bond, administrative checks, and special justifications. As noted above, the most widespread system is the demand system, in which foreign workers require job offers or contracts and sometimes other requirements, too. For migrant workers to access the labor market, employers must decide to hire foreign workers and cover the coordination and hiring costs of doing so.

As a rule, **migrant workers are not free to enter host countries in Latin America and the Caribbean to offer their services in the labor market without first having been offered a job.** There are some exceptions that relate to the special regimes that derive from regional agreements. Similarly, the practical scope of migration policy in the region is very limited, as the decision to attract migrant workers is driven by demand and not necessarily by public policies that foster migrant workers gaining regular access to the market. Accordingly, the demand-based model does not facilitate the implementation of public policies to attract highly skilled migrant workers. Some countries, such as Mexico, have introduced the supply-based system, albeit in a very ad hoc fashion.

To strengthen the supply-based model, programs could be implemented in specific sectors through which host countries select qualified workers and authorize them to seek employment in the country. These programs would create exceptions to the rule making a contract or job offer a prerequisite for applying for a permit.

Indicator 6. Type of workers who can access the labor market

In Latin America and the Caribbean, two types of systems regulate access to the labor market: **open systems, which allow any worker to enter the country, and closed systems, which allow only certain categories of workers to enter.**

The open model is the most common and is in place in 20 countries in the region. Under this system, any worker can apply for a permit, regardless of the industry in which they intend to work or the type of work they will perform. However, six countries only allow the entry of migrant workers to hold executive, managerial, trust, or technical positions. This means that only workers seeking these kinds of jobs can apply for work permits. Restrictions of this sort tend to apply to types of occupation but not to sectors.

The open model creates more favorable conditions for migrant workers to enter the labor market, while the closed model may create barriers that could jeopardize orderly migration. In such cases, exceptions to the closed categories could be introduced using transparent rules. Countries could promote the spread of productive skills by permitting migrant workers to access jobs outside these special regulated categories.



Indicator 7. Mechanisms to protect native-born workers

These protection mechanisms originate in the premise that native-born and foreign workers compete for jobs. Based on this assumption, host countries implement policies to protect native-born workers by limiting the number of foreign workers that can be hired or by giving preference to native-born workers. The most common way of exercising these mechanisms is through labor quotas, which are in place in 12 countries in the region. These set the maximum percentage of foreign workers a company can hire or the share of its payroll that foreigners can receive (Table 3). In ten countries in Latin America and the Caribbean, employers must conduct a labor demand test, in which they publicly offer the job to local workers, to ensure that only migrant workers are hired if no native-born workers are interested in the job. Finally, one country has special measures in place that apply only to certain employers, depending on the sector in which they operate.

Of the 12 countries that establish quotas, 11 define blanket percentages limiting either the maximum number of foreign-born workers that employers may hire or the maximum percentage of the payroll that may be allocated to foreign-born workers (see Table 3).

From the perspective of inter-American standards, there is also a need to review the premise on which these restrictions are based: namely that the relationship between native- and foreign-born workers is one of rivalry. According to this assumption, to promote the employment of native-born workers and protect their wages, the number of foreign workers that can be hired needs to be limited. In contrast, viewing labor migration through the lens of the transmission of productive knowledge enables us to reframe this relationship as one of complementarity. From this perspective, foreign-born workers can contribute new productive knowledge that complements the knowledge of native-born workers, who benefit from this. The spread of this knowledge is not limited to highly skilled workers—such as workers in the regulated professions—but also encompasses so-called

TABLE 3: Classification of labor quotas

COUNTRY	MAXIMUM PERCENTAGE OF FOREIGN-BORN WORKERS	MAXIMUM PERCENTAGE OF PAYROLL ALLOCATED TO FOREIGN-BORN WORKERS
 Bolivia	15%	15%
 Chile	15%	Not regulated
 El Salvador	10%	15%
 Guatemala	10%	15%
 Haiti	5%	30%
 Honduras	15%	Not regulated
 Mexico	10%	Not regulated
 Nicaragua	10%	Not regulated
 Peru	20%	30%
 Dominican Republic	20%	Not regulated
 Venezuela	10%	20%

Source: Compiled by the authors.

low-skilled workers because productive knowledge is practical knowledge that does not necessarily depend on formal learning such as that acquired at university.

