STUDIES IN SOCIAL JUSTICE
Volume 17, Issue 1, 48-67, 2023

A Lost Opportunity? Collective Demands and Migrant Farmworkers in Costa Rica during the Pandemic

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ABSTRACT *The COVID-19 pandemic induced an overexposure of migrant farmworkers' poor working and living conditions in Costa Rica's northern border area and underscored the country's dependence on migrant labor. This created a unique opportunity to position pro-migrant concerns and demand actions from the state. In this article, we assess if and to what extent the actions of the Costa Rican state were influenced by migrant demands, or whether other priorities guided policy. Based on a novel database on protest and collective action (Protestas-IIS) that is fed with national and local newspaper articles, we analyze the* demands *made by migrants, the private sector and NIMBY movements, and state* responses*. Our findings suggest that the latter prioritized market concerns and antiimmigrant interests, thereby underscoring lessons from the literature that migrants are among the politically most disenfranchised in society. Their demands were only partially responded to by the state, and only concerning issues that aligned directly with public concerns, in this case related to health.*

KEYWORDS migrants; collective demands; farmworkers; COVID-19; Costa Rica; Nicaragua

Introduction

The Costa Rican economy's dependency on migrant workers, as well as the workers' precarious working conditions, became especially apparent during the COVID-19 pandemic, presenting a unique opportunity to position these

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ISSN: 1911-4788

issues in the political debate and demand actions from the traditionally strong Costa Rican state.

Migrants, especially from Nicaragua, form an indispensable part of the labor force for Costa Rica's agricultural sector, where they constitute 30% of the sector's workers, and between 70% and 80% of low-skilled farmworkers (Baumeister, 2021; Herrera, 2019). Especially in the northern border region, the harvest of various crop, such as pineapple, orange, banana, and sugar cane, highly depends on permanent and temporary Nicaraguan migrants (OECD, 2018). In all, migrants' contribution is estimated at 12% of the gross domestic product (OECD, 2018)

Despite their key contribution to productivity (O´Neill, 2022), low skilled agricultural jobs are poorly paid and insecure with high levels of informality (i.e., lacking formal work contracts and corresponding benefits), low levels of unionization and dismal working conditions (Voorend et al., 2021). In addition, migrants face problems of regularization, access to social rights and discriminatory treatment (Voorend, 2019). Such vulnerabilities were feared to worsen in the face of the pandemic; human rights and health protocol violations on farms in early 2020 were highlighted in the national news headlines (Bosque, 2020). In Costa Rica, the pandemic underscored "the precarious situation in which thousands of workers, including a large number of migrants, have long been living and working" (Alvarez-Echandi, 2020, p. 379).

This article uses a demands-response scheme to analyze whether the pandemic conjuncture (2020-2021) served as an opportunity for migrant farmworkers in Costa Rica to influence state actions to improve working and living conditions. We assess whether this opportunity was capitalized on to influence the design of state actions when the extraordinary situation provoked by the pandemic revealed migrants' importance to the Costa Rican economy.

We argue the dispute over state support was quite complex with pro- and anti-migrant voices and structural factors influencing state responses. The political opportunity for migrants (and allies) to advance structural demands to working and living conditions was confronted by the reality of a state limited in its role to offer protection as a result of several decades of cutting back public social expenditure (Martínez-Franzoni & Sánchez-Ancochea, 2019). Instead, the state prioritized market concerns (specifically, farms that hired migrant labor) and aligned its actions with voices of some community groups that opposed (irregular) migration and blamed migrants for the COVID-19 virus infections. This response reinforces the warning in the academic literature that in contexts where states are struggling to provide social protection for their national populations, the rights of migrant populations are not prioritized and may be left unattended (Vera Espinoza, et al., 2021; Voorend, 2019).

In what follows, we discuss some conceptual and methodological considerations that facilitate our analysis. Second, we outline the *context* situating the Costa Rican state's policies during the pandemic and the implications for migrant farmworkers. Third, we analyze the collective

demands expressed by migrant farmworkers and highlight the role of community mobilizations against migrants as a tonic during the conjuncture. Fourth, the ways in which the state *responded* to these demands are presented, showing how the state attended to migrant farmworkers. The final section provides some final reflections.

Theoretical and Methodological Considerations

This article positions migrants theoretically as a group subject to state coverage and its scope of action, but also as potential agents of activism who through collective actions can seek to influence state decisions in contexts that demand political actions, directly or indirectly related to their living and working conditions. We consider that migrants should be conceived as subjects of rights without any restrictions.

