

**“A Nation Divided: United States Immigration Policy, the Problem of Illegal Immigration,  
and Three Policy Solutions for the Post-2020 World”**

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**Authors Note**

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## **Abstract**

The United States is a nation divided. While some want to welcome all immigrants, others insist that immigrants enter the United States legally. Though the United States is not unique in its increase in immigration, increases in migration, do not occur in a vacuum. As states across the international system struggle with the recent immigration surges, an emphasis has been placed on the accommodation and the placement of immigrants. Less attention, though, has been given viable, long-term solutions to the U.S.' illegal immigration problem. This study suggests that migration is the result of complex factors that drive migrants' opportunity and willingness to immigrate to the United States. We argue that policy leaders should prioritize immigration policy reform with three specific goals in mind: 1) identifying a legal ways to balance a declining labor pool with an enhanced, reasonable guest worker policies; 2) protecting the rule of law by assuring compliance with immigration law, 3) simplify the naturalization process, making it more attainable to immigrants.

*Keywords:* Immigration, illegal immigration, immigration policy, economy

## **“A Nation Divided: United States Immigration Policy, the Problem of Illegal Immigration, and Three Policy Solutions for the Post-2020 World”**

by

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*“In the first place we should insist that if the immigrant who comes here in good faith becomes an American and assimilates himself to us, he shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed, or birthplace, or origin. But this is predicated upon the man’s becoming in very fact an American, and nothing but an American.”*

--Theodore Roosevelt, 26<sup>th</sup> President of the United States of America, 1919

States across the globe are being forced to confront mass numbers of people from other lands seeking entrance. Mass migration is not a new phenomenon and people have been moving from one place to another in memoriam. Existing scholarship asserts that the primary motivations for international migration include militarized conflict, loss or lack of domestic security, the desire to live a better life (employment or economic opportunity), natural disasters, climate change, and famine (Rosicky, 2016). Overlaid with these reasons are “freedom” and “democracy” which are functions of political rights and civil liberties. Political rights are operationalized by quantifying functions of electoral processes, levels of political pluralism, political participation, and the functions of governments. Similarly, civil liberties are operationalized by measures of freedom of expression and beliefs, freedom of associational and organizational rights, the rule of law, personal autonomy protections, and individual rights (Freedom House, 2022). The United Nations (U.N.) justifies migration through Article 13.2 of the U.N. Universal Declaration of Human Rights, “everyone has the right to leave any country, including his own, and to return to his country.” (U.N., 1948) The one constant throughout history is that migration from one part of the world to another continues and is unlikely to stop.

Numerous moral questions surround the issue of immigration everywhere in the world, namely how strangers should be treated. Many passages in Holy Bible discuss the moral underpinnings of immigration. For example, in Deuteronomy 10:19, “Love ye therefore the stranger: for ye were strangers in the land of Egypt” and in Leviticus 19:34, “But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the Lord your God.” The moral messages extend beyond Christianity, for example, the Quran states in Verse 4:36 to do “good to...those in need, neighbors who are near, neighbors who are strangers, the companion by your side, the wayfarer that you meet.” None of these passages make the distinction of a “legal” immigration status, just that of welcoming “strangers among others.”

### **Global Migration/Immigration**

The U. N. asserts that an average of three percent of the global population is migratory at any given time (UN, 2019). In the post-Cold War era, however, there has been a marked and sustained increase in global migration. (Migration Policy Institute, 2019) The United Nations reported in 2019 that global migration trends continued “an upward trend.” (UN, 2019, 1) Similarly, recent estimates asserted that 3.5% of the global population was migratory, an increase from 2.8% of the population in 2000. (UN, 2019, 1,2.; de Haass et al, 2019, 888-890) Though “[m]ost international migrants move to other countries within their region of birth,” Western Europe and North America remain preferred migration destinations, with just over half of all international migrants living in Europe and North America (UN, 2019, 3). In 2019, the United States (U.S.) “hosted 50.7 million international migrants or 19 percent of the world’s total immigrant population” and it remains the most desired host state for migrants. (UN, 2019, 3; Mihaylova, 2017, 177.)

The simple truth is that the United States benefits from, and needs, global immigration. The birth rate for U.S. women fell to 1.7 children per woman in 2019. This is well below the minimum birth rate of 2.1 children per woman needed to sustain a population. (UN, 2020, 9; World Bank, 2022) Thus, the country needs robust immigration to bolster its declining population and workforce if it hopes to maintain its position in the global community. Migrants can be viewed as a solution to labor shortages due to falling birth rates and an aging population. (Huntington, 2004, 178) An influx of workers is needed to sustain not only the population but the economy. However, the reality is that migrants may: 1) have entered a country illegally, 2) possess lower skill sets than necessary, 3) may be unevenly distributed across the population, 4) be in such great a number that no nation can assimilate them, or 5) be a net drain on scarce public resources. Thus, it is incumbent to ensure robust immigration laws and policies across administrations. Any questions or debates concerning immigration should focus on *how* immigration should occur rather than *whether* it should occur.

## **The United States of America**

The United States is a republic composed of 50 individual and sovereign states, each having constitutions and established laws of their own. However, this collection of states is bound into one nation by the Constitution of the United States of America. Article 1, Section 8, Clause 4 of the Constitution specifically grants to the United States Congress the power to establish a "uniform Rule of Naturalization." The Constitution expressly allocates the power to Congress to establish these policies, preventing the confusion that would result if the individual states still bestowed citizenship as was the practice in the eighteenth and nineteenth centuries.

The motto of the United States of America is *E pluribus unum*, a Latin term meaning, “out of many, one.” The nation is composed mostly of the world’s diaspora that have come to this continent over the course of the past 500 years. Perhaps, “out of many, one” is best exemplified in the sentiment expressed in part by Emma Lazarus in her poem “The New Colossus” to send, “Your huddled masses yearning to breathe free, the wretched refuse of your teeming shore...I lift my lamp beside the golden door!” Invariably, what it means to be an “American” can be fluid and ever-changing. An American can be “native born” but can also be “naturalized,” in other words “non-native-born.” Naturalization was defined by the Supreme

Court as “the act of adopting a foreigner and clothing him with the privileges of a native citizen.” (Boyd v. Nebraska, 1892)

Theodore Roosevelt, the 26th President of the United States, said of immigrants, if a person, “...assimilates himself to us, he shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed, or birthplace, or origin. But this is predicated upon the man’s becoming in very fact an American, and nothing but an American.” Many years later, Ronald Reagan, the 40<sup>th</sup> President of the United States, famously said:

I received a letter just before I left office from a man. I don't know why he chose to write it, but I'm glad he did. He wrote that you can go to live in France, but you can't become a Frenchman. You can go to live in Germany or Italy, but you can't become a German, an Italian. He went through Turkey, Greece, Japan and other countries. But he said anyone, from any corner of the world, can come to live in the United States and become an American. (Reagan, 1990)

Thomas E. Ricks (2010), author of *First Principles*, wrote, “Someone who became an American citizen yesterday enjoys all the rights of a person whose family landed here three centuries ago.” These sentiments embody the United States, a people composed of thousands of ethnicities with overlapping religions, mores, beliefs, and characteristics. All arrived in the U.S. seeking to “breathe free.”

Over the course of the past 237 years “the golden door” has been open to an ever-changing mosaic of peoples that came to be known as “Americans” and their respective successive generations that forged a nation, conceived in liberty, that has been a beacon for the world. Out of this growth has emerged the “American Ideal” among which is the belief that anything can be accomplished in this land by its people (meritocracy). The concept of the American Ideal is not exclusive to present day. In the seventeenth century, William Bradford (1651 [1899]), governor of Plymouth Colony for more than 30 years, wrote, "It was answered, that all great & honourable [sic.] actions are accompanied with great difficulties, and must be both enterprised [sic.] and overcome with answerable courages [sic.]. It was granted the dangers were great, but not desperate; the difficulties were many, but not invincible.” Bradford was trying to explain that Americans were in a class of their own, devoid of the complexities and burdens of European life and royalty. That they lived where they could be free and provide for each other as they so desired. That their social, hereditary, or racial purity was not and should not be a factor in life. They are what Janelle Ross called in *The Washington Post* "regular Americans" or the “American norm.”

In short, that Americans had, and do, have a tradition to overcome the difficulties through hard work and independence. Perhaps the beguiling and triumphant notion of “American Exceptionalism” emerges from the collective sacrifice and dedication of becoming American. The America Ideal is as much aspirational as it is inspirational. Both Theodore Roosevelt and Reagan were able to elucidate the idea of becoming and being an American, leading to concept, colloquially described as “we-ness.” In other words, the “we” are members of “the club.” And

as often occurs, once included in the club, the desire is to exclude those that are not in it, leading to policy questions, implications, and elusive complex solutions.

## **Migration to/Immigration into the United States of America**

Current U.S. immigration policy is grounded, primarily, by three formative pieces of 20<sup>th</sup> Century legislation.<sup>1</sup> By the late 19th century, approximately 15% of the U.S. population was foreign-born with urban areas, such as New York City, reporting first-generation immigrants comprising more than 50% of the population. (Baxter & Nowrasteh, 2021) The Page Law of 1875, the among the first attempts at comprehensive federal immigration policy, established “blanket exclusions” and “barred zones,” that denied immigration from specific regions of the world (National Park Service 2022).