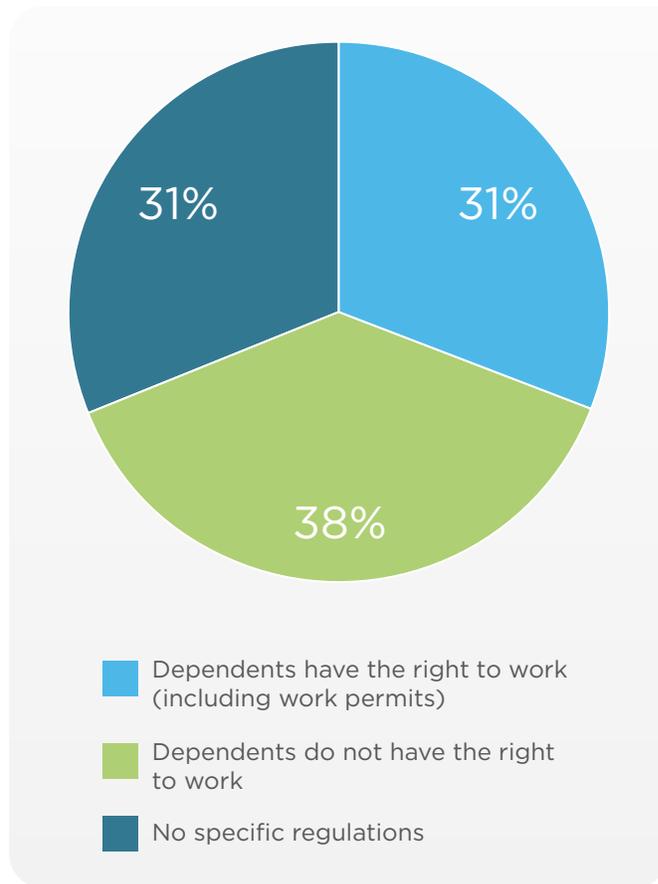
Indicator 8. Status of dependents

This study's interest in this matter relates not so much to the right to family reunification but rather to the right of dependents to work in the formal labor market, subject to the relevant checks and permits. This is especially relevant for spouses: when spouses have the right to work, migrant inclusion tends to be greater.

Most countries in the region (19) do not expressly acknowledge dependents' right to work, either because this is not permitted (10 countries) or because there are no clear regulations on the matter (9 countries). This implies that dependents (who are usually defined as the worker's spouse and children) only have the explicit right to work in seven countries. Of course, this right also is subject to local labor regulations regarding minimum working age and other such conditions.

If a migrant worker's regular migration status does not automatically give their dependents the right to work, it can create a barrier to inclusion, since household income will depend solely on the migrant worker who has been authorized to work and receive payment in return. **Another important factor is that when women have the right to work, it can reduce the risk of violence against them.**

FIGURE 3: Dependents' right to work



Source: Compiled by the authors.

