

Finding Refuge through Employment: Worker Visas as a Complementary Pathway for Refugee Resettlement

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Mobility is part of the human condition, and much of it is voluntary and welcome. There are about 272 million migrants in the world today,¹ according to the UN definition of someone who is living in a jurisdiction that is not his or her own for at least a year. That number is the equivalent of what would be the fifth most populous country in the world after Indonesia²—a significant amount of people. These migrants contribute immensely to global prosperity through their work and entrepreneurship and to cultural diversity through the traditions and values they bring to their new homes. Yet, at the same time, many publics are concerned—in fact, unduly concerned since the evidence indicates otherwise³—that immigrants are stealing jobs from nationals or harming the national economy.⁴ In the United States, at its most extreme, these (manufactured) fears have driven the Trump administration's heavy-handed and ham-fisted decisions to cancel all but a few categories of nonimmigrant labor visas.⁵ Contrary to these fears, however, it is the vulnerable immigrants themselves, especially those who are undocumented, that tend to be exploited.

Involuntary migration raises especially hard moral, legal, and practical problems. Refugees face grim conditions and the countries that host them bear unfair burdens. In 2019, there were about twenty-six million United Nations High Commissioner for Refugees-recognized refugees and 4.2 million asylum seekers

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seeking refugee status.⁶ The largest increase in the numbers of displaced people in a single year (whether internally or externally across borders) was in 2014⁷—when there were nearly double the numbers of the displaced seen in the previous decade, and at a level not seen since World War II.⁸ The numbers increased in 2015 but slowed in 2016 and 2017, but have picked up again in 2018 and 2019.⁹ Yet amid such high displacement rates, only 63,726 refugees were resettled globally in 2019, indicating a substantial resettlement gap.¹⁰ Many other refugees in both Europe and the United States have temporary or subsidiary protection without the full legal protections accorded to refugees in the UN Convention Relating to the Status of Refugees, adopted in 1951.¹¹ They obtain access to some legal protections by having crossed a border, but the circumstances they face in the new countries are very challenging. Rather than being temporary, the typical refugee displacement lasts about twenty years.¹² Nearly half of the refugees in the world are under eighteen,¹³ leading to another vital humanitarian question: Will they get that key early education that will allow them to create the kind of lives that they want and need? Furthermore, 85 percent of the world's refugees are being taken care of not in Germany, Sweden, the United States, or any of the other countries of the Global North, whose hand-wringing over accepting refugees we so often see headlines about, but in the developing world,¹⁴ which is undertaking the global responsibility to care for refugees.

This essay aims to identify and explore an underappreciated win-win policy option that has the potential to address both the needs of refugees for resettlement and the labor demand of destination countries. Building upon provisions of the Model International Mobility Convention¹⁵—a model convention endorsed by dozens of leading migration and refugee experts—we explore how to scale up valuable measures for identifying job opportunities that can resettle refugees from asylum countries to destination countries. The latter can benefit from the labor of refugees and thereby offer long-term refuge for desperate populations.

MULTILATERAL INITIATIVES

The United Nations has attempted to address the challenges of mass migration, including those of refugee resettlement outlined above. The UN and U.S. president Barack Obama each convened a summit in 2016 to address the global challenges of large flows of migrants. Global leaders at President Obama's summit pledged new resources for refugees (though few of these pledges were met, including the

U.S. ones once President Trump assumed office).¹⁶ The UN Summit reaffirmed long-standing principles of protection for refugees and the value of “safe, orderly and regular migration.”¹⁷ Member states further promised to adopt a “global compact on refugees” and a “global compact for safe, orderly, and regular migration” in 2018, consisting of a set of guidelines for shared principles and approaches.¹⁸ They especially promised to develop guidelines on the treatment of migrants in vulnerable situations,¹⁹ and to achieve a more equitable sharing of the burden and responsibility for hosting and supporting the world’s refugees.²⁰

The pledges were welcome diplomatic advances. But the resulting two global compacts, approved in December 2018—one for migration and the other for refugees—did not greatly improve the coherence of the global regulatory framework for global mobility. Both were voluntary guidelines and both missed the opportunity to improve the protection of migrants in “vulnerable situations.” None of these measures have adequately addressed the unfair burdens of asylum on developing-country hosts or offered an effective scheme of resettlement for refugees and other asylum seekers themselves.