The Immigration Act of 1917 built upon this legislation by severely limiting or specifically excluding immigration from specific states in the international system. It also excluded political “radicals,” those deemed mentally “deficient,” prostitutes, and other “unfavorables.” (Ngai, 2007; Schuck, 1984) The exclusion of Asian immigration was completed in the Immigration Act of 1924. (Baxter & Nowrasteh, 2021) Quotas based on nation of birth were also imposed, limiting immigration, favoring immigrants from western European nations. (Schuck, 1984, 13)

The Immigration Act of 1965 (Hart-Celler Act of 1965) ended the quota system and limited immigration based on the migrants’ state of origin and established a policy that emphasized skilled labor and prioritized migrants with “family already living in the United States.” (Lee, 2015; U.S. House of Representatives, 1965) Under this legislation, 74% of immigrant visas were designated for immigrants with relatives living in the U.S. The remaining 26% were reserved for “skill-based” immigration. Of these, 10% were designated for “professions of exceptional ability in sciences and arts and their spouses and children,” another 10% for other skilled labor categories, and six percent was designated for refugees with an emphasis placed on those fleeing Communism or the Middle East. (Lee, 2015, 540-541) The impact and long-term implications of what came to be known as “The Family Reunification Clause” was underestimated by legislators as migrants moved quickly to take advantage of the provision. The number of “first-generation immigrants” have gone from approximately 5% of the U.S. population in 1965 to approximately 14-15% in recent years with 63% holding a Lawful Permanent Resident designation based on familial relationships. (Baxter & Nowrasteh, 2021, 7, 22; Immigration Learning Center [ILC], 2022; Migration Policy Institute [MPI] 2022)

The United States Government utilizes two primary immigration categories: Lawful Permanent Residents and Nonimmigrant Residents. Most Lawful Permanent Residents, for example, are foreign born immigrants that hold “green cards” or have been granted “Lawful Permanent Residence” in the United States but are not citizens. People in this category can be

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<sup>1</sup> We recognize that there were other 20<sup>th</sup> Century bills passed on immigration. These include the Immigration Act of 1882, the Chinese Exclusion Act (1882), the 1921 Emergency Quota Act, Immigration and Nationality Act of 1952 Act, the 1986 Immigration Reform and Control Act, The 2002 Entry Reform Act, the 2006 Secure Fence Act, are but a few examples of other legislation passed. ( Baxter & Nowrasteh, 2021; U.S. House of Representatives. 2022.; U.S. House of Representatives Office of the Historian, 2022)

immediate relatives of U.S. Citizens, have family-sponsored preference, be sponsored by an employer, be refugees and asylum seekers, or be from states in the international system that has “relatively low levels.” (Rosicky, 2016) [OBJ] Nonimmigrant residents or “resident nonimmigrants” are foreign nationals who have been admitted into the United States. (U.S. Borders and Customs [USCBP]) [OBJ] This is typically in the form of a student or work visa but can also include business and casual travel.

Unauthorized immigrants are foreign-born, non-citizen, non-legal residents of the United States. Colloquially, they are referred to as illegal immigrants. (U.S. Department of Homeland Security [USDHS], 2022) Illegal immigration is not a phenomenon that is unique to the United States nor is the U.S. the only state in the international system that struggles to address the problem of illegal immigration. For example, in 2015, The Russian Federation’s Federal Migration Service reported that five million foreign nationals were working illegally in Russia. Mihaylova (2017, 180) asserts that this is approximately 13% of Russia’s working population. Similarly, an estimated 14% of the United Kingdom’s population was foreign-born in 2019. (Oxford University, 2020, 1) These statistics approximate recent U.S. immigration rates of 14-15% of the total U.S. population. (USHDS, 2022)

Illegal immigration into the United States takes place across all land and sea borders of the nation and its territories, some thousands of miles from the mainland. However, in the United States, people tend to associate immigration, mostly illegal, with the southern border between the states of Texas, New Mexico, Arizona, California, and the United Mexican States (Mexico). This is a border that divides the richest and most powerful nation in the world from one of the most impoverished regions of the world. In 2019, approximately 10.9 million Mexican-born individuals were living in the United States, of which approximately 5,313,000 or approximately 51% of all unauthorized immigrants. (MPI, 2019) It is likely, though, that those identified as crossing the southern border represent only a fraction of illegal immigrants into the United States.<sup>2</sup> For example, according to the Migration Policy Institute, “[s]ince 2013, Mexico has ceased to be the top country of origin for recent immigrants to the United States, overtaken by India and China.” (MPI, 2019)

## **Scope of the Study**

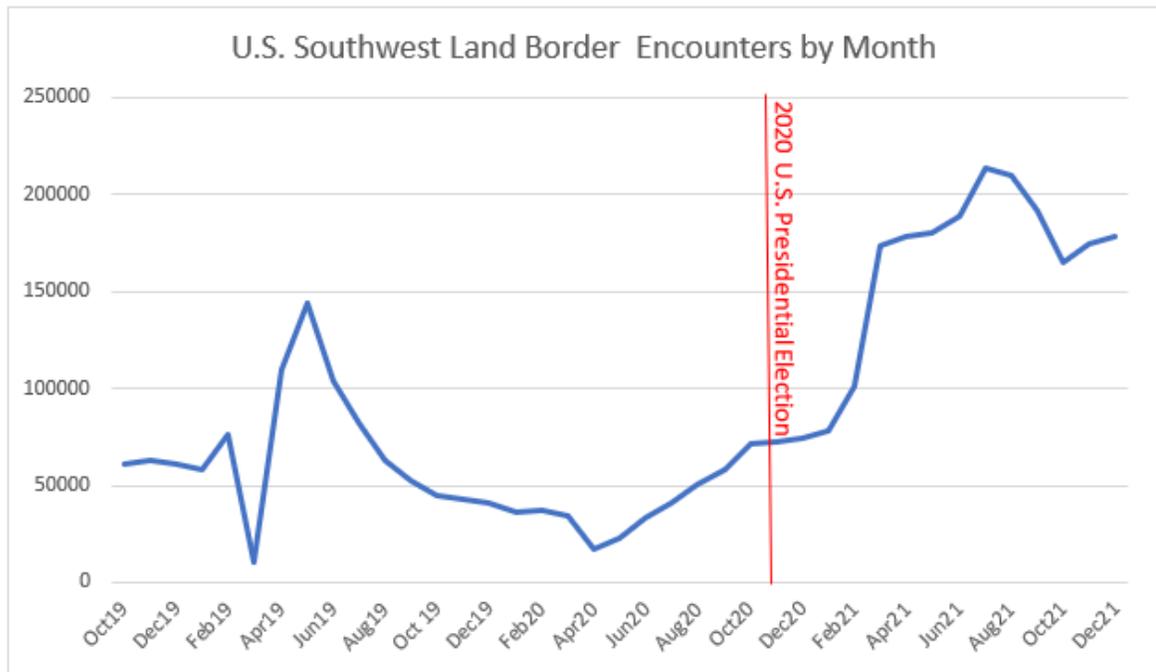
This study will be limited to the discussion of the themes surrounding “A Nation Divided: Assessing Freedom & The Rule of Law in a Post 2020 World,” including an examination of current policies, and an investigation of “illegal immigration” to the United States across the southern border. The study will include data on the United States, Mexico, and the “Northern Triangle states,” Guatemala, Honduras, El Salvador. (Cheatham, 2021; U.S. Government Accountability Office [GAO], 2022). Further, the study distinguishes the concepts of legal and illegal immigration, focusing on the challenges that illegal immigration poses in the modern context.

## **Illegal Immigration into the United States**

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<sup>2</sup> Of more than 300 ports of entry identified by U.S. Customs and Border Protection, only eight are along the U.S./Mexico border: San Diego, El Centro, Yuma, Tucson, El Paso, Big Bend, Del Rio, Raredo, and Rio Grande Valley. (USCBP, 2022)

Though there has been a sustained increase in global migration patterns in the post-Cold War era, the United States has experienced a recent spike in immigration. This is attributed to “...large-scale immigration from Latin America and Asia...” (Batalova et al. 2020). The graph immediately below, demonstrates the sharp increase in illegal border crossings across the southwest border of the U.S. (USCBP, 2022)



(Source: USCBP, 2022)

Similarly, in December 2021, the U.S. Customs and Border Protection Agency reported 178,840 border encounters, more than the three prior years for the same period, combined (177,225). (USCBP, 2022)

Understanding illegal immigration requires an examination of the immigrants’ motives. Phrased more colloquially, why are they coming? Harold and Margaret Sprout, authors of “Ecological Perspectives of Human Affairs,” (1965) identify opportunity and willingness as jointly necessary conditions for behavior. Actors must first possess the desire to achieve a goal (willingness) *and* they must perceive that they have the capacity to achieve it (opportunity). The recent spike in illegal immigration to the U.S. indicates that both necessary components are present. Souls both desire to come to the U.S. and they perceive that they have the opportunity to do so. Applying the concepts of opportunity and willingness, the following examines potential motives and perceived opportunities as pre-determinants of illegal immigration into the U.S.