At certain conjunctures, collectives in this case, migrants) can be more active in seeking to raise their demands onto the political agenda. The political opportunity approach, which has been promoted since the 1990s (e.g., Goodwin & Jasper, 2012; McAdam & Tarrow, 2019; Tarrow, 1994; Tilly, 1995), argues that the opportunity for collectives to advocate depends on political dimensions such as the degree of political openness, political-party alignments, elite cohesion and the availability of influential allies. We are particularly interested in the first of these dimensions, which refers to the level of acceptance of collective demands that exists within the institutions, and the degree of advocacy that social collectives have within the structure to alter political action (Favela, 2002). Brockett (1991) called this collectives' capacity to influence "access points" in the institutional framework (p. 260).

Martínez-Franzoni & Sánchez-Ancochea (2022) point out that COVID-19 had the potential to be seen as an opportunity for the introduction of social demands. From this perspective, the state emerges as an arena of power and conflict but also as the main actor called on to respond to the collectives' demands. Migrants had an opportunity to integrate their demands during the pandemic by taking advantage of the exposure given to their working and living conditions. However, there were also other groups seeking this political opportunity, such as private organizations (farm companies) or "not in my backyard" (NIMBY) activists, theorized by McAdam & Tarrow (2019) as community groups activated to react against what they perceive as threats brought by outsiders.

The literature on international migration contends that migrants often play a minimal role in political advocacy. Migrant farmworkers face poor working conditions, like those in Costa Rica, with temporary contracts, low remuneration, restricted access to state social protection, labor exploitation and threats of deportation, which have been shown to disincentivize political engagement (Basok & Belanger, 2016), and political advocacy is often compromised or silenced (Varsanyi, 2008). However, while state prioritization

of migrant demands is often limited (Voorend, 2019), the COVID-19 pandemic could serve as a political opportunity for migrants (and anti-migrant activist groups) to influence policy decisions and actions as a potential collectivity (Ataç et al., 2017; Basok & Candiz, 2020).

To analyze these political opportunities, we use data from a novel database on protest and collective actions (Protestas-IIS), based on the Protest Event Analysis (PEA) methodology (Koopmans & Rucht, 2002). PEA is a commonly used methodology in the study of social protest, which consists of monitoring protest events from different sources for their subsequent reconstruction based on analysis categories which usually highlight actors, their modalities – or repertoires – of protest, and their claims. Among the most used sources are the official statistics of institutions related to the management of protest, such as police reports, or newspaper articles.

For this research, we review national and local newspapers, as well as specialized sources in the study of social protest in Costa Rica (i.e., the Protestas-IIS project and the Community Observatory of Collective Actions (OCAC-IIS)). These projects conduct periodic monitoring of news on the occurrence of protests in Costa Rica, which are codified according to the following categories: (1) the spatial and temporal dimension of the events (where and when?); (2) the protest repertoires (how?); (3) the actors of the protest (who?); (4) the claims (what?); and (5) the actors to whom the claims are directed (to whom?).

In preparing this article, we created a database from the compilation of 60 newspaper articles related to claims of migrant farmworkers, covering the 2020-2021 period. We include pro-migrant protests and claims, but also NIMBY movements. Based on this data, we provide an exploratory analysis of activism related to migrant farmworkers by mapping different actors and their claims. Based on a revision of institutional documents and presidential decrees this activism is then contrasted with policy outcomes in the form of state action during the pandemic that had direct effect on migrant farmworkers' living and working conditions.

While causal relations are difficult to establish between these protests and policy outcomes due to the methodological scope of the research and the difficulties in establishing a larger sample of protest events, the policy outcomes do provide insight into the dominant position held by the Costa Rican state, and whether these align more with voices calling for migrant farmworkers' rights and improvements in their conditions or the narrative against migrants that blames them for the spread of the virus.

Contextualization: State and Migrant Farmworkers before the Pandemic.

Even though Costa Rica´s economy has grown steadily throughout most of this century, just before the pandemic in 2020 it was facing the highest fiscal deficit since 1981. The already high levels of unemployment (12%) grew to over 20% at the peak of the pandemic (and back to 14% by 2022) (World Bank, 2022). Social inequality, labor market informality and poverty rates have been on the rise for the past 25 years, with approximately 35% of the population considered socioeconomically vulnerable, and a poverty rate of around 23% (6% in extreme poverty) (National Institute of Statistics and Censuses, 2021).