THE MODEL INTERNATIONAL MOBILITY CONVENTION’S VISA PLATFORM

The Model International Mobility Convention (MIMC) was put together by a self-appointed commission, including scholars of demography, refugee law, migration law, sociology, economics, and political science. The commission met for a year and a half, proposing and revising a model convention planned to be a “realistic utopia”—a set of rules that existing governments with better motives could reasonably endorse.²¹ The convention is both comprehensive and cumulative. It is comprehensive in that it covers the movement of people across borders, “soup to nuts.” It includes everyone from a visitor to a tourist, a foreign student, a labor migrant, an investor, a forced migrant, and a refugee. It is cumulative in that it rests on the principle that individuals need an increasing set of locally realizable rights as they move across those different statuses.

One distinctive feature designed to open opportunities for refugee resettlement as it improves labor mobility is the “Mobility Visa Clearing House.” Under this provision of the convention, states will create a web-based platform²² on which they will identify their likely foreign labor demand for the next ten years or so and make visas available that could be applied for by individuals, recruiting firms, and national governments. The aim is to open up a larger number of

safe, regular, and orderly pathways for the movement of people across borders. The United States, like many aging developed countries, has high demand for immigrant labor in some sectors, but does not have adequate legal pathways that can be realized. This platform would increase such legalization pathways by offering labor visas for the jobs that would not be filled by nationals.

To the skeptics who say that “we do not know exactly how many workers we’ll need in the next few years,” we reply that your skepticism is justified. But it is also true that within rough orders of magnitude, we in the United States can estimate (as can other countries) the demand for the kinds of jobs that are not likely to be filled unless they are filled by immigrants.²³ For the United States, these include jobs in sectors such as agricultural and gardening labor, home care, many aspects of the medical profession, and some areas of Silicon Valley high-tech engineering. We can estimate those rough numbers and could make those visas available on this kind of a platform, and so too could many other countries, potentially improving the orderly movement of people across borders for employment.

These labor visas could become a game changer for refugee resettlement. The MIMC proposes reserving 10 percent of the annual number of awarded labor visas for refugees who meet the skills in demand. Refugees would be entering a wide stream of labor mobility. Employment has consistently been one of the largest drivers of global migration. And as the COVID-19 pandemic has underscored, many economies rely heavily on foreign labor in sectors as diverse as healthcare, agriculture, and information technology. As of 2018, an estimated 164 million workers were employed outside of their home countries.²⁴ Labor migration streams have far-reaching impacts, with nearly all nations serving as countries of origin, transit, or destination for migrant workers. And labor mobility will only become more important to the global marketplace in the years ahead. Experts predict that by 2030, the international labor shortage will stand at more than eighty-five million people, generating \$8.5 trillion in lost annual revenues.²⁵ Countries aiming to maintain competitive economies are increasingly looking beyond their borders to address critical labor shortages. In a globalized economy marked by the capacity to recruit and assess candidates’ qualifications remotely, businesses are better equipped to fill both skilled and less-skilled labor needs through international sources of labor.

Offering labor visas to refugees as a way to promote resettlement is not a new concept. Most prominently, Talent Beyond Boundaries (TBB) has pioneered a similar program, working with governments and businesses to promote the notion of utilizing labor mobility pathways to alleviate refugee resettlement.²⁶ The

organization manages a database containing employment qualifications and CVs for eighteen thousand refugees, which is made available to employers around the globe. In addition, TBB has partnered with several governments to implement pilot studies analyzing the availability of labor visa programs for refugees. Through these efforts, the organization has matched thirty-nine refugees with job offers, yielding 127 permanent resident visas for refugees and their family members.²⁷ Due to the success of the initial pilot programs, both the Australian and Canadian governments have pledged to increase the number of labor visas made available to refugees in the coming years.