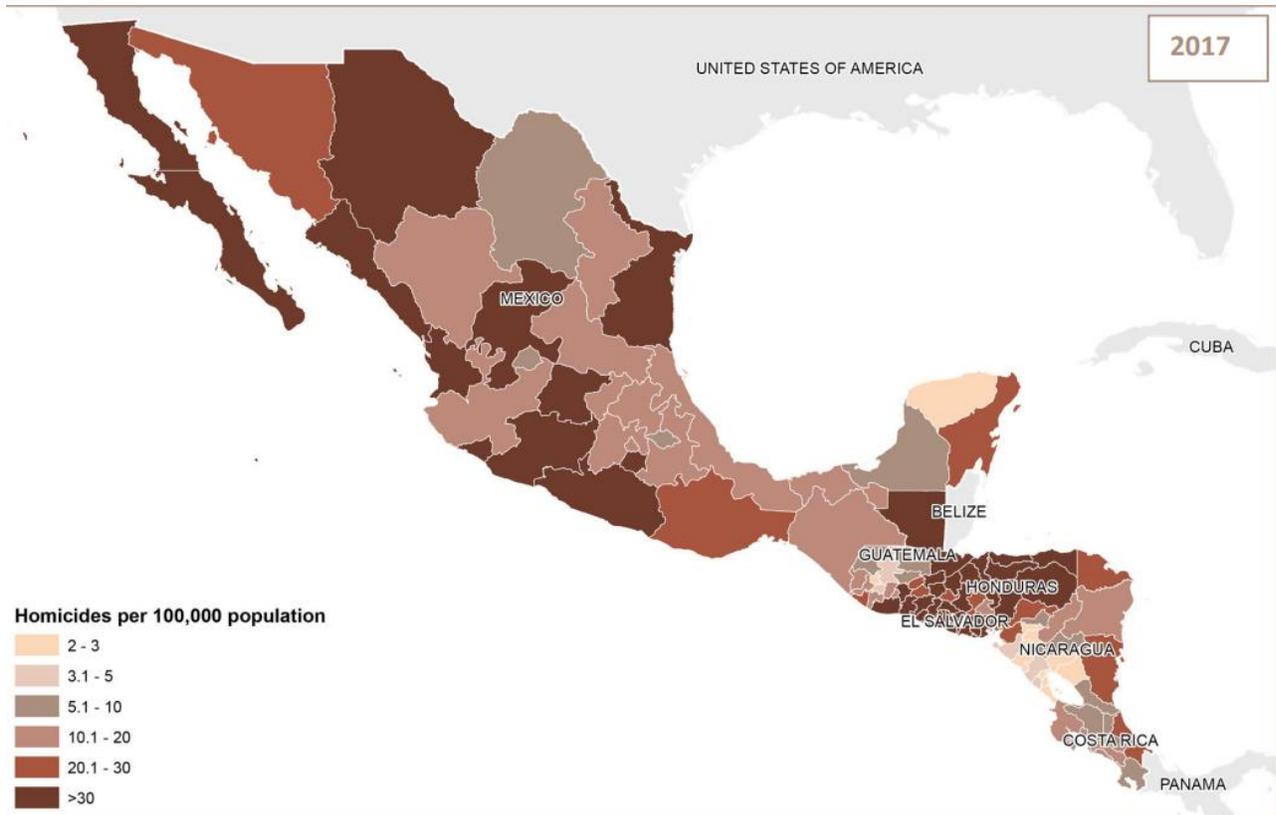
### **Willingness, Opportunity, and Illegal Immigration**

Admittedly, illegal immigration is a complex subject. It can be motivated by nefarious intent on one end of the spectrum (human trafficking, drug smuggling, etc.) to the simple needs of life on the other (jobs, income, and financial security). A study published by Pew Research

found that more than 50% of the adults surveyed in El Salvador and Honduras would emigrate away from their home state if they could. (Esipova, Pugliese, and Ray, 2018) A similar study sponsored by Duke University, Vanderbilt University, and United States Agency for International Development (USAID), had similar results with 25-38% of Northern Triangle participants reporting that they are considering migrating “in the near future.” (Inkpen, 2019; Sellers, 2020) The high percentage of Northern Triangle citizens view life there as untenable, and using the model provided by Sprout and Sprout, willingness and opportunity, consider the decision to “go or stay.” The prospect of migration indicates the willingness to accept the risk that may be associated with migration with the opportunity to improve themselves and families. We analyze crime, civil rights and liberties, poverty, territorial proximity, and economic factors as potential motivators for people to emigrate from Northern Triangle states (willingness) to the U.S (opportunity).

### Violent Crime

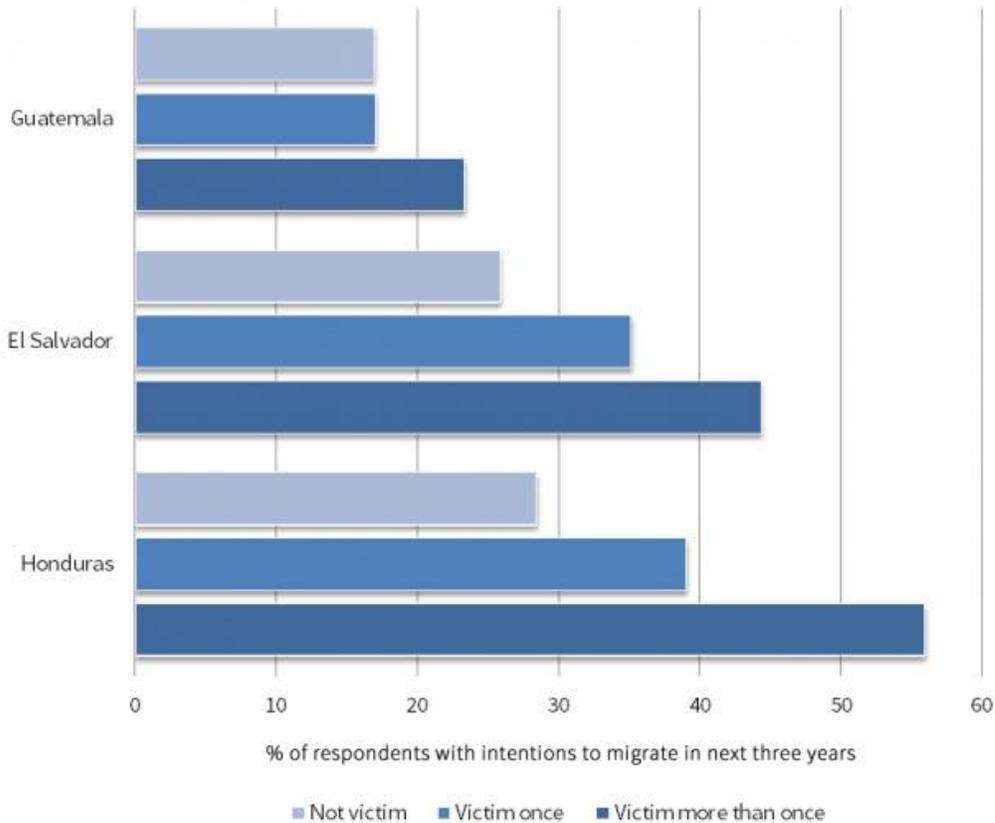
High crime rates are often referred to as a primary factor when evaluating motives for immigration from the Northern Triangle, where violent conflict and crime have been chronic problems. (Hiskey et. all 2016; United Nations office of Drugs and Crime [UNODC] 2019) A recent study released by the U.N. found that the Americas lead the international community in homicide. El Salvador, Honduras, and Mexico have the highest per capita homicides rates, and Nicaragua had the lowest, among Northern Triangle States. (UNODC, 2019, 17, 21, 46) The high crime rates in the Northern Triangle have been attributed to drug cartels and gangs (Congressional Research Service, 2021) A similar study found El Salvador and Honduras to be among the top five states in the world for femicide, the murder of women because of their sex. (Hutter, 2020; Wolfe, 2020)



(Source: UNODC 2019, 26)

Over half of crime victims surveyed in Honduras indicated a desire to emigrate. (Kiskey et al, 2016) The number of times that respondents had been victimized by crime, the more likely they were to want to emigrate. Similar sentiments were reported in other Northern Triangle states:

Figure 2. Crime Victimization and Migration Intentions, 2014



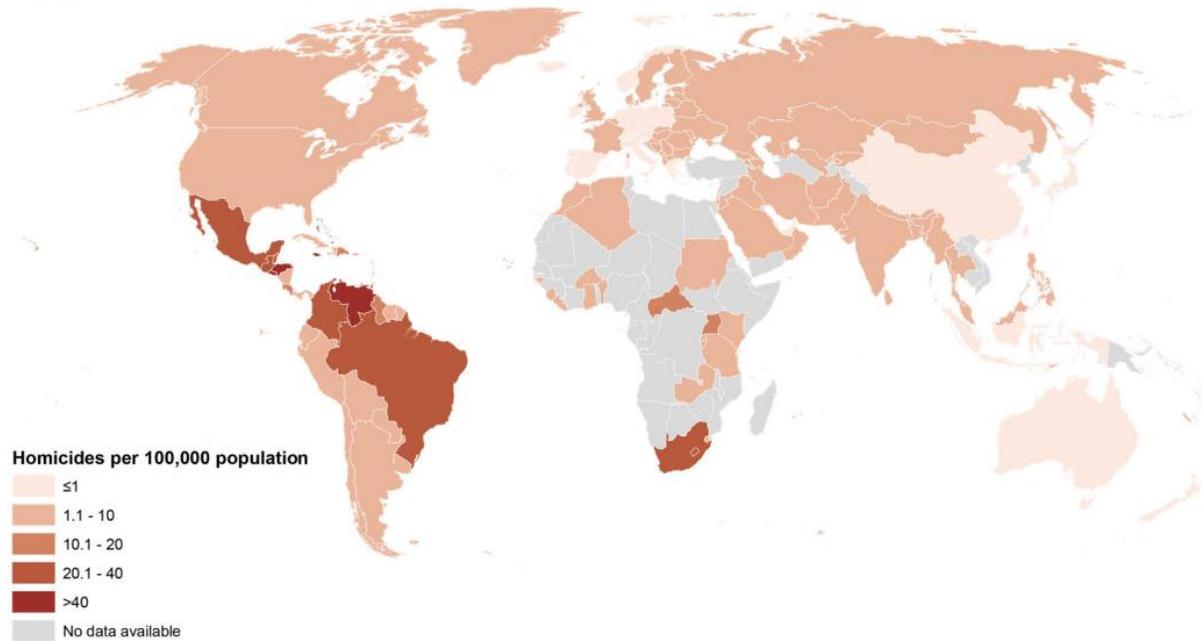
(Source: Kiskey et. Al. 2016)

Given that El Salvador and Honduras have the highest crime rates in more than one measure, it is not surprising to see a 20% or more jump in desires to emigrate as a result of being the victim of a crime. However, over 20% of the respondents from these states', who did *not* report that they were victims of crimes, reported that they intended to emigrate within the next three years.

The mitigating component in considering escape from violence as a motivating factor for illegal immigration into the U.S. is Nicaragua's comparatively low homicide rate. At 8.3 homicides per 100,000 population, it is one third the mean of 25.9 homicides per 100,000 across Central America. (UNODC 2019, 217). If the desire to escape crime is a primary factor impacting willingness to emigrate, why not go to Nicaragua? It has comparatively low crime rates and is much closer to most locations found in Northern Triangle states.

A similar U.N. study found that the U.S. is among the safer states in the international system, in terms of homicides rates. It is comparable, categorically, to Nicaragua's per capita of homicide rates.