Despite being one of the longest-lived and most universal social protection systems in the Latin American region, with high coverage levels (around 87% of total population) and strong performance indicators (Martínez-Franzoni & Sánchez-Ancochea, 2013; Voorend & Alvarado, 2021), the COVID-19 pandemic hit at a time when the foundations of this system were substantially eroded following three decades of austerity measures, inefficient management and financial deterioration (Carrillo et al., 2011; PAHO, 2011).

Migrants already bore much of the burden of this waning state protection (Voorend, 2019). Before the pandemic, only about 60-65% of migrants had health insurance, leaving over 30% of migrants uninsured (Voorend, 2019). The Ministry of Agriculture and Livestock (MAG) estimates that approximately 73,000 foreign workers are required to harvest crops each year.[1] Between 60% and 70% of low-skilled farmworkers are foreigners (Herrera, 2019), mainly middle-aged (around 32 years) male migrants (87%, versus 13% female migrants) from Nicaragua (Baumeister, 2021).

The agricultural sector has reproduced patterns of (migratory) irregularity and labor informality, implying high levels of vulnerability in the face of the pandemic. Indeed, in agriculture 50.3% of permanent farm jobs among Nicaraguans are informal, and similar numbers (48.3%) had an irregular migratory status (Baumeister, 2021). Temporary workers are most likely worse off as their hiring is subject to harvest cycles with low job stability (Baumeister et al., 2008). A usual hiring practice is through intermediaries who in turn hire crews (Voorend & Robles-Rivera, 2011). Where the intermediary is often formally contracted by the farm, the crew is considered the intermediary's responsibility and is not controlled by the farm administration. This leads to high levels of informality of labor relations, which helps explain why access to the country's state social protection has historically been lower for migrants than for nationals (Voorend, 2019). These occupations have a higher risk of accidents because of the vigorous physical requirements, the handling of tools, and higher exposure to diseases due to the climate (Baumeister et al., 2008).

[1] Agriculture in Costa Rica still plays a key role in the country's economy, especially as a result of its transformation from traditional, family-based agriculture to intense export-oriented agriculture. In recent years (2017-2020) agricultural exports totaled almost five billion dollars annually (Baumeister. 2021; SEPSA, 2021) and in 2021, banana and pineapple exports alone were worth close to two billion dollars (Gatica & Voorend, 2021).

These practices create high job instability and keep wages low. For example, 32% of Nicaraguans working in the agricultural sector earn less than the minimum wage (Aravena & Carazo, 2016; Baumeister, 2021), which is itself substantially below a living wage (Voorend et al., 2019).[2]

Some of these issues can be addressed through unionization and collective discussion, however, migrant farmworkers are among the most politically disenfranchised workers in Costa Rica. There is ample anecdotal evidence that they are threatened with dismissal if they claim their rights in terms of job security (Baumeister, 2021; Baumeister et al., 2008). Legally, migrant farmworkers are admitted in Costa Rican trade unions, but they cannot hold managerial positions (article 47, Political Constitution of the Republic). As a result, there is hardly any record of unionization among migrants and it is believed their affiliation numbers are severely limited (Voorend et al., 2021).

Migrant and Anti-migrant Demands during the Pandemic

During the pandemic, a substantial number of labor inspections were carried out on farms by the national authorities, which publicly exposed the deficient working and living conditions migrants' workers often face. Notorious headlines made the news about undignified, overcrowded living conditions in poorly built housing in a state of disrepair (Bosque, 2020). Such conditions were alerted to the press and government, exposing a worrisome situation not only for the farms or migrants but for the entire country, since it could facilitate the spread of the virus throughout the national territory.

At the same time, the inspections underscored the high levels of informality, especially through outsourcing of hiring processes through contractors, and low levels of social security affiliation (Ávalos & Recio, 2020). The inspections also exposed hiring practices that encouraged daily transport of irregular migrants from the border to the farms (Pérez & Montoya, 2021). In other words, the pandemic came to expose what was already known about the vulnerable conditions of farmworkers in the agricultural sector and reaffirmed the high dependence on migrant labor in agriculture.

This provided an opportunity to position pro-migrant issues in the public debate. Media coverage could put pressure on the state to act and respond to abuses against migrants in a critical context that demanded social protection.

[2] Labour payment practices in agriculture make it extremely difficult to estimate monthly wages. For example, the minimum wage in Costa Rica's agricultural sector is calculated based on a daily pay, which is then multiplied by 30 days. This is not realistic, as workers do not work 30 days a month, considering Sundays, sick days, national holidays, etc. (Voorend et al., 2019). Also, payment for these activities is sometimes made per task or per day. For example, in pineapple production, Voorend et al. (2013) point out that one practice for the payment of wages is to divide the sum of daily production by the number of people working that day on the farms. Other modalities include payment by bag (in orange production) or by trunk (in coffee).