TBB has successfully raised awareness within the international community regarding the win-win benefits associated with allocating labor visas to refugees. Yet there remain questions concerning the scaling up of such efforts given the low number of refugees relocated by the organization. In addition, its efforts have focused primarily on high-skilled and permanent visa petitioners to the exclusion of the many low-skilled and temporary visa programs maintained by countries.

SCALING UP

As valuable as the placements made by Talent Beyond Boundaries have been, they come nowhere close to addressing the needs for resettlement in today's world. To scale up, three challenges must be met: first, credentials need to be provided for refugees who lack them (a revival of the "Nansen passport"); second, refugee labor resettlement needs to be integrated with the major programs for labor visas in a way that combines the virtues of individual employer-driven and national points-based systems; and, third, an arrangement must be identified that incentivizes employers to invest the extra time and energy that will be required to select suitably skilled refugees. We address each of these three challenges in turn.

We begin by acknowledging that many asylum seekers do not possess identity documents and skills credentials.²⁸ They often have been expelled from their homelands and lost or had their identification papers or passports stolen. In order to enter the pool of potential labor migrants, they need preliminary certification as candidates for refugee status with a country of origin, information about whether they are fleeing from harm, confirmation that they are not themselves criminals, enumeration of what their skills and language competences are, and so forth. Before awarding an actual visa, countries will of course do their own refugee status determination. But requiring a preliminary certification and identity

papers for labor resettlement will greatly assist this process by identifying the pool of potential candidates. In addition, most countries mandate that applicants for certain skill-based labor visas supply educational and professional credentials. Yet refugees are frequently no longer in possession of their diplomas and relevant professional documentation, or face skepticism from government authorities and potential employers as to the validity of these credentials. Germany, for instance, in implementing its own skilled worker visa program, has struggled mightily with credential verification. Studies highlight German employers' reluctance to accept the credentials of foreign applicants.²⁹ Refugees, often lacking documentation altogether, face even greater obstacles in proving their qualifications. Here, the United Nations High Commissioner for Refugees (UNHCR) needs to play a key role and offer stateless and undocumented individuals a "passport" that certifies their credentials as genuine, and notes their putative skills and preferences for resettlement.

This proposal builds on but falls short of the modified Nansen passport proposed by Alex Aleinikoff and Leah Zamore. Aleinikoff and Zamore provide a humane case for a genuine mobility passport, one permitting refugees to cross borders at will (like EU nationals' or citizens' ability to freely travel within the EU) and thus move where they wish.³⁰ Our proposal is more limited and closer to the original established by High Commissioner for Refugees Fridtjof Nansen following World War I. It would certify and document refugees, but allow countries to continue to issue visas to persons to acquire the skills and in the numbers they choose. But importantly, and unlike with regular labor visas, whether temporary or permanent, in our proposal the refugee labor visa holders would retain their rights as refugees. If their employment visa were to lapse, they could be required to leave but they could not be expelled to any country that would pose a threat of persecution.³¹

We also suggest that labor visas for refugees need to be integrated into an improved labor visa program. Among countries with substantial economies and a continued investment in immigration policy, two approaches to labor migration predominate: a demand-driven, employer-based model most prominently utilized by the United States and a points-based system embraced by countries such as Australia, Canada, and New Zealand.³²

In employer-driven systems, employers first identify and recruit noncitizens for vacancies. The employer subsequently sponsors an individual worker for a visa based on the nature of the vacant position. Governments maintain regulatory oversight of this process, typically restricting the number of visas distributed annually and requiring that foreign candidates meet certain qualifications and

do not displace local workers. The primary advantage of this approach is that most labor-based immigrants arrive with a preexisting employment offer, allowing for enhanced economic integration. New immigrants in the United States show higher labor market outcomes and earnings relative to comparable native workers than peers arriving in countries with points-based systems.³³ And underemployment poses less of a concern in demand-driven systems, with skilled immigrants experiencing decreased levels of education–occupation mismatch compared to newly arrived immigrants in points-based countries.³⁴