**Map 1: Homicide rate, by country or area, 2017 or latest available year between 2013 and 2016**



(Source: UNODC 2019, 20).

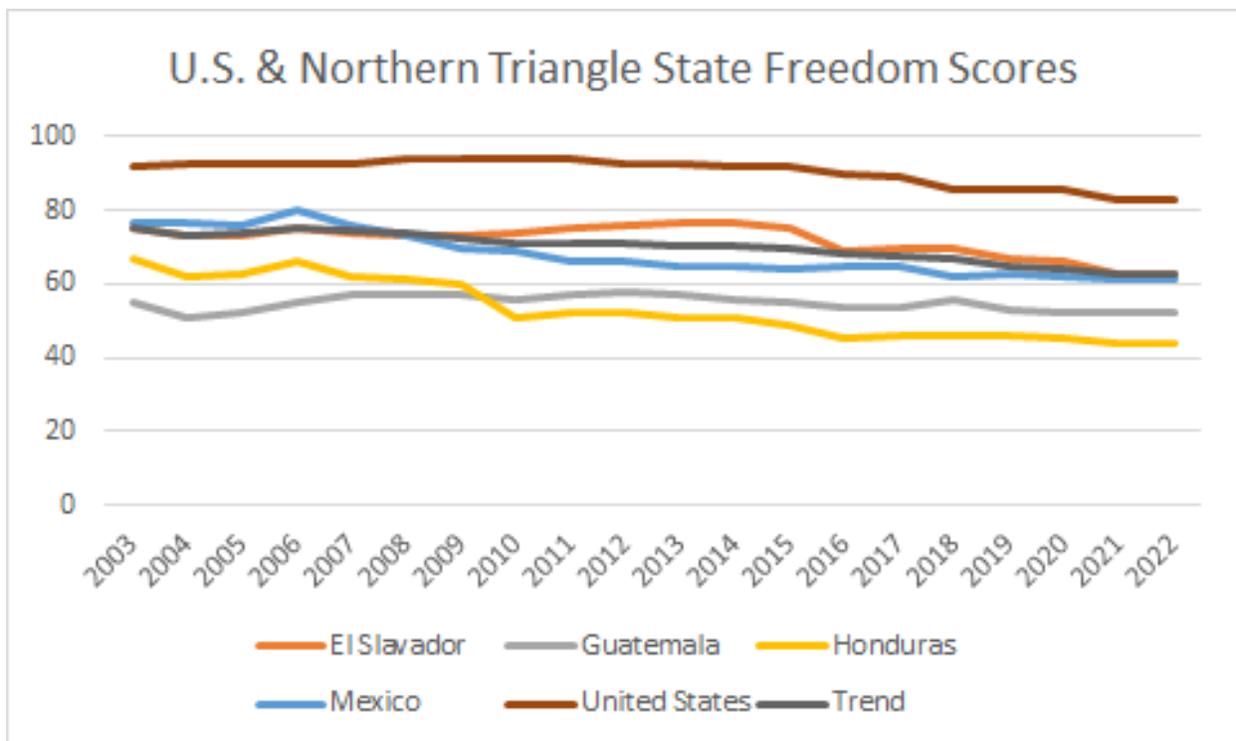
The U.S.’ homicide rate is 5.1 per 100,000 (UNOCD, 2019, 27). Despite a modest increase in recent years, the U.S.’ homicide rate, it is still over three points lower, per capita than Nicaragua - the Northern Triangle’s “safest” state, in terms of homicides. If homicide statistics are representative of more general crime indicators, this could contribute to explaining why migrants opt to pass over closer, “safer” countries and risk illegal immigration to the U.S. Sonia Almendarez, an immigrant to the United States from Honduras said, “Don’t judge. No one should judge us. If we were OK in our countries, we would not leave and risk our lives, or the lives of our children. We didn’t come here to get rich. We only came here to be safe, to stay alive -- because now, in our country, we can’t.” (Lugo and Shoichet, 2021)

### Freedom: Civil Rights and Liberties

We acknowledge that one of the causes of increased immigration is related to the United States’ shift away from overt international democratization efforts. Moreover, the international community has experienced recent decreases in international freedoms, as reported by Freedom House (2022).<sup>3</sup> The chart below shows a modest decline in the political and civil freedoms scores of the United States and Northern Triangle states.

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<sup>3</sup> Freedom House operationalizes Freedom scores as the sum of political rights measures (Electoral process, political pluralism & participation, functioning of government) and civil liberties (Civil Liberties: Freedom of expression & belief, associational and organizational rights, rule of law, personal autonomy & individual rights). The sum of these two categories has a maximum score of 100. (Freedom House, 2022)



(Source: Freedom House, 2022)

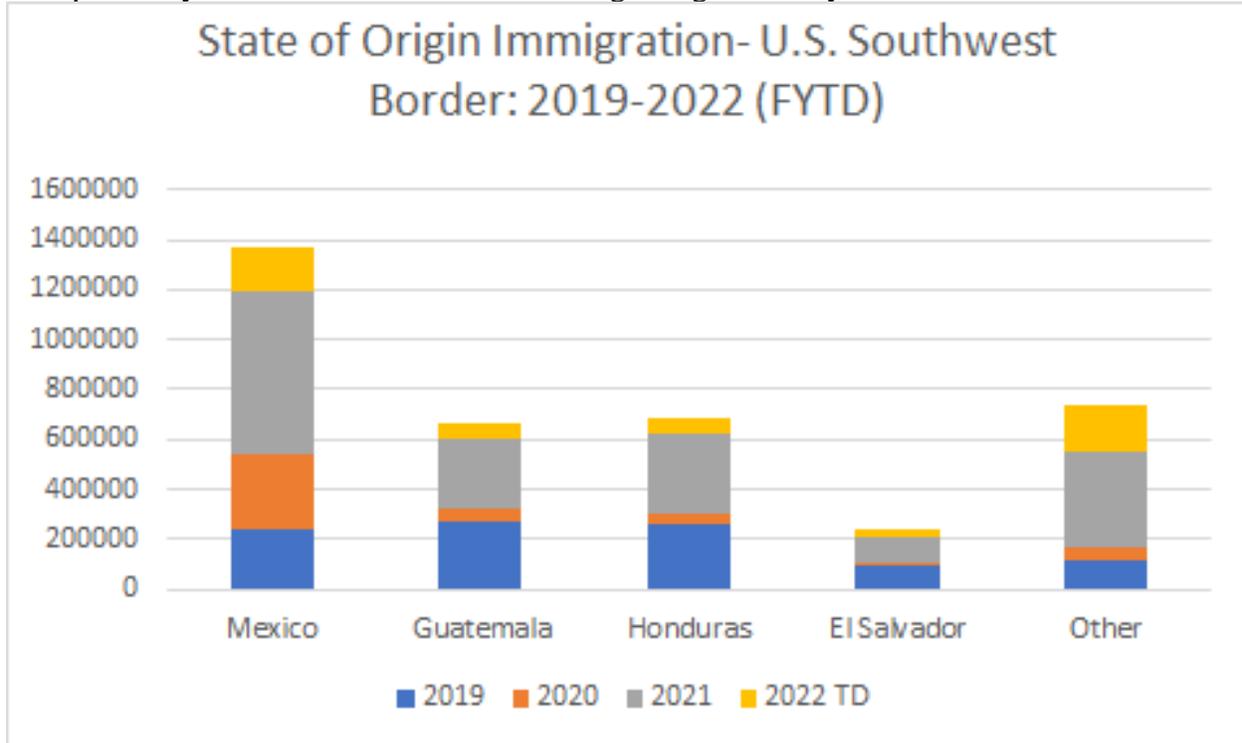
While declines in freedom scores are noted across all units of analysis, including the U.S., the declines are similar in magnitude. Comparatively, the U.S. has not gained or lost freedoms at a greater rate or measure than its southern neighbors. The U.S. remains relatively constant in its degree of separation from the Northern Triangle. While recent declines in international freedoms are not in dispute, and it may be a motivating factor for some, the data does not present a compelling argument that loss of freedoms are sufficient to account for the recent increases in illegal immigration from Northern Triangle states.

While freedom scores may not highlight willingness to leave one's home country, they could provide insight as to why Northern Triangle migrants are willing to immigrate to the U.S. The graph above could demonstrate that freedom, as conceptualized as civil liberties and rights by Freedom House (2022), is more of a motivating factor when deciding where to migrate *to* rather than the decision whether to emigrate *from*. The sustained freedom scores that the U.S. enjoys may be a stronger motivator for deciding to migrate to the U.S. once the decision to emigrate has been made, than in making the decision to emigrate from one's home state in the first place.