The database constructed for this article shows that there was more activity during the first year of the pandemic (2020), especially during the first eight months, when there was much uncertainty regarding the virus and before the state's first actions to address the situation. The demands, however, mostly addressed non-structural issues regarding the living and working conditions of farmworkers. Collective actions by migrant groups revolved around immediate issues, such as the guarantee of sanitary protocols. At the same time, parallel NIMBY expressions increased significantly, based on a xenophobic narrative (Alvarado Alcazar et al., 2021).

Migrant Farmworkers and Collective Demands during the Pandemic

The first expressions of discomfort relating to migrant farmworkers were in line with the socioeconomic effects of the pandemic registered since March 2020, just after the country confirmed its first coronavirus case and the borders were closed. These first pro-migrant demonstrations were supported and sustained by strategic allies that helped voice migrant farmworkers' claims and were the basis of a strategic alliance that would be the norm for future collective demands during the pandemic, serving as a platform with a wider range of outreach.

Organizations such as the Private Sector Workers Union (SITRASEP) raised their voice following reports of (regular and irregular) migrant workers in the pineapple sector being unable to access health insurance. Employers had stopped covering health insurance to reduce operation costs leading to a deprivation of healthcare access during the pandemic emergency (SHD, 2020a). At the same time, SITRASEP denounced farm companies failing to implement the instructions of the Ministry of Health and the Ministry of Labor to combat contagion (Quesada, 2020).

The generalized vulnerability of (migrant) farmworkers and the deficient health protocols in the northern region caused outbreaks of infected farmworkers in June 2020, to the extent that several pineapple companies were closed for non-compliance with sanitary measures and for lacking operating permits from the Ministry of Health (Quesada, 2020).

In the period that followed, and in response to increasing infections, farmworkers organized several collective actions, expressing discomfort with their workplaces. In several banana farms located in the Atlantic part of the country, strikes were held to get the company administration to put in place basic sanitary measures, such as soap and sinks with drinking water (SHD, 2020b). For example, in June 2020, 200 unionized workers of the company *Corporación de Desarrollo Agricultural Del Monte*, stopped working as an act of protest until sanitation protocols were improved. Once again, such demands were voiced and supported by strategic allies, such as SITRASEP or the left-wing political labor party, the *Partido de los Trabajadores*, which has

organizational presence in many of the packing and fruit companies in north Costa Rica (Álvarez-Echandi, 2020).

As contagion in agricultural companies increased through the months of July and August 2020, another organization, the National Union of Agroindustrial and Allied Workers (SINATRAA), started voicing concerns about the spread of the virus as the affected farmworkers dispersed to different areas where their work was required in harvesting, packing and preparation. These concerns also included other occupations such as bus drivers or commercial workers (SHD, 2020c).

By August 2020, a new collective action was carried out by a group of farmworkers from a pineapple farm called *Piñas Cultivadas de Costa Rica S.A*, located in Medio Queso, Los Chiles, in northern Costa Rica. This action, as reported by SITRASEP, was the only registered demand related to aspects not associated with virus control but to structural aspects of work conditions. Its general objective was to demand the respect of workers' rights, pressuring the company to ensure minimum wage compliance and overtime pay, as well as to obtain protective equipment, conform to rules on hydration and rest during work, and institute protocols on COVID-19 to avoid contagion (SHD, 2020d; SITRASEP, 2020).

In late 2020, another topic emerged in Costa Rica's northern region after it was heavily affected by Hurricane Eta. The hurricane highlighted the deficient housing conditions of a group of migrant farmworkers, which led to police intervention resulting in the eviction of several families, mainly irregular migrants, living on a private property. This situation was widely denounced by the Northern Peasant Alliance (*Alianza Campesina del Norte*) as the intensified police persecution of migrant populations continued, especially in the region of Los Chiles. This Alliance is a strong ally of irregular migrant families living in the border region, especially in the towns of Medio Queso, Monteverde, Los Llanos, La Cruz and La Virgen (Observatorio de Bienes Comunes, 2021).

Early 2021 saw a decline in workers' collective action. This is largely explained by the beginning of the vaccination campaign, the gradual expansion of the immunization process, and the implementation of the Binational Agreement to regulate the recruitment and hiring of migrant farmworkers in the region (explained in more detail below). As a result, the demands recorded in the database registered fewer claims related to health and housing issues, and more of the habitual claims related to labor irregularity in border areas and the persecution of union activists on farms (OCAC, 2020; SITRASEP, 2020).