The major disadvantages of the employer-based approach are twofold. First, a demand-oriented system does not always sufficiently take into account countrywide labor needs when relying on individual employer preferences.³⁵ Second, most visas in employer-driven countries are offered on a temporary basis, tethering immigrants to specific employers and thus increasing the likelihood of exploitation.³⁶

In contrast, a points-based migration policy entrusts governments with the task of vetting candidates according to a predetermined set of human-capital characteristics. Governments identify core qualities such as educational background, language fluency, professional training, and age in order to evaluate potential immigrants' readiness for the workforce. Immigration and labor authorities utilize domestic employment data to formulate and rank selection criteria. Traditionally, points-based countries have allocated the most visas to applicants without existing job offers who then secure employment upon arrival.

Among its benefits, a points-based system permits governments to respond nimbly to changing labor markets. Over the past decade alone, immigration authorities in Australia and Canada have, on multiple occasions, adjusted their criteria based on emerging economic needs.³⁷ This approach also enables governments to construct transparent and objective metrics for accepting labor migrants. Finally, the points-based system's focus on countrywide occupational shortages more accurately addresses domestic economic needs than relying on the short-term, and often narrow-sighted, preferences of employers.³⁸

Yet the points-based model also has several shortcomings. For one, it is better suited to certain systems of government than to others. Countries with executive branches entrusted with broad immigration powers, like Canada and Australia, are well equipped to recalibrate qualifications and rankings based on new economic priorities. The most troubling consequence of points-based policies is that they often produce high levels of unemployment for incoming migrants arriving to a new country without a job in place. In fact, the unemployment rate for recent immigrants to Canada is

double the number seen in the United States, where most labor-based immigrants must have already secured a job offer in order to obtain a visa.³⁹ Higher unemployment numbers in countries like Canada and Australia are exacerbated by the weak professional networks facing workers upon arrival.⁴⁰ Anti-immigrant stigma and employers' lack of familiarity with foreign credentials also contribute to this trend.

We propose a hybrid system for refugee labor visas (indeed, it would be valuable as a general reform) that draws on the virtues of both models. Participating countries would identify their demand for immigrant labor based on job vacancies unlikely to be filled by national labor. In response to unemployment concerns, these countries would follow the path of countries with points systems that have reconfigured their approach to employment-based immigration in recent years. Australia and Canada, for example, have introduced elements of the demand-based model of skilled migration.⁴¹ Both countries have adjusted how they allocate points, prioritizing factors tied to heightened economic integration and increasingly favoring applicants with existing job offers as well as those with education or work experience previously attained in the destination country.⁴² As such, we recommend and are witnessing the popularization of a hybrid form of economic-stream migration among points-based countries aiming to retain a centralized and objective selection process without falling prey to the unemployment figures that have previously plagued their immigrant communities.

Lastly, we anticipate that there will need to be incentives that cover the additional costs of identifying suitable candidates for a refugee labor visa. Potential employers may indeed need to engage in special training to make the refugee suitable for the particular position they plan to fill. Businesses may incur additional costs due to visa application fees, relocation expenses, and challenges in adapting to remote recruitment. We therefore propose that firms willing to hire refugees be allocated visas at the "front of the queue." As noted, 10 percent of the overall allocation of labor visas will be reserved for refugee resettlement. Moreover, the firms proposing to sponsor a refugee should be granted one additional (nonrefugee) visa allocation for every refugee they hire. And governments, NGOs, and the philanthropic community should assist these placements as a way to leverage the assistance they already provide to refugees.⁴³