### Territorial Proximity

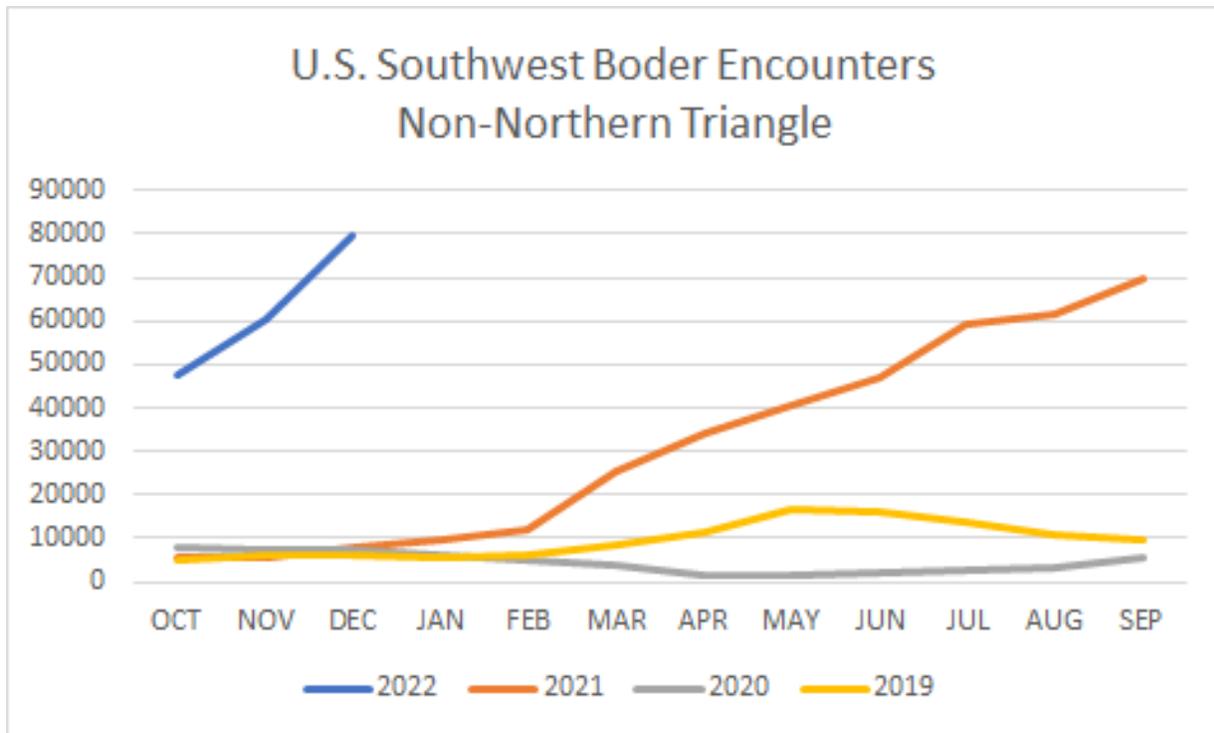
Geospatial proximity may also be a contributing factor in willingness to (illegally) migrate to the U.S. Harvey Starr (2005) finds a statistically significant relationship between territorial proximity and the probability of increased interaction, which can lead to violent conflict. If the same premise is applied to immigration, proximity plays a role in immigrants'

desired destination. The following graph shows U.S. Southwest border encounters, organized by their proximity to the United States from the beginning of fiscal year 2019 to December 2021.



(Source: U.S. Customs and Border Protection, 2022 [USC&BP])

When organized according to proximity to the U.S. Southwest border, a general trend becomes evident. There is a marked decrease in border encounters by state of origin. Mexico, the state that shares borders with the U.S., accounts for 1.3 million or 37% of all border encounters during this time. El Salvador, the Northern Triangle state furthest away has the least. This could indicate that territorial proximity does, in some fashion, play a role in willingness to migrate to the U.S. A mitigating factor, however, is the “Other” category. Border encounters from states of origin other than the Northern Triangle approximates Guatemala and Honduras’ numbers. It is interesting to note that border encounters for the “Other” begins a dramatic increase in December 2020 and continues through the first quarter for fiscal year 2022:



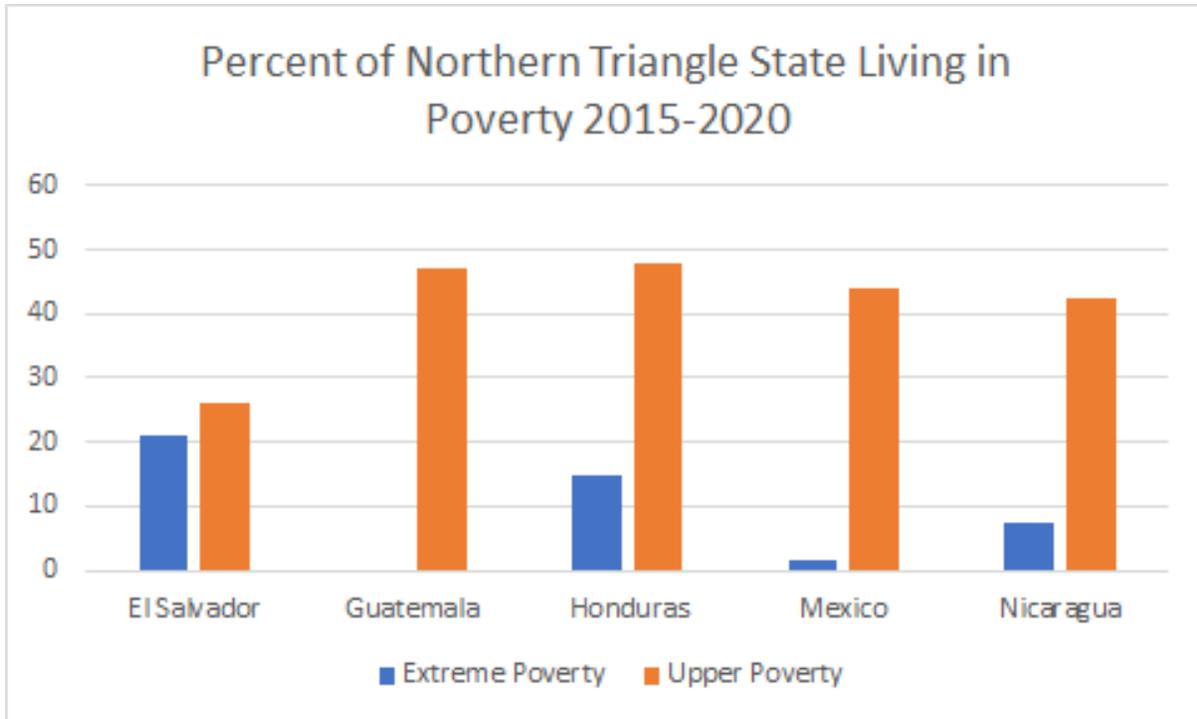
(Source: USC&BP 2022)

Over the two years recorded, non-Northern Triangle immigrants accounted for a mean of 19.9% all border encounters. This statistic increased from 11% in 2019 to 36.2% in the first quarter of fiscal year 2022. (USC&BP, 2022). Though this specific metric could raise questions about the role of proximity in willingness to migrate illegally to the U.S., this could speak more to resolve (strength of willingness) rather than undermining proximity. Further, the

When considering territorial proximity for immigration (How easy is it to get there?), in relation to the Northern Triangle states, Mexico is in closer proximity to the Northern Triangle states than the U.S. If proximity were a primary motivator for immigrants, Mexico would be a highly desired destination state. It is not as highly valued, as a destination state, for immigrants. Thus, while proximity may be a motivating factor for some, it is individually insufficient to explain illegal immigration to the U.S. from Northern Triangle states.

### Poverty

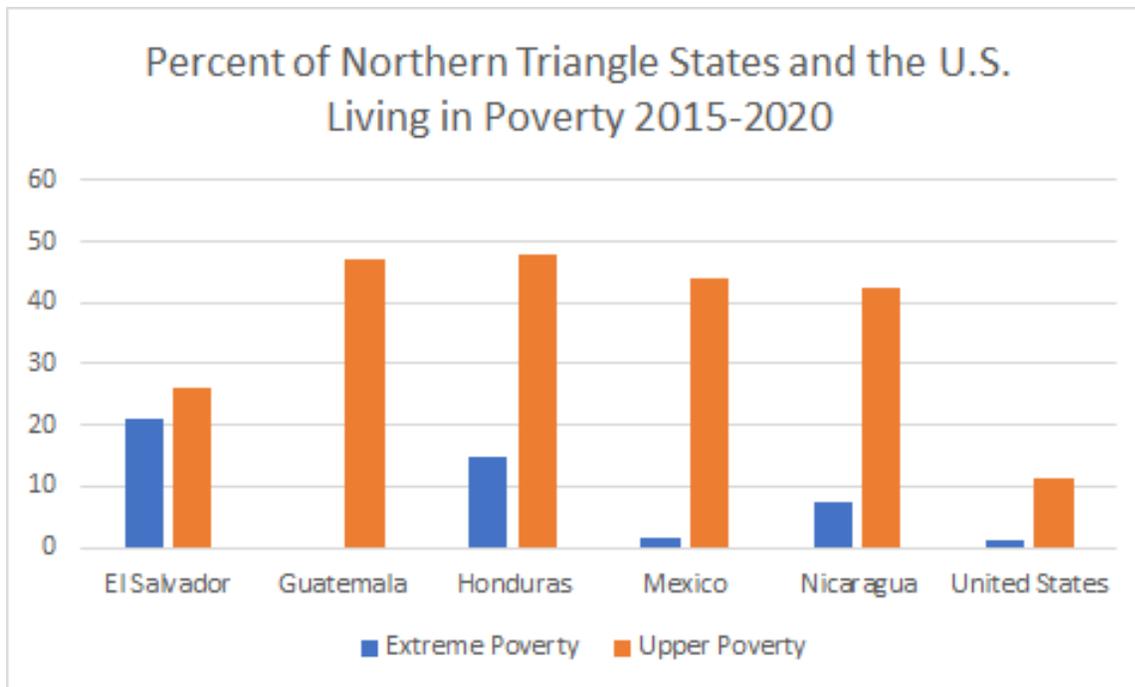
Another component that could impact actors' willingness to emigrate to the U.S. illegally is the economic opportunity in their home state. The World Bank defines "extreme poverty" as living on \$1.90/day, lower middle-income poverty as living on \$3.20 /day, and upper middle-income poverty as living on \$5.50/day (in U.S. dollars). (World Bank 2017, 2022) The chart below shows the mean (upper-middle) poverty rate across Northern Triangle states in the second decade of the 21<sup>st</sup> century was 41.5%. The percentage of Northern Triangle citizens living in any category of poverty is at or near 50% for every state. El Salvador simultaneously has the least living in upper poverty and the most living in extreme poverty levels.



(Source: World Bank, 2022) (No data was available for Guatemala for "extreme poverty")

The poverty statistics do not reflect COVID's economic impact on Northern Triangle states. The global COVID-19 pandemic had an impact on poverty rates. For the first time in a generation, those living in extreme poverty, because of the global COVID-19 Pandemic, have increased an estimated 97 million, totaling 711 million globally (Mahler et. Al, 2021). The poverty statistics above do not reflect COVID-19's impact on Northern Triangle states.