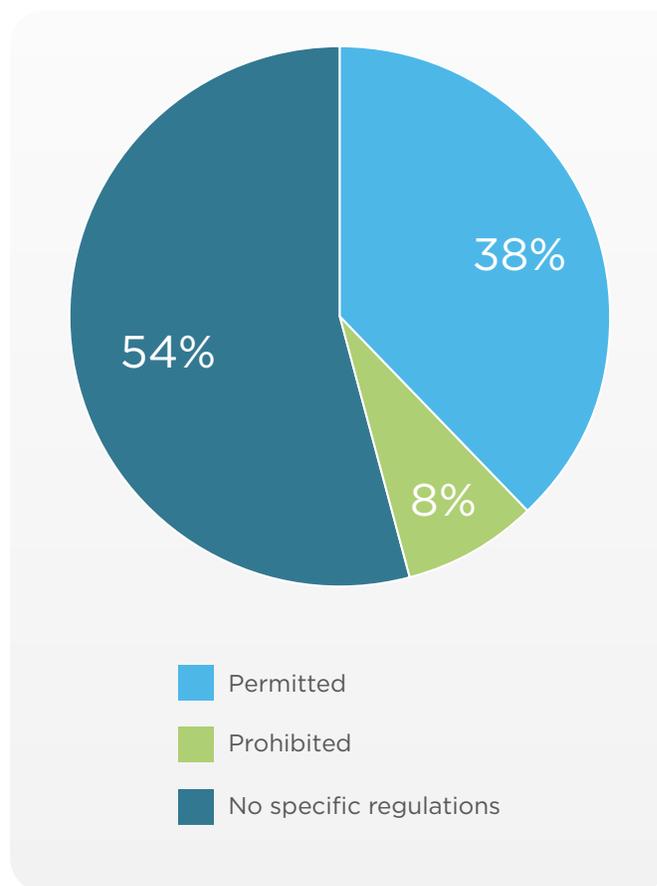
Indicator 9. Changing jobs

Most of the countries studied (15) do not have regulations on changing jobs, which means that such matters are at the discretion of the migration authority. This undermines the security of regular migration. Nine of the countries surveyed do allow migrant workers to change jobs, although these changes are sometimes subject to additional permits. Two countries do not allow this, meaning that workers must apply for a new permit if they wish to enter into a contract with a new employer. In such cases, unless they can apply for a change of work permit through the new employer or change their immigration status, they may be forced to leave the country to apply for the new permit.

Enabling job switching will improve economic integration and foster the spread of productive knowledge. Moreover, if job switching is allowed, there needs to be assurance that administrative procedures will not create additional barriers that impede the spread of this knowledge. This is especially relevant in countries where migrants have to seek authorization to change jobs. The principles of good administration can help to ensure that these procedures are carried out quickly, including simplification mechanisms such as the automatic granting of permits if the authority does not respond within the time established by law.

Finally, although only a small number of countries actively prohibit job switching, this model could be revised to allow for regulated job switching. This would be especially useful given that, in countries where changing jobs is prohibited, migrant workers may be forced to leave if their employment relationship is terminated. This creates incentives for antiworker policies: the worker is dependent on the employment relationship with the employer specified in their original work permit. Consequently, allowing the migrant worker the freedom to change jobs without fear of reprisals fosters decent working conditions.

FIGURE 4: Changing jobs



Source: Compiled by the authors.

Indicator 10. Access to permanent residence

Entry permits for foreign workers are generally valid for a specific period, which may limit social inclusion. However, this situation could be improved if migrant workers' right to reside in the country was not limited in time. This would mean granting them permanent residence, which usually includes the freedom to work. Barriers to permanent residence include the need for a work

permit and uncertainty around the conditions for obtaining one. This can put migrant workers at a disadvantage compared to native-born workers, as employers may be reluctant to hire and invest in foreign workers if there is uncertainty about the length of time they are permitted to stay in the host country.

The vast majority of the countries surveyed (21) allow migrant workers to access permanent residence if they have stayed in the country for a certain length of time while holding a work permit, although they usually apply other conditions in addition to the minimum stay, some of which are discretionary. The average minimum stay in these countries is 3.2 years.⁶

Indicator 11. Citizenship

From a legal perspective, the right to citizenship represents the highest level of integration for migrant workers, as channels that provide access to both permanent residence and citizenship tend to lead to stabler, more secure integration.

To gain access to citizenship, a migrant worker needs to have resided in the country for an average of 4.6 years, and this stay usually needs to be documented through a permanent residence permit. Uruguay is the only country with no legislation regarding the granting of citizenship to migrants.

Indicator 12. Economic and social rights

The universalization of human rights has led to the establishment of equal access to these rights for regular migrant workers as a general principle, especially in Latin America and the Caribbean. However, there are countries that do not expressly regulate equal access.

The vast majority of the countries studied (21) explicitly recognize the rights of migrant workers who have entered the country regularly to enjoy economic and social rights on equal terms with the native-born population. This trend is particularly

pronounced in countries that are signatories to the American Convention on Human Rights, which is true of 23 of the 26 countries (all except the Bahamas, Belize, and Trinidad and Tobago).