CONCLUSION

As valuable as we think this reform will be, it will not fully address the need for responsibility sharing in the current system of refugee protection.⁴⁴ There are just

over one million labor visas issued each year by the United States.⁴⁵ Other countries can provide additional labor visas for refugee resettlement. But there are twenty-six million refugees currently displaced, many of whom are not suitable candidates for labor mobility.⁴⁶ To be clear: the labor-based proposals outlined in this essay are intended to complement, not supplant, humanitarian pathways for refugee resettlement. Responsibility sharing will call for financial transfers to host countries in the developing world and resettlement based solely upon humanitarian criteria (offered to groups such as those needing special medical attention, those singled out for attack in their present place of asylum, and so on).⁴⁷ But what makes a program of refugee labor visas attractive is that it provides humane resettlement opportunities to rebuild refugees' lives and livelihoods—all in ways that promote the prosperity and security of countries of destination that today are doing too little to bear their fair share of the global responsibility for refugees.

NOTES

¹ "Migration in the World," International Organization for Migration, last updated November 5, 2019, www.iom.sk/en/migration/migration-in-the-world.html.

² Ibid.

³ See National Academies of Sciences, Engineering, and Medicine, *The Economic and Fiscal Consequences of Immigration* (Washington, D.C.: National Academies Press, 2017), www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration; and Thomas Liebig and Jeffrey Mo, "The Fiscal Impact of Immigration in OECD Countries," in *International Migration Outlook 2013* (Paris: OECD Publishing, 2013), www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2013/the-fiscal-impact-of-immigration-in-oecd-countries_migr_outlook-2013-6-en.

⁴ In fact, 37.1 percent of unauthorized immigrant workers in the United States suffered from minimum wage violations, as compared with 15.6 percent of U.S.-born citizens. Annette Bernhardt, Ruth Milkman, Nik Theodore, Douglas Heckathorn, Mirabai Auer, James DeFilippis, Ana Luz Gonzalez, Victor Narro, Jason Perelshteyn, Diana Polson, and Michael Spiller, *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* (Los Angeles: Institute for Research on Labor & Employment, UCLA, 2009). Meanwhile, a recent Australian study found that nearly one-third of temporary visa holders were paid below the minimum wage. See Laurie Berg and Bassina Farbenblum, *Wage Theft in Australia: Findings of the National Temporary Migrant Work Survey* (Sydney: Migrant Worker Justice Initiative, November 2017).

⁵ Michael D. Shear and Miriam Jordan, "Trump Suspends Visas Allowing Hundreds of Thousands of Foreigners to Work in the U.S.," *New York Times*, June 22, 2020. Later in the essay, we propose a hybrid points/employer system geared toward meeting actual demand for foreign labor that is unlikely to be filled by existing U.S. residents.