The U.S. government defines poverty in the U.S. as \$26,000 per year for a family of four or \$13,000 per year for an individual (U.S. Census, 2021; Wamsley, 2021) Below, is a graph comparing the poverty rates of the U.S. to those of the Northern Triangle states:

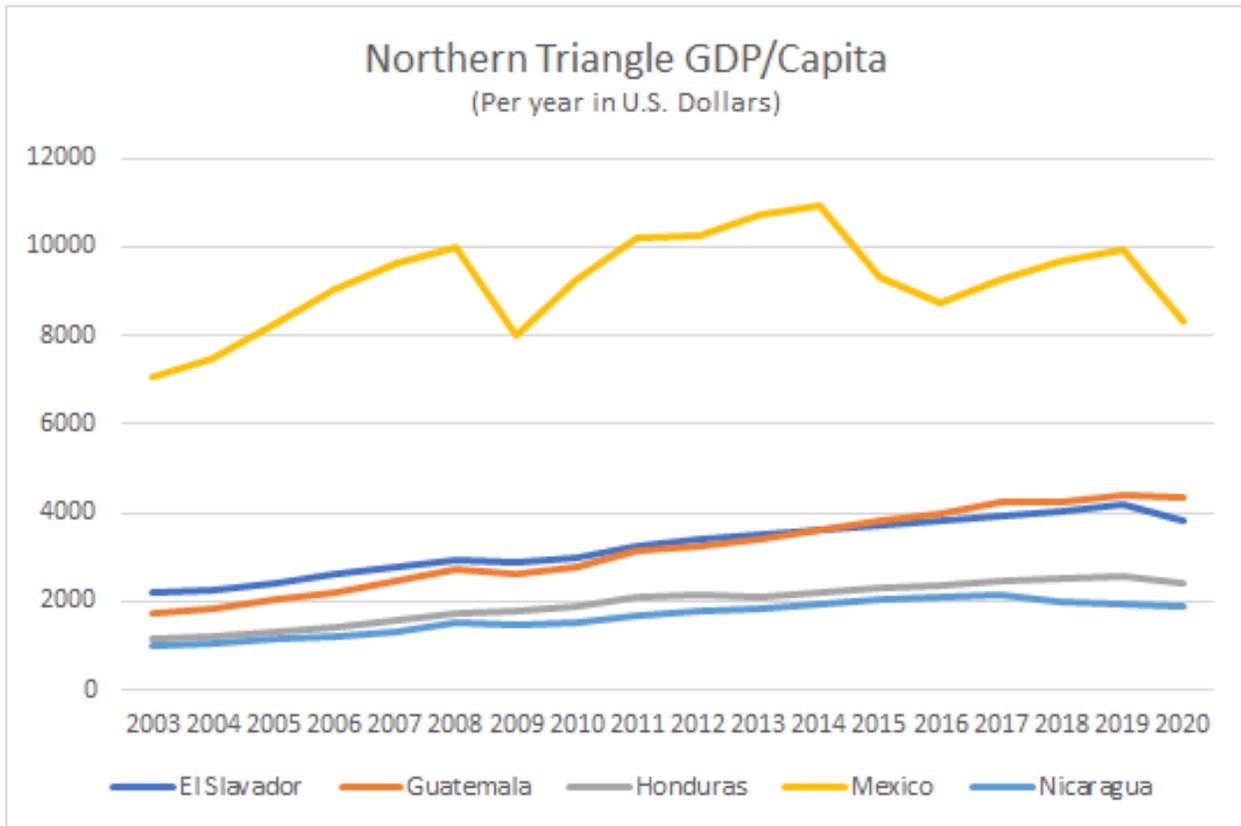


(Sources: World Bank 2022; U.S. Census 2021)

The World Bank data set did not provide the most recent statistics for the percent of Americans living below the international poverty rate of \$5.50/day. Thus, 2020 U.S. Census data was utilized. The U.S. Census bureau reported that 11.4% of the U.S. population was living at or below the *U.S. poverty line* in 2020. According to the U.S. Census Bureau (2021), U.S. poverty threshold is approximately \$35/day. Given that poverty rates in the Northern Triangle can easily be over 40%, U.S. poverty rates, even given a higher poverty threshold, are far lower than that of Northern Triangle states. The knowledge that even the poorest in the U.S., who represent a *much smaller* percentage of the U.S. population, have more than those living in upper poverty in the Northern Triangle. This recognition of destination opportunity can impact willingness to emigrate, even illegally, to the U.S.

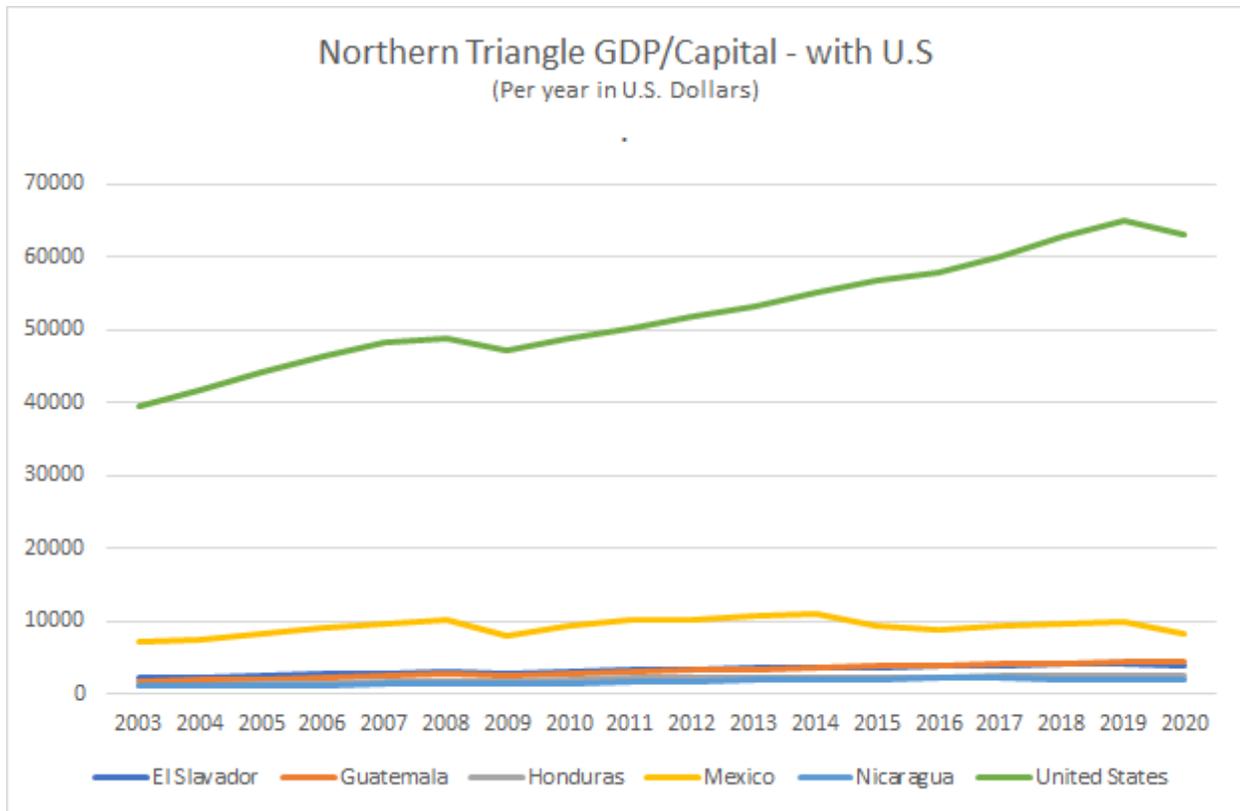
### Economic Opportunity

The willingness to emigrate to the U.S. may be driven by the measure of per capita gross domestic product (GDP) in home states. Beyond escaping poverty, the prospect of economic opportunity could be sufficient to lure the disillusioned from their homes. The graph below reveals the earning prospect of Northern Triangle citizens in their respective states:



(Source: United Nations, 2022)

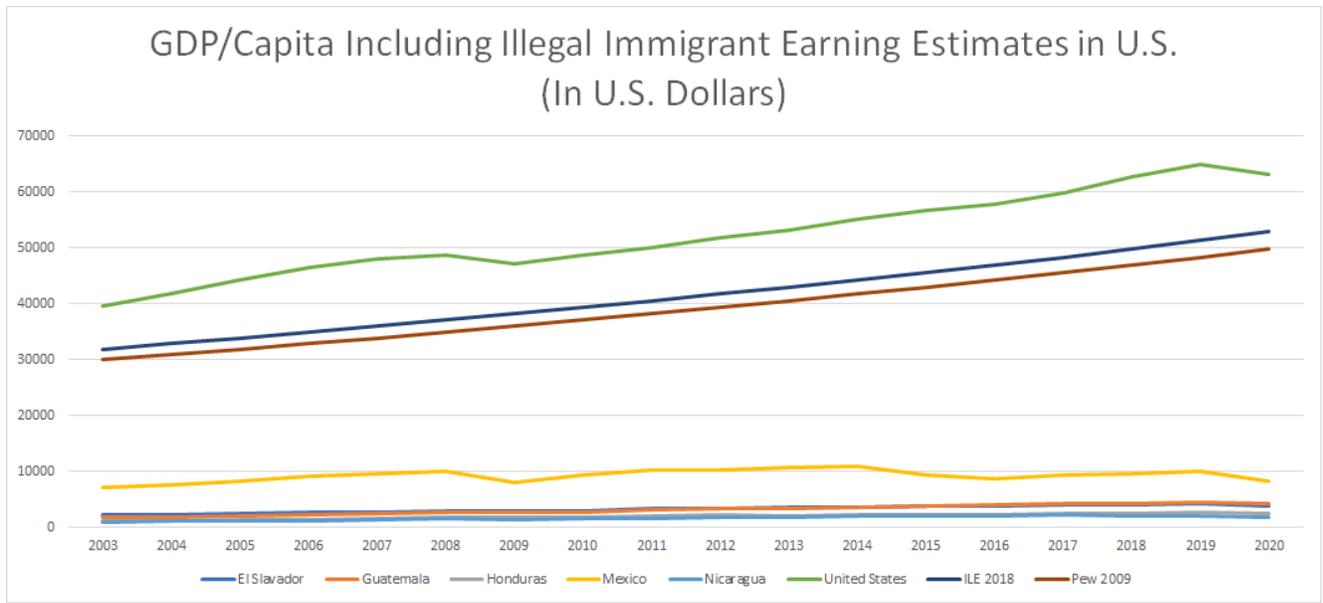
Lack of economic opportunity in a home state can compel individuals to seek economic opportunities in other states. (Collins & Ramon, 2021) Mexico's GDP rates have been consistently more than double other Northern Triangle states over time. If a relative increase in economic opportunity alone were sufficient to motivate migration to another state, Mexico, again, would be a desired destination for Northern Triangle migrants. Moreover, it is within a much closer proximity to fellow Northern Triangle states than the U.S. Mexico, despite its proximity and higher economic prospects, is not the preferred destination for Northern Triangle migrants. Thus, a relative increase in economic prospects is not individually sufficient to explain illegal immigration to the U.S. from Northern Triangle states.