Indicator 13. Social security portability

This indicator refers to migrant workers' right to maintain the social security rights they have acquired before migrating, such that these are also deemed applicable under the host country's social security legislation. Portability requires cooperation between countries and depends on international agreements.

The most widespread agreement is the Ibero-American Multilateral Convention on Social Security (CMISS), followed by the CARICOM Social Security Agreement. There are two regional agreements in force in Latin America: the Andean Social Security Instrument, contained in Andean Community (AC) Decision 583, and the MERCOSUR Multilateral Social Security Agreement. Some countries have also signed bilateral agreements that include social security portability clauses.

Indicator 14. Regional Agreements

This factor measures the impact of multilateral agreements—typically regional agreements—on the entry of migrant workers and their participation in the labor market. Some agreements group certain Latin American and Caribbean countries by region and include special rules regarding the entry and employment of migrant workers. Haiti is the only country in the region that has not signed any such international agreements.

The most widespread of these agreements is the MERCOSUR Residence Agreement, which grants temporary residence status for up to two years (renewable thereafter), with a preferential right to permanent residence at the end of that period. The second most widespread agreement is the 1973 Treaty of Chaguaramas, which created CARICOM and was revised in 2001 to create the CARICOM

⁶ For more on permanent residence and citizenship, see Acosta, Diego, and Harris, Jeremy (2022), *Migration Policy Regimes in Latin America and the Caribbean Immigration, Regional Free Movement, Refuge, and Nationality*, Washington, DC: Inter-American Development Bank.

Single Market and Economy (CSME).⁷ The revised treaty recognizes freedom of movement for skilled workers, such as university graduates.

The next landmark was AC Decision 878 on the Andean Migratory Statute, which came into force in 2021. Although the purpose of this instrument is to create AC citizenship and therefore promote freedom of movement, temporary and permanent residence are subject to migrants holding the appropriate permit, as is access to the labor market. Likewise, the Central America-4 Free Mobility Agreement between El Salvador, Guatemala, Honduras, and Nicaragua (CA-4) promotes freedom of movement but does not allow temporary or permanent residence.

Finally, some Caribbean countries have formed CARIFORUM, which is part of the Organization of African, Caribbean and Pacific States (ACP), founded in 1975. These countries signed an Economic Partnership Agreement with what is now the European Union to promote free trade between the two regions, which was later ratified by the United Kingdom after it left the EU.

Indicator 15. Bilateral agreements

There are agreements that could promote freedom of movement between two countries, cover social security portability, and consider mechanisms for the recognition and certification of professional skills. The implementation of such agreements could bring major gains for labor integration, especially considering that the movement of migrant workers between countries is particularly intense in Latin America and the Caribbean. There are also agreements that encourage circular or temporary migration.

Several countries in Latin America and the Caribbean have signed free trade agreements that include general clauses that apply to migrant workers. In addition, 18 of the countries surveyed for this study have bilateral labor agreements, according to the ILO database (which is not necessarily exhaustive). These agreements are the most effective instrument for promoting labor mobility between two countries, especially considering that the majority of immigrants in a given country tend to be of a single nationality, according to the IDB's DataMig database. **These agreements could promote freedom of movement while also including social security provisions.**

⁷ CARICOM has announced its intention to extend freedom of movement to all member countries in 2024: <https://caricom.org/free-movement-for-all-people-caricom-heads-decide-at-historic-meeting/>