In August SITRASEP made public statements against the companies for what they considered a clear violation of the organization of migrant farmworkers to achieve payment of minimum wages, overtime, improvements in the treatment of foremen, and occupational health and protection protocols against COVID-19 outbreaks on the farms (SITRASEP, 2020). However, over the remainder of 2021, we found no further evidence of collective demands by or in the name of migrant farmworkers. This does not necessarily mean there

were none, as the lack of evidence could reflect the substantially decreased media coverage of these issues, thereby closing much of the political opportunity window that the pandemic initially presented.

"The Dark Side" of Protest: NIMBY Movements and the Rise of Xenophobic Narratives

The database also documents a substantial record of protests and demands by people from communities in the northern part of the country calling for restrictions on and control of the entry of migrants into the country. Nicaraguan farmworkers were commonly blamed for the wave of COVID-19 infections that increased mainly during June of 2020. This public opinion was strongly reinforced by the national press (Chaves, 2020) and added to already existing tensions around migrant integration in Costa Rica (Sandoval, 2007; Voorend, 2019). As a result, xenophobic demonstrations took place in several parts of the country with claims blaming migrants for the health crisis (Alvarado Alcazar et al., 2020a).

This general discourse in the border communities was influenced by state actions, as even the government made polemic declarations suggesting that Costa Rica had managed the pandemic effectively so far, but that the main "threat" to state efforts came from the uncontrollable and illegitimate influx of Nicaraguans (Chaves, 2020). As a result, sporadic NIMBY movements took advantage of this rhetoric to organize against migrant populations in the region. These demonstrations included various repertoires, such as rallies, and even violence directed towards Nicaraguan migrants.

In terms of social mobilization, the official narrative led to a police force "manhunt for Nicaraguan migrants" (SHD, 2020a) in the north, heavily supported by NIMBY groups. In the canton of San Carlos, for example, a group of residents from Santa Rosa de Pocosol tried to prevent Nicaraguans infected with COVID-19 from entering a community hotel that was operating as a temporary isolation shelter. Faced with community pressure, the Nicaraguan citizens who were in isolation there were transferred by the Red Cross authorities and police officers to the community hall in the neighboring canton, San Ramón, where a makeshift isolation center had to be installed (Cascante, 2020). Similarly, in Turrialba, a group of people organized to prevent the entry of irregular immigrants to the canton. In an official petition addressed to the migration authorities, the Ministry of Health and the police, they requested authorization to enter the coffee harvesting areas, especially the places known as "holes," to corroborate the immigration status of foreigners employed as coffee pickers (Alvarado Alcazar et al., 2020b).

These types of claims, as well as collective and even vigilante-style actions, were typically justified as "humanitarian requests" for regularization and control, to protect the health of Costa Ricans. That is, the protagonists did not articulate their concerns as "anti-immigrant" per se, but as against irregularity.

Presented as advocacy for immigration status regularization and the concerns for the health of the Costa Rican population, these acts increased the calls for the deportation of migrants.

State Responses towards Migrant Farmworkers during COVID-19

The systematization of the actions carried out by the state to manage the situation shows that its responses related to migrant farmworkers during the COVID-19 juncture concentrated on two main topics: controlling the spread of the virus in the border areas, and regulating the hiring of migrant farmworker labor.[3]

Regarding the first, the state implemented a restrictive migration policy at the borders in line with the NIMBY demands but also with the government narrative itself. These actions were justified as an intent to accompany the health policy and its attention on avoiding further COVID-19 infections among the population in Costa Rican territory. There was a widespread concern that newcomers, from neighboring Nicaragua, would be a serious risk to public health, because the sanitary measures in the latter country were considered far inferior to those carried out in Costa Rica (Arce, 2020; Presidencia de la República, 2020).

The Costa Rican health authorities developed a series of inter-institutional coordination actions for the execution of inspections and monitoring of health protocols at different establishments, including farms. These allowed the previously observed demands by pro-migrants to request better sanitary protocols for their workplace. Also, the state implemented an early warning system of COVID-19 cases and announced the decision to attend to any person with COVID-19 symptoms, regardless of their insurance or migratory status, although migrants in irregular status or lacking documents were charged a fee for post-care services (Navas, 2020), as regulated by law (General Health Law No. 5395, 1973).[4] These measures were considered to work better if there was not a constant inflow of new migrants.