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- ¹² Tim Gaynor, “2015 Likely to Break Records for Forced Displacement—Study,” UNHCR, December 18, 2015, www.unhcr.org/en-us/news/latest/2015/12/5672c2576/2015-likely-break-records-forced-displacementstudy.html.
- ¹³ UNHCR, *UNHCR Global Trends Report*.
- ¹⁴ *Ibid.*
- ¹⁵ The text, list of commission members, and signatories of the Model International Mobility Convention can be found in a special edition of the *Columbia Journal of Transnational Law* entitled “The Model International Mobility Convention” (vol. 56, no. 2 [2018]). Michael Doyle served as the convenor of the commission. Readers wishing to sign the convention can do so on the Model International Mobility Convention website at www.internationalmobilityconvention.org.
- ¹⁶ Office of the Press Secretary, White House, “Fact Sheet on the Leaders’ Summit on Refugees,” White House: President Barack Obama, September 20, 2016, obamawhitehouse.archives.gov/the-press-office/2016/09/20/fact-sheet-leaders-summit-refugees. It remains to be seen whether the promises are kept.
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- ¹⁸ Sec. 63 in *ibid.*
- ¹⁹ Sec. 52 in *ibid.*
- ²⁰ Sec. 68 in *ibid.*
- ²¹ “Realistic utopia” is a concept of John Rawls. See John Rawls, *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1993), p. 7.
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- ²⁸ A 2017 survey of Syrian refugees concluded that the vast majority—nearly 70 percent—no longer possessed their Syrian national ID cards. See Norwegian Refugee Council, *Syrian Refugees’ Right to Legal Identity: Implications for Return* (briefing note, January 2017), www.nrc.no/globalassets/pdf/briefing-notes/icla/final-syrian-refugees-civil-documentation-briefing-note-21-12-2016.pdf. Additionally, 36 percent of refugees in Canada with prior work and educational credentials have faced difficulty in getting their credentials recognized upon resettlement. See Harvey Krahn, Tracey Derwing, Marlene Mulder, and Lori Wilkinson, “Educated and Underemployed: Refugee Integration into the Canadian Labour Market,” *Journal of International Migration and Integration* 1, no. 1 (2000), pp. 59–84, at 74.
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- ³⁰ T. Alexander Aleinikoff and Leah Zamore, *The Arc of Protection: Reforming the International Refugee Regime* (Stanford, Calif.: Stanford University Press, 2019), pp. 80–85, 115–17.
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- ⁴⁰ Roy Maurer, "Are 'Merit-Based' Immigration Systems the Answer? Successful Points-Based Systems Require Flexibility," Society for Human Resource Management, June 4, 2019, www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/trump-merit-based-points-immigration-systems-canada-australia.aspx.
- ⁴¹ Rey Koslowski, "Shifts in Selective Migration Policy Models: A Comparison of Australia, Canada, and the U.S.," in Mathias Czaika, ed., *High-Skilled Migration: Drivers and Policies* (Oxford: Oxford University Press, 2018).
- ⁴² Papademetriou and Hooper, *Competing Approaches to Selecting Economic Immigrants*.
- ⁴³ Talent Beyond Boundaries has proposed the idea of a loan fund to cover the costs of skilled migration for refugees. This could be government funded and similar to loan programs that countries such as Australia make available to humanitarian refugees.
- ⁴⁴ We are aware that allocating 10 percent of labor visas for refugees may initially appear to shrink the opportunities for vulnerable migrants ineligible for refugee status for whom economic migration may serve as their sole lifeline. Yet given the limitations of responsibility sharing vis-à-vis humanitarian refugee resettlement and the need for foreign labor across the globe, we believe that a robust and effective labor migration system, as proposed in the MIMC, will be able to contribute to meeting the needs of both vulnerable economic migrants and refugees.
- ⁴⁵ In F.Y. 2018, the United States issued 925,000 temporary worker visas in addition to the 140,000 permanent employment-based visas already granted each year. See Brittany Blizzard and Jeanne Batalova, "Temporary Visa Holders in the United States," Migration Policy Institute, December 5, 2019, www.migrationpolicy.org/article/temporary-visa-holders-united-states#Workers.
- ⁴⁶ UNHCR, *UNHCR Global Trends Report*.
- ⁴⁷ See Articles 21–13, Model International Mobility Convention for responsibility sharing and other measures taken to promote humane solutions to a shared global regime. And see Aleinikoff and Zamore, *Arc of Protection* for a "Global Action Platform for Forced Displacement" to address emergencies before they become protracted (pp. 120–24).

Abstract: This essay identifies and explores an underappreciated win-win policy option that has the potential to address both the needs of refugees for resettlement and the labor demand of destination countries. Building upon provisions of the Model International Mobility Convention—a model convention endorsed by dozens of leading migration and refugee experts—and a program pioneered by Talent Beyond Boundaries, we explore how to scale up valuable measures for identifying job opportunities that can resettle refugees from asylum countries to destination countries. The latter can benefit from the labor of refugees and thereby offer long-term refuge for populations in desperate need of resettlement.

Keywords: migration, labor visas, refugees, Model International Mobility Convention, Talent Beyond Boundaries