V. Recommendations

- » The countries of Latin America and the Caribbean have several migration-related features in common, such as controls that make the regular entry of migrant workers conditional on permits issued by the host country. These controls are part of migration policy but are also influenced by labor policy. The main exception to this principle is the freedom of movement recognized within the CARICOM area. Other agreements like MERCOSUR and the AC include special regimes, but these first require migrant workers to hold work permits.
- » Some countries in Latin America have begun to update their legal frameworks to promote safe, orderly, and regular labor migration based on the primacy of human rights. Two recent examples of such reforms have taken place in Chile and Paraguay. There is still no evidence of such reform processes in the Caribbean countries.
- » In addition, the protection of native-born workers in the Caribbean is unusual in that it is subject to a labor demand test, which obliges employers to demonstrate that there are no native-born workers interested in a position they wish to hire a migrant worker to perform. This form of control is more flexible than the quota-based system that tends to predominate in Latin America.
- » Several recommendations could be made to bring these indicators in line with inter-American standards, with the ultimate goal of creating favorable conditions for economic integration.
- » On the matter of access to the labor market, several areas could be improved. The first of these is to strengthen the capacity of the migration authority, the security of the criteria governing work permits, and the coordination and simplification of related procedures. Other helpful strategies include increasing the length of stay associated with work permits, creating mechanisms to promote the hiring of skilled workers, and increasing the share of migrant workers based on the understanding that there is complementarity between native- and foreign-born workers. Finally, the recognition and validation of professional knowledge also need to be addressed.
- » In terms of participation in the labor market, inter-American standards recommend building the migration authority's capacity to grant permits to workers who have entered the country regularly, simplifying permits when changing jobs, promoting integration through permanent residence and citizenship, and making access to economic and social rights more effective, especially for vulnerable groups such as women.
- » Finally, on the matter of international agreements, mechanisms that promote social security portability and freedom of movement could be strengthened through regional agreements, especially bilateral ones. It is also important to continue to identify best practices among migration agencies, based on inter-American standards.
- » Another recommendation is to promote an American convention that establishes common standards to promote safe, orderly, and regular human mobility, especially in connection with labor migration, as a favorable condition for promoting inclusive development. Recognizing freedom of movement within the region may be overly ambitious, but implementing common standards would undoubtedly help create favorable conditions for promoting labor integration while preserving the rights of host countries to regulate.

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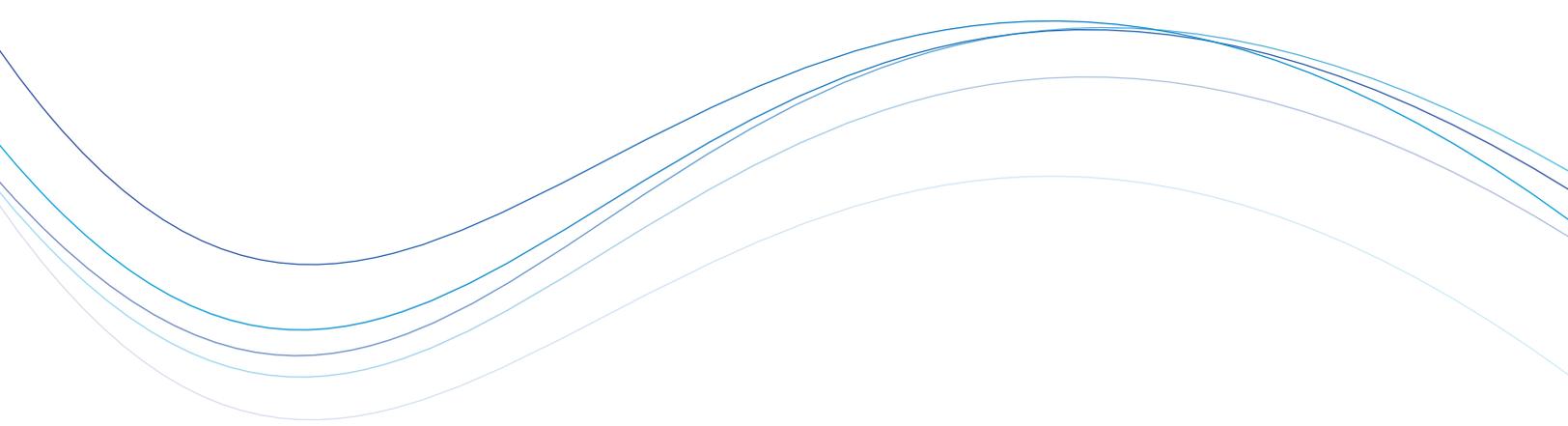
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