The formal closure of the borders was announced in early 2020, a decision that meant a halt to the (formal) arrival of Nicaraguan migrants, including

[3] A third possible topic was the social protection given to migrants. However, access to Costa Rican state support was limited for migrants in general and especially to farmworkers. Most support programs reproduced already existing barriers to access, usually associated with migratory status or formal labor ties (Voorend et al., in press). Although hypothetically migrants did have access to medical checkups for COVID-19 symptoms, and later, vaccination programs and socioeconomic support packages, in practice many migrants could not participate because they lacked migratory documentation or proof of employment, which were a common requirement for these programs (Voorend et al., in press).

[4] Article 61 of the Health Insurance Regulations establishes that "services provided to uninsured foreign nationals living in poverty who cannot be granted insurance by the state shall be billed to the corresponding government agency for collection purposes."

farmworkers. At the same time, regular migrants in Costa Rica were discouraged from travelling to their country of origin: any denizen who left the country were stripped of their temporary or permanent residency permit (Ugarte, 2020). Academics and pro-migrant organizations considered this a discriminatory measure since there was no such prohibition or any other sanction for nationals wishing to leave the country and re-enter (Voorend et al., in press).

An executive decree (Decree 42405-MGP-S) was also put in place to support the Migration Directorate, strengthening their authority to reject persons at the border who at some point had entered the country irregularly. All this led to a substantial reinforcement of border security controls, with investments in surveillance equipment and increased police personnel leading to several interceptions of Nicaraguans who entered or sought to enter Costa Rican territory irregularly (Chavarría, 2020). Likewise, the government announced monetary sanctions on companies that were encouraging the entry of farmworkers in an irregular manner through intensified programmed inspections (Gudiño, 2020).[5]

This set of actions forged a state narrative closely aligned with NIMBY demands and projected a rejection of and desired halt to the arrival of new immigrants to the country. Its xenophobic overtones affected the implementation of health policy measures. Local institutions even rejected attending to migrants seeking Covid-19 health attention, particularly in the health area of Los Chiles, when authorities declared that they would not provide services to irregular migrants without police presence. This explicitly contradicted the national directive that all persons in the country with Covid-19 symptoms would receive medical attention. Likewise, in contrast with the emergency directives that guaranteed free medical services related to Covid-19, local authorities referenced national law to charge for provided medical services if a patient did not have insurance (Vega, 2020).

An unintended result of this restrictive immigration policy was that it laid bare the extreme dependency of the agricultural sector of migrant labor. The shortage of migrant labor became especially noticeable as the pandemic extended. Initially, the situation was not dire, as the production of crops with year-round production, such as banana and pineapple, could be maintained using national labor and already established migrants, and the first months (March-May) of border closure were not during the harvest period for many seasonal crops.[6] However, once these crops were almost ready for harvest (July-August) there was a sense of urgency to fill the labor gap, leading the state to take action to regulate the hiring of migrant labor (Chavarría, 2020). In

[5] These types of fines were established by Costa Rica's Immigration Law before the pandemic; however, they were highlighted as a warning in the context of COVID-19. Fines range from 900,000 to 5.4 million *colones*, and apply to the agricultural, agro-export and agro-industrial sectors (Gudiño, 2020).

[6] The land border closure was effective from March 2020 to April 2021. In August 2020, air and sea entry had already become more flexible.

an effort to ensure labor availability, the state facilitated an exception for the migratory regularization of migrant workers in the agricultural sector, which allowed them to obtain regular migratory status or a work permit if they could show that they had entered and remained in Costa Rican territory between January 2016 and January 2020 (Decree 42.406-MAG-MGP).

Despite these measures the agricultural sector faced labor shortages. The initial expectation that available workers could meet demand did not consider the competition that arose between farms cultivating different agricultural crops to recruit foreign labor in the country (Baumeister, 2021). Also, the regularization initiative did not result in massive regularization due to the extensive paperwork and costs it implied, which were typically undertaken by migrants (Baumeister, 2021; Pomareda, 2020).[7] In addition, despite high levels of unemployment, nationals were not enticed to work in the agricultural sector given its working conditions.

Illustrative of this trend was the call made by the Costa Rican Coffee Institute (*Icafé*) for the 2020-2021 coffee harvest. The sector projected that at least 70,000 farmworkers were needed in the harvest, and in view of the concern about the low number of migrants available for these tasks, they opted to make an extraordinary appeal to the national population to cover the demand for labor (Barquero, 2020a; Garza, 2020). This call went largely unanswered. By October 2020, only about 20,000 people (nationals and resident foreigners) had signed up (Garza, 2020).