(Source: United Nations, 2022)

When the U.S.' GDP is compared to the GDP of Northern Triangle states, including Mexico, not only is it higher, it sustains higher growth over time. It is evident that while Mexico may offer comparatively better economic opportunities than other Northern Triangle states, it pales in comparison to the potential opportunities that could become reality in the U.S. In this light, it is understandable why migrants would pass over Mexico in preference of the U.S. It could also help explain why migrants are willing to risk illegal immigration into the U.S.

Do illegal immigrants, living life in the shadows of the U.S. economy, have any hope of realizing a better economic future, though? Statistical data on illegal immigrants is opaque and challenging to identify. Pew Research (2009) published a study asserting that the mean household income for illegal immigrants was \$36,000 per year. Adjusted for 3% annual inflation, the amount would be \$52,867 in 2022. Similarly, the Institute of Labor Economics (2018) asserts that illegal immigrants, on average, make 42% of their legal counterparts.



(Sources: United Nations, 2009 and Pew Research, 2018)

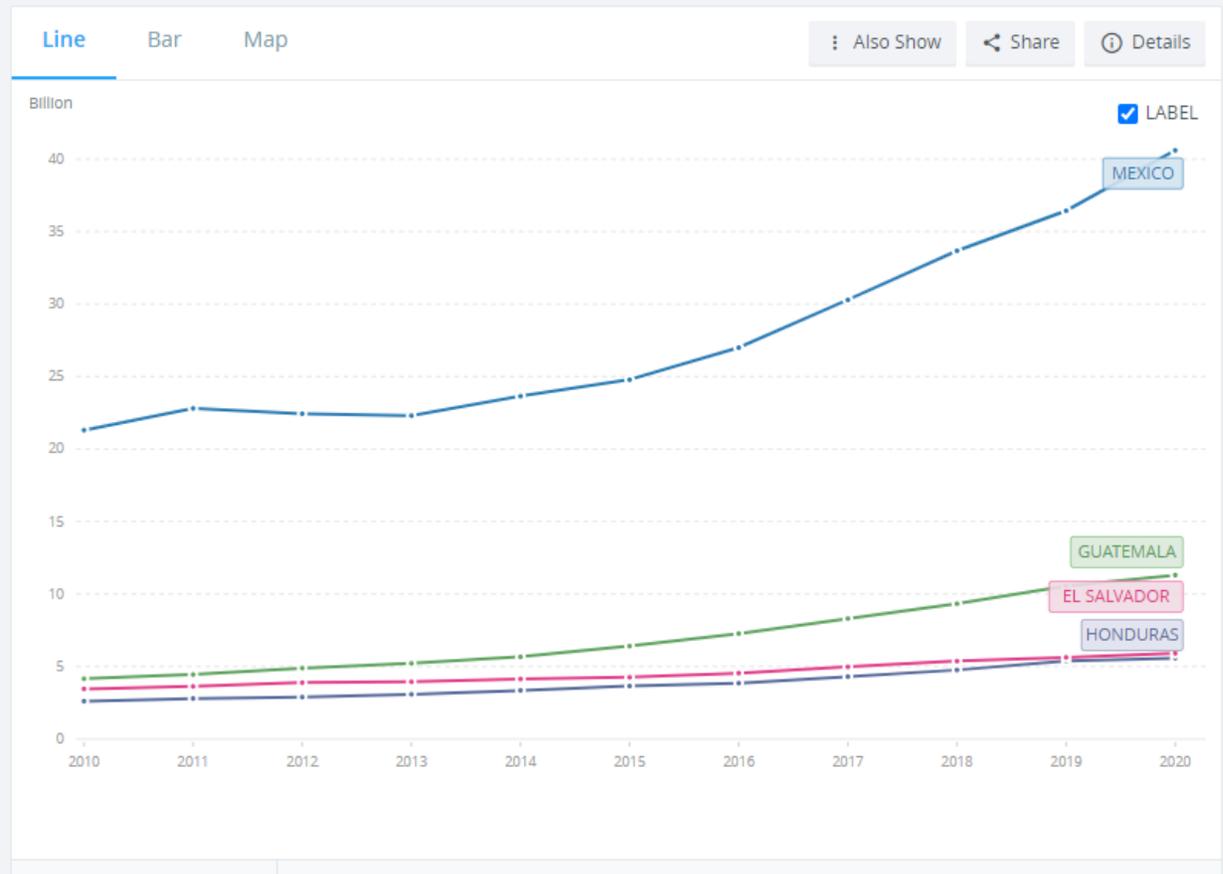
When applying both estimators to the salaries of illegal immigrants in the U.S. to the income potential in Northern Triangle states, even at 42 cents on the dollar, it is not a far stretch to see how this could be a strong motivator for people to be willing to immigrate illegally.

Evidence of realized economic opportunity in the U.S. for illegal immigrants can be gleaned from the money transfers from the U.S. to Northern Triangle states. Remittances are defined as the sum of personal transfers between resident and non-resident individuals. (World Bank, 2022) Beginning in 2016, Latin America began experiencing record numbers of remitted funds from the United States. (Budiman and Connor 2018) Remittances to Northern Triangle states, especially Mexico, has steadily increased since 2016 with remittances topping \$40 billion in 2020.

## Personal transfers, receipts (BoP, current US\$) - Mexico, Guatemala, Honduras, El Salvador

International Monetary Fund, Balance of Payments Statistics Yearbook and data files.

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(Source: World Bank Data, 2022)

Entire communities in Mexico have been supported by funds sent back by illegal immigrants to the U.S. (Associated Press, 2022)

Remittances have been on a record run since last year (2019) and reached their all-time monthly high in March 2020, as a growing number of Mexican migrants living in the United States dug deep to send extra money to relatives back home to alleviate the devastating impact of the coronavirus pandemic. (Reuters, 2021)

Not only there is sufficient economic opportunity for migrants to live a better life in the U.S., but the opportunity is also such that it can benefit loved ones left behind.

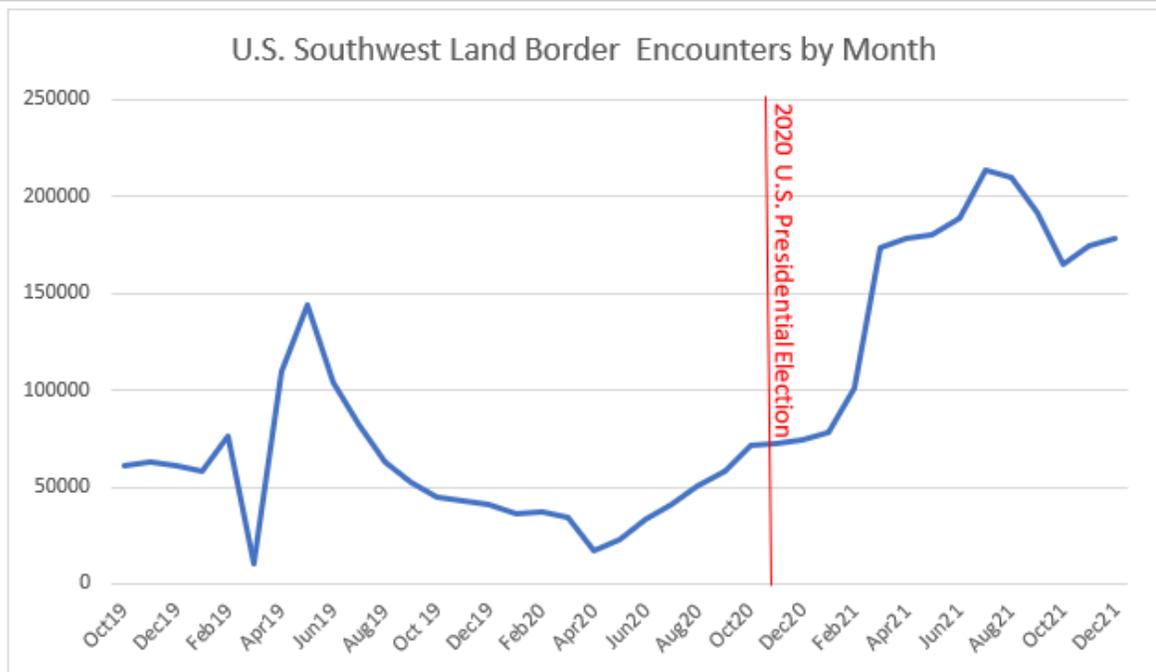
### Summary of Willingness and Opportunity

In this section we evaluate crime, freedom, poverty, territorial proximity, and economic opportunity were examined as potential determinants in the motivation of Northern Triangle citizens to emigrate, illegally, to the U.S. Some components offer strong insight as to why people leave their homes of birth. Others can increase understanding as to why the U.S. would be a preferred destination for immigrants –legal and illegal. Though some components offer stronger evidence than others, none, save perhaps one, are sufficient to account for the motivations informing illegal immigration.

