

SITUATIONAL BRIEF: PERSPECTIVE ON MIGRANTS' RIGHT TO HEALTH IN LATIN AMERICA DURING COVID-19

Protecting Migrants or Reversing Migration? COVID-19 and the risks of a protracted crisis in Latin America

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CONTEXT: MIGRANTS AFFECTED DISPROPORTIONATELY BY COVID-19 ACROSS LATIN AMERICA

Central and South American countries have experienced an unprecedented flow of refugees and migrants with an estimated 5 million Venezuelan refugees and migrants and half a million from El Salvador, Guatemala, Honduras fleeing to neighbouring countries since 2015 (1,2). Forced migration in these countries is associated with high levels of violence, 'femicide', political persecution, severe human rights violation and poverty (3). This situation raises important questions about crisis-stricken societies and calls upon governments in the region, as well as regional and multilateral organisations, to examine relevant policies to protect refugees and migrants. This is even more pressing in the context of COVID-19. COVID-19 is an era-defining challenge to inclusive global health governance. A government's preparedness and response to health emergencies has the power to redress or reproduce vulnerabilities and inequalities. Governments should adopt policies that safeguard the right to health of migrants and refugees regardless of their legal status, as per Article 12 of the International Covenant on Economic, Social and Cultural Rights. In order to do so, they should be guided by international agreements that protect the rights of the most vulnerable and should not engage in populist politics that demonise or scapegoat specific groups such as migrants. The international community has a role to play in encouraging states to behave responsibly and uphold their global commitments to 'leave no one behind'.

According to the World Health Organisation, Latin America is now the epicentre of the COVID-19 pandemic (4). As of 18th June, more than 3.8 million COVID-19 cases have been reported in the Americas, out of a total of 8,400,000 cases reported worldwide, and 1,600,000 cases of COVID-19 have been recorded in Latin America, where more than 80,000 people have died from COVID-19, surpassing Europe and the USA in the daily number of reported COVID-19 infections according to the Johns Hopkins online dashboard (5). Those affected are overwhelmingly from the most vulnerable groups, including migrant and displaced populations. However, instead of fulfilling their obligation to extend protection and healthcare to the most at risk communities in the region, some governments are taking advantage of the crisis to carry out forced evictions and deportations. The pandemic highlights an aspect of reverse migration forced upon people who fled crisis-stricken countries in recent years and found themselves forced to return either by the loss of their livelihoods, health and social protection as a result of the lockdown, or because governments are returning 'irregular' migrants despite international advice against this (6), including the Lancet Migration global statement (7), or due to a lack of health and social protection for those.

MIGRATION AND HUMAN RIGHTS

The COVID-19 pandemic has highlighted a denial of migrants' rights that raises concerns about the region's commitment to upholding human rights in general, and – in some countries such as Brazil – the deployment of nationalist rhetoric designed to punish those who are considered 'different'. However, it is also the case that protecting and responding to the most vulnerable costs money, and governments are forming their responses to COVID-19 in the context of austerity, fragile economies and already overburdened and underfunded public healthcare systems. Together these factors result in a high risk that individuals and social groups who are seen as 'outsiders' could be demonised, scapegoated and their health and social needs ignored. The obligations to ensure the right to seek asylum and to protect migrants and refugees' livelihood and wellbeing have not been considered sufficiently in government responses to the pandemic. Many Latin American governments introduced restriction of movement measures to reduce the spread and impact of COVID-19. Argentina, Bolivia, Paraguay, Ecuador, Peru and Colombia decreed mandatory quarantine for all people living there (8). Ecuador and Peru introduced curfews and, like Chile and El Salvador, declared a state of emergency, leaving internal security and the

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custody of health services in the hands of the armed forces. These measures have made it difficult for migrants in those countries to work and most are excluded from being able to access any benefits offered to citizens. Mexico, which has large numbers of displaced and migrant workers, with over one million migrants residing in the country in 2019, has prevented new migrants from accessing shelters as well as increasing border controls and deportations (10). Most countries in the region have closed their borders to foreigners and non-residents. While these measures are attempts to curb the spread of the virus, they undermine the limited social protection migrant groups can access and strengthen anti-migration policies and attitudes. Lockdowns and border closure have created a situation where migrants lose support and networks, employment and social security options, and ultimately the possibility of dignified living, and are forced to reverse the direction of migration flows and return to their countries of origin; despite the potential for abuse and violence and increased risk of COVID-19 infection during transit, as stressed by the International Organisation for Migration (11).