Inevitably, agricultural employers started noticing that labor demand could not be met by the available labor force, which typically did not have experience in agricultural production and exhibited low levels of productivity (Garza, 2021). Farm companies quickly became an important lobby to influence state actions. By the end of 2020 and into 2021 they called for initiatives to allow migrants residing outside the country (especially Nicaraguans) to enter the country to join the harvests (Barquero, 2020b). The state responded by adopting protocols and agreements that facilitated the regulated entry of new Nicaraguan farmworkers to join the crop harvests under the so-called "Binational Agreement Regulating the Temporary Hiring of Nicaraguan Workers in Costa Rica." Signed in November 2020, the Agreement was put in place to enable the safe mobility of more than 20,000 Nicaraguan migrants as temporary farmworkers, and included strict health protocols, COVID-19 tests, the requirement of regular immigration documents and labor permits, and inspections of agricultural farms (EFE, 2020). Although the agreement fell

[7] Previously, in 2019, a similar decree, 41969-MAG-MGP, had been developed that sought to regularize migrants but only received 22 applications (Pomareda, 2020). Among the requirements to be presented were an affidavit from the employer showing that they had a contract or job offer, or a MAG certification if they are self-employed. Applicants had to pay $60 and were not eligible if they had a criminal record in their country of origin or in Costa Rica.

short of the targeted number, it facilitated the migration and hiring process for 6,683 persons and was renewed for the 2021-2022 harvest (EFE, 2021).

In its second iteration the agreement was framed more specifically as the "General Protocol for Labor Migration for the Harvest Season within the Framework of the COVID-19 Alert, 2021-2022," prepared by several ministries and the General Directorate of Migration and Foreigners (DGME). It establishes six steps prior to the entry of migrant workers, which include registry and verification of lodging for the personnel to be hired, the offering of authorized private transportation for their mobilization, drawing up lists of persons to be hired, requesting their temporary work permits from the Ministry of Labor (MTSS), and verifying their immigration requirements and the legal documentation necessary for their entry into the country (Ministry of Agriculture et al., 2021).[8] This protocol was a direct response to the demands of agricultural companies, who cited the market interests of ensuring labor supply. It also responded in part to the health concerns articulated by migrant groups and allies.

Final Reflections: A Lost Opportunity?

The COVID-19 pandemic was a particularly conflictual conjuncture for Nicaraguan farmworkers in northern Costa Rica. The border operations to control the passage of migrants by land, following the border closure decree during the national emergency declaration due to COVID-19, led to a highly discriminatory social context for migrants in Costa Rica (as in many places around the world), especially those from Nicaragua. They were identified as "great threats" for the spread of the virus and (wrongly) accused of being responsible for the spike in positive cases in the first months of the pandemic (Esquivel, 2021).

Two main narratives emerged as a result, in terms of demands and responses. First, migrant farmworkers voiced their *demands* relating to concerns over a need for adequate sanitary protocols on farms. Before the pandemic, social conflicts in northern Costa Rica mainly related to migrants' migratory status, their labor and legal insecurity, and violations of labor rights (Alvarado Alcazar et al., 2020c). During the pandemic, media coverage drew attention to the inhumane living and working conditions of farmworkers. In this context, collective demands of migrant farmworkers and their strategic allies (mainly local trade unions) steered away from structural issues, focusing instead on immediate aspects related to healthcare access and protection measures. These demands were permeated by the general discourse of migrants as subjects

[8] The protocol also outlines the obligations of the various parties involved in the process of entry and exit of Nicaraguan migrant harvesters. These include migration and health personnel at the border, private transportation, as well as agricultural companies and requesting employers, the workers themselves, and finally, the parties providing health services already in Costa Rican territory (Ministry of Agriculture et al., 2021).

prone to the contagion of the virus. Most demands were channeled through strategic allies, such as SITRASEP, SINATRAA, the *Partido de los Trabajadores* or the *Alianza Campesina del Norte*, which functioned as channelers of grassroots demands boosting migrant activism (Geiger & Pecoud, 2020; Piper, 2022).[9] However, the potential to use this specific conjuncture to position those more structural demands was hardly capitalized upon if at all.