If escape from crime alone were the motivating factor, immigrants could go to El Salvador, which is closer (for some) than traveling through Mexico to reach the U.S. If freedoms were a primary determinant, migration would be minimal as freedom scores have changed minimally over the past two decades. If proximity were a primary motivation in determining which state to immigration to, Mexico and other Northern Triangle states with lower crime rates or higher economic prospects would be preferred. If increased earning potential, alone, were a primary motivating factor, Mexico, with a GDP per capita rate that is double any other Northern Triangle state would be a desired destination. It is when Mexico's GDP per capita is evaluated in light of the U.S.' per capita GDP and the U.S. comparative poverty rate are examined that understanding as to why migration, even illegal migration, to the U.S. is so attractive. It is worth the risk.

The data does suggest that jobs and economic opportunity strongly inform willingness to migrate. de Haas et. al. (2019, 879<sup>(OBJ)</sup>) wrote, "Labor demand in destination countries is arguably the most important force driving international migration, particularly if we consider that family migration is, more often than not, the indirect consequences of labor migration." The U.S.' comparatively low poverty rates and its much higher GDP make it an attractive destination for migrants. These statistics, attractive as they are, however, do not explain the recent spike in illegal border crossings. The U.S. has consistently enjoyed much lower crime rates, its freedoms have remained relatively stable, it has remained the same distance from its Northern Triangle neighbors, it has maintained low poverty rates, and it has consistently had a much higher GDP per capita. Very little has changed in the metrics of the U.S. that could explain the recent changes in willingness on the part of migrants to come to the U.S. The opportunities that are present now have been present for decades. What has changed is U.S. Foreign policy.

The 2020 election of Joe Biden marked an end to the Trump Administration's stricter border policies and marked a new window of opportunity for migrants. This new opportunity was not missed by immigrants and the reaction was not slow in coming. U.S. Southwest border crossings quickly began to spike.



(Source: USCBP, 2022)

### A Nation Divided: The Violation of “We-ness”

In the United States, immigration stirs passions among people that “are already here,” native-born and naturalized citizens alike, as no other and paradoxically violates the notion of the “American Ideal.” While some desire to welcome all immigrants unconditionally, others insist that all immigrants enter the United States legally. This is a nation founded and governed by laws, not the whims of men, therefore, the very nature of government is to “bring order to the chaos,” in this case order to who enters the United States and “why they are coming.” “To breathe free,” the very aspiration that defines native-born and naturalized Americans has somehow come to represent immigration from Mexico and the Northern Triangle as a threat. Some fear the change—what the U.S. is as a nation—that somehow the nation will be negatively altered in some manner by people “that are not like them.” Then presidential candidate Barack Obama famously in-part said in a 2008 campaign speech, “...or antipathy to people who aren't like them or anti-immigrant sentiment...” What does “people who are not like them,” the “we-ness” really mean?

Perhaps the “we-ness” is changing in numerous ways. The composition of the United States has largely moved away from being a predominantly majority White nation to a more predominantly multi-cultural, multi-ethnic nation. The fear of losing the “we-ness” is not rational because of changing demographics. Some have fears of people that are different, do not speak the same language, or look different. History is bound to be repeated as the United States has experienced the same immigration phenomena of conflict before. In the nineteenth century, the

anti-immigrant sentiment was very evident with the immigration of people from China, Japan, Ireland, Italy, and Jews from Central and Eastern Europe and beyond.

Beginning in the late 1950s, tens-of-thousands emigrated from Cuba seeking freedom. New York, California, and Florida became “ethnic or immigrant havens” as a result. These were, and are, very same people that Reagan said, “can come to live in the United States and become an American.” In reality, and traditionally, immigrants proved to be very industrious and productive. They all became part of the “we-ness” of the United States. Interestingly, immigrants from the Northern Triangle participate in the labor force at higher rates than the native-born population (69% vs. 62%). (MPI 2022)

Rational thought means that citizens of the U.S. have a right to know who is in their country, why the immigrant is in their country, what the immigrant plans to do in their country, and that the immigrant will abide by the laws of the land. The nation is open to immigration. However, many agree there must be order and attempts to create order are evidenced by the various immigration laws enacted over the past century. Immigration is a much needed and beneficial component of the United States’ past, present, and its future. We argue that the problem with immigration lies in the laws and policies that have been established.

### **Assessing Freedom & The Rule of Law**

Illegal immigration is a problem because it is against “The Rule of Law.” The overarching problem with U.S. immigration laws is that they are confusing, they are not applied evenly or equally, and enforcement is difficult. At the heart of immigration laws in the United States is the difficulty of gaining legal admittance to the country. Difficulty of access and admittance to the United States creates the nexus of “opportunity and willingness” to enter the country illegally primarily for economic opportunity.

The data indicates that overwhelmingly migrants from the Northern Triangle enter the United States for economic purposes (approximately 50%). (World Bank, 2022) A significant number of those come to for seasonal work as evidenced by the receipts sent back to their home countries. (Associated Press, 2022) The World Bank estimated in 2019, the amount remittances sent to Mexico via formal channels exceeded \$38.5 billion, representing approximately 3% Mexico’s gross domestic product (GDP) that year. (MPI, 2019) In short, those migrants have the “willingness and opportunity” to enter the United States for economic purposes, while technically breaking “the Rule of Law,” are not the “real criminals.” These are the people that should be welcomed into the United States.

Enforcement of often changing and unclear laws and policies is difficult. The real danger in illegal immigration does not lie in the poor soul coming into the United States for employment, it lies in those that perpetrate crimes against humanity, such as the trafficking of drugs, kidnapping, slavery, and other crimes. When law enforcement officers spend their time chasing border crossings for the wrong reason, they then become ineffective. Hector Garza, president of the Laredo [Texas] Border Patrol union chapter, recently explained there was “a sense of frustration and concern for what’s happening on the border” (Sands, 2022) because

agents were spending their time processing migrants rather preventing drug smuggling, stopping human trafficking, and arresting people with serious criminal records. In short, they are chasing the non-violent work-seekers and forgoing the drug cartels.

## **Policy Solutions for a Post 2020 World**

“The Rule of Law in a Post 2020 World” requires deliberative thoughtful legislative action with a tough-minded balance between firmness and compassion. Immigration policy has become a “proverbial hot potato” issue for decades. Article 1, Section 8, Clause 4 of the Constitution specifically grants to the United States Congress the power to establish a “uniform Rule of Naturalization.” The Constitution expressly allocates the power to Congress to establish these policies, however, the institution has either been unwilling or unable to come to an agreement to provide relief to the continuing problem of illegal immigration. Ricks wrote, “The branch of the federal government that has failed most in recent years has been Congress. Two of its major functions are to be the voice of the popular will and a check on the executive...The Framers of the Constitution probably would be surprised and chagrined by the passivity of Congress in recent decades...” (Ricks, 2010, 190)

Congress that has the opportunity (capacity) to resolve this problem but lacks the willingness (political will) to solve the complex problems require well thought-out solutions surrounding immigration. Further, Congress has largely ceded immigration policy to the Executive Branch which often issues confusing and ineffective Executive Orders. Necessary immigration policies require solutions across a broad spectrum to include the securing of porous borders, the promotion of democratic principles and freedoms abroad, working with the neighboring state of Mexico to prosecute human trafficking and the so-called “Coyotes,” drug smugglers, and other criminals. All these ideas require thoughtful deliberation, clarification, and action. Congress should abandon the omnibus approach and adopt an incremental approach of legislation because of the complexities that immigration policies present that must balance differing interests. We propose the following three policy positions that Congress should consider and implement immediately.

**First**, the development and establishment of an effective, workable, and reasonable “Guest Worker Policy.” The data has shown that a significant number of immigrants are simply seeking a better method of earning an income. Many of those do not desire to make a move to the United States, rather many seek seasonal agricultural employment. Migrant workers can mitigate the short-term challenge of declining labor pools, the long-term impact of population decline, ease the social burden of caring for an aging population (Population Council, 2018). More importantly, they fill jobs that many citizens do not want, and the agriculture and other service sectors of the economy needs them. In April 2021, the President of Mexico, Andrés Manuel López Obrador said that, according to his calculations, “The U.S. economy is going to need between 600,000 and 800,000 workers per year...” (Ramos, 2021) By providing temporary work visas to people who merely seek an income and desire to return to their home countries, illegal immigration will be reduced, and law enforcement officers can spend their time preventing serious crime.

**Secondly**, the equal application and enforcement of existing laws across all economic sectors. “The Rule of Law” requires the laws on the books to be applied equally, evenly, and not selectively because it is convenient or perceived to be necessary. “Equal Justice Under Law” is more than a motto, it is what a nation of laws and not men requires.

With well-functioning immigration laws, illegal immigration would become less attractive. Current law requires that the e-Verify process and I-9 forms be completed for every employee, processes that adds complexity and difficulty to the employment process. However, some businesses often overlook these steps out of expediency. Businesses should be inspected regularly and those found to be in violation of employment laws and employing illegal immigrants should be held accountable and receive swift and severe penalties. In concept, this is a supply and demand issue; “cut off the supply of money” (jobs), the “willingness and opportunity” to enter the United States illegally will be greatly diminished.

**Thirdly**, make the citizenship, permanent resident, and visa process simpler and more attainable. The goal should be for immigrants, asylum-seekers, and workers to seek and entrance legally and not be motivated to live in the shadows.

## **Conclusion**

We do not argue that there should be open borders or lax immigration policies, or that should be expected to “take everyone.” Nor do we argue that we have all the answers. The opposite, we argue that the United States must have just and effective immigration laws and policies, ones that will provide for “Assessing Freedom.” Immigration policy is difficult and complex with both national and international implications. To fulfill the promise America has made to the world in a “Post 2020 World,” the nation must fulfill the ideal of *E pluribus unum*, “out of many, one.”

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