This is particularly the case in two major migration corridors involving Central American migrants from the northern triangle of Honduras, Guatemala and El Salvador to Mexico; and from Venezuela to Colombia and Brazil. In both cases, the economic consequences of lockdown and the inhospitable climate for migrants that it has engendered have forced hundreds of Venezuelan and Central American refugees and migrants to go back along the same route they took to flee and to return to the dangerous, deprived, violent conditions that they were trying to escape in the first place. This new cycle of COVID-catalysed reversal in migration flows is problematic for three key reasons:

First, forced migratory return will extend situations of protracted displacement in which migrants become trapped in a cycle of forced displacement even within their country of origin; many people are likely to leave again in the future, and, at the same time, this period of protracted displacement exacerbates the risk factors associated with it, including mental and physical violence (assault, sexual violence, etc), as well as limiting access to health and support services.

Second, reverse migration will increase the financial vulnerability of displaced people and migrants, as they are more likely to live in poverty, at risk of exploitation and abuse.

Finally, those returning to their country of origin may face anti-immigration sentiment and stigmatisation and can find themselves regarded as 'outsiders', and as 'not belonging' in their country of birth, seen as a drain on the limited economic resources and sometimes feared as a source of disease (12).

THE RISK OF PROTRACTED CRISES: CENTRAL AMERICA AND VENEZUELA

With a growing COVID-19 crisis across the Americas as a whole, the US government is increasingly framing migrants from Mexico and Central and South America as an economic and health burden. Since Donald Trump took office in 2017, the US administration has consistently cast migrants, refugees and asylum seekers as a security and health threat and sharply reduced the numbers admitted to the country (13). Since 21st March 2020, the decision to close the border with Mexico to all non-essential traffic, ostensibly introduced as a health policy, has served as a warning to would-be migrants and a threat to those already inside the country. This has been accompanied by programmes of forced return of Central Americans. Although most Central American countries have halted incoming charter flights containing people deported from the US, land deportations to Mexico are still taking place, putting enormous pressure on Mexico, itself in the midst of a COVID-19 crisis - to process and manage an increased number of asylum cases and to provide emergency protection for asylum seekers and for new arrivals (14). More than ever, Mexico has become the de facto wall Trump promised to deliver during his presidency. Already under immense pressure from Washington to increase border security, Mexico has returned so many migrants held in immigration detention centres since the coronavirus outbreak, that they are now almost empty. By the end of April, 9,745 Guatemalans had been forcibly repatriated through Mexico, with nearly 800 in that month alone. It is estimated that both the US and Mexico returned at least 6,500 Guatemalans, 5,000 Hondurans and 1,600 Salvadorans between March and mid-April (15,16), sometimes in direct violation of the international principle of *non-refoulement* and the right to seek and being granted asylum, as well as with little regard to the individual health conditions.

By the beginning of 2020, more than 4.5 million Venezuelans had fled the country, escaping an unprecedented economic depression, political turmoil, violence, and severe humanitarian crisis. Approximately 2 million went to Colombia and to Brazil. The Colombian government has made efforts to include Venezuelans in their pandemic response (17) but between the health crisis and the economic impact of quarantine, most Venezuelan migrants - almost half dependent on work in the informal sector - are struggling to survive economically in Colombia (18). Many have even been subject to enforced evictions from their homes, which have been occurring, despite OHCHR's recommendations that these should be suspended during the COVID-19 outbreak (19). Without financial support or access to public funds and faced with becoming homeless and destitute in a foreign country, hundreds are forced to return to Venezuela (20), even if not officially deported, because they have no alternative. Their return places them and their families at risk. The loss of remittances means that the families of migrants now face hunger, and possibly stigma for 'bringing the virus with them' (21). At the same time the conditions that led to them migrating in the first place, namely economic collapse, political uncertainty and violence, and lack of healthcare, remain unchanged. Health policy neglect is particularly worrying amongst Venezuelan indigenous Warao refugees and migrants, who are part of the thousands of Venezuelans that have fled to neighbouring Boa Vista, in Roraima, Brazil. The UNHCR has reported that only 3 out of 13 shelters are currently considered low risk in terms of spreading the coronavirus (22).