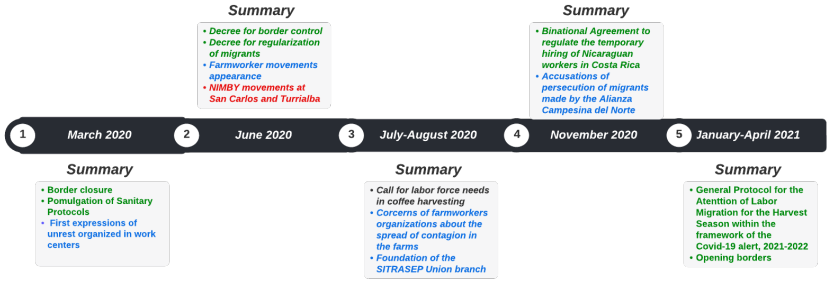
Second, NYMBY groups voiced visceral xenophobic *demands* of rejection of migrants. In this narrative, migrants were identified as vectors of contagion, mainly in the northern border regions of Upala and Los Chiles of Alajuela where the irregular passage of people to work on pineapple, banana, orange, and sugar cane farms has historically been common. National and local media largely aligned with and fueled these xenophobic narratives, and seem to have inspired state action more than the pro-migrant narratives.

The development of state *responses* was complex given the different pro- and anti-migrant demands. The state did not aim to systematically address irregular and informal hiring practices in agriculture, the informal hiring through intermediaries, or the high cost and delays of regularization procedures and work permits. Instead, the top of priorities of state actions seems to have been to contain the spread of the virus. Indeed, restrictive migration polices (especially in the first stage of the pandemic) were in line with demands voiced by NIMBY activists to restrict irregular migration. Also, the state prioritized market concerns about the provision of labor in the agricultural sector.

For example, the state promulgated the Binational Agreement (later Protocol) in November 2020 for the regulated entry of migrant farmworkers and relaxed its restrictive migration policy to allow Nicaraguan migrants to enter to work in crop harvests, albeit with strict monitoring of health protocols to avoid contagion. This indirectly benefited the demands of migrants, as it resulted in improved sanitary protocols on farms and increased the number of labor inspections. However, these actions were motivated more by concerns for the spread of the virus and to secure the workforce than for the demands voiced by pro-migrant collectives. They did not address structural problems that were at the root of migrants being considered prone to contagion: their deplorable housing and working conditions. If anything, our analysis shows major limitations in the Costa Rican state responses to migrant farmworkers' vulnerabilities.

[9] The methodological implication is that most sources recording the situation of migrant farmworkers in the first months of the pandemic come from alternative media that have historically covered migrant labor issues, such as *Socialismo Hoy* (official newspaper of the Partido de los Trabajadores), or *Surcos Digital* (media that works closely with the unions and has a logic focused on Costa Rican rural territories).

Figure 1 summarizes state action for migrant farmworkers in the first 13 months of the COVID-19 pandemic, as well as some of the main collective actions mapped by migrants' farmworkers and NIMBY groups.



Note: colors represent state actions (green); migrant farmworkers (blue); NIMBY movements (red); agricultural employers (black).

Figure 1. Timeline of state actions and protests related to migrant farmworkers in Costa Rica (2020-2021) (source: authors).

Martínez-Franzoni and Sánchez-Ancochea (2022) argue that COVID-19 opened an opportunity to discuss and reposition the state's role in safeguarding state social protection and welfare. We argue that a similar window of opportunity may have opened to advance the discussion on the working conditions of migrant populations on farms in northern Costa Rica. However, this opportunity was not capitalized upon, and the government's punitive narrative and actions were more in line with already existing, but strongly reinforced, xenophobic discourses in favor of strict control and deportation of immigrants.

Following the political opportunities approach, the article argues that the greatest leverage for accessing the institutional framework seems to be associated with NIMBYS groups and market (i.e., farms') interests, reproducing a narrative of censuring irregular migration without addressing its causes, such as the informal hiring practices of farmworker migrants. The anti-immigrant discourse and the restrictive state action mutually reinforced each other during the pandemic leaving a scenario which normalized anti-migratory narratives instead of conceptions of social justice and integral improvement of farm laborers' working and living conditions.

More broadly, the Costa Rican case highlights lessons for the growing international literature on the role of migrants in activism and their capacity to capitalize on political opportunities (Basok & Lopez-Sala, 2015; Cohen & Hjalmarson, 2020; Dias-Abey, 2018; Mešić & Wikström, 2021). Former studies have warned us that when migrants publicly demand changes to their conditions, they become vulnerable to retaliations by employers, risking deportation or being fired from their jobs (Gansemans & D'Haese, 2020; Vosko, 2019). Their activism is more digestible for the public if migrant

demands align with more generalized concerns, in this case health related. This may help explain why migrant farmworkers in Costa Rica focused their demands on the more conjunctural demands related to health during the pandemic, instead of demanding more structural changes to their labor and living conditions.

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