SCAPEGOATING AND STIGMA

In places of transit, destination and origin, migrants are being blamed for problems that governments have failed to address, such as insecurity, economic informality, and decades of under-funding in health and education services (23). As well as threatening livelihoods and survival, forced returns increase the stigma migrants face. Made invisible and discriminated against in host countries, returnees, both in Venezuela and in Central America, encounter prejudice, profiling and xenophobia when they re-enter their countries of origin, as a result of discriminating and lack of specific policies directed at returnees. More than one hundred Guatemalans deported from the USA and returned to Guatemala in March and April 2020 have now tested positive for COVID-19 (24). One fifth of all the recorded cases in Guatemala are of migrants deported from the USA, creating rumours that returnees are 'natural' carriers of the disease. Yet the fact that so many returned migrants have been infected with COVID-19 is hardly surprising given that it is a disease that affects, above all, the poor, marginalised and vulnerable people. Many migrants are held in very crowded and unhygienic conditions both in deportation centres, and upon return in quarantine centres, with little access to regular testing, isolation, and treatment, leaving migrants very susceptible to COVID-19 (25).

Upon their return, their vulnerabilities are made even worse by stigma, and due to this some face forced internal displacement. With few public policies designed to support re-integration, returnees encounter difficulties re-entering the formal labour market. The prospect of homelessness, destitution, violence and recruitment into criminal gangs is real. In this context, after the worst of the COVID-19 crisis is over, new waves of international migration are almost inevitable along with an increased threat of forced recruitment by criminal gangs. This should not be the case, as international agreements and domestic law and policies that protect migrants and citizens should be consistently upheld. Countering stigma and the marginalisation of returned migrants as well as their fundamental right to health care, shelter, freedom from discrimination should be a core responsibilities of all states, even in the midst of a health crisis, yet many governments in Latin America, either because of a lack of political will or lack of preparedness, are ignoring their legal obligations to migrants.

THE RIGHT TO HEALTH FOR ALL

The right to health is recognised in the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR, article 12), and in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (articles 10 and 11), which states that every person, regardless of their legal status, has a right to enjoy the highest attainable standard of physical and mental health. Article 12 of the ICESCR establishes the responsibility of states to go beyond basic provision and to take 'deliberate, concrete and targeted' steps 'towards the full realization of the right to health.' Furthermore, its specific legal obligation establishes that 'States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting access for all persons, including (...) asylum seekers and illegal immigrants, to preventive, curative and palliative health services; (...) and

abstaining from imposing discriminatory practices...'. State parties to these agreements should ensure the health needs to all are met, regardless of legal or citizenship status. El Salvador, Honduras, Guatemala, Mexico, Colombia, Brazil and Venezuela are all signatories of international and regional treaties that safeguard the right to health to migrants and refugees, which should mean ensuring equal access to health services, including prevention, testing and treatment for COVID-19. Yet these states, and others in the Americas are not upholding these treaties, have little to gain electorally if they actively protect migrants' and returnees' rights. Some policies are difficult to implement in countries whose health systems are underfunded. Health spending in Latin America is just under USD 1,000 per capita, only a quarter of that spent in OECD countries (28). At the same time, health systems' capacity and the ability to provide access to good quality services to the most vulnerable groups is significantly lower. While the region is struggling to respond to the major challenges of the COVID-19 pandemic, discriminatory treatment is also purposefully affecting access to healthcare of migrants. For example, Colombia grants full access to healthcare only to documented migrants, excluding those irregular or undocumented, who represent 57 per cent of the migrant population (29). In Brazil, although the right to health is a Constitutional obligation, NGOs filed judicial cases against the government in Boa Vista to revert restrictions affecting access of Venezuelan migrants to public hospitals and health clinics in the city. In Central America and Mexico, migrants faced barriers to access to COVID-19 testing and treatment (31). As such, better coordination of national and regional programmes in support of public health preparedness, including well-funded programmes for the provision of quality healthcare, housing and social protection for everyone, regardless of legal status, are urgently needed.

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