COMMITTEE ON MIGRATION ISSUES OEA/Ser.W

 CIDI/CAM/doc.78/20

 14 May 2020

 Original: Spanish

CONCEPT PAPER

“IMPACT OF THE COVID-19 PANDEMIC ON MIGRANTS IN THE AMERICAS”

(Prepared by the Chair of the CAM with support from the Technical Secretariat)

CAM Thematic session - June 5, 2020

The Americas, like the rest of the world, are currently facing a health emergency because of the COVID-19 pandemic. As of May 10, 2020, the Pan American Health Organization (PAHO) reported totals of 1,702,451 confirmed cases and 101,874 deaths in the region. That situation poses a series of challenges at the national and regional levels and is likely to have a particularly grave impact on vulnerable groups.

Faced with this crisis, the region’s countries have a legal framework for the protection of human rights—including the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Social Charter of the Americas, and various other instruments—that ensure certainty and provide a road map for guaranteeing people the full enjoyment of their rights in the context of the present pandemic.

Migrants are particularly vulnerable to COVID-19, given that many of them face difficulties in accessing decent health care and health programs because of their nationality or migratory status. They also face challenges in complying with social distancing measures on account of the overcrowded conditions in which many of them live or because they need to work in the informal market.

The International Committee of the Red Cross (ICRC) has called upon states to assume the commitment and joint responsibility of protecting migrants, particularly those facing greater levels of vulnerability and those who are entitled to specific protection and personalized assistance that takes account of their rights and needs (for example, persons requiring international protection, victims of violence and sexual violence, people with disabilities, unaccompanied children and adolescents, the elderly, pregnant women, people who speak another language, and victims of trafficking or other illicit acts).[[1]](#footnote-1)/

Similarly, the Inter-American Commission on Human Rights (IACHR) has said that displaced and migrant populations will be particularly affected by the pandemic, because they lack health protection systems and social support mechanisms and are likely to suffer restricted movement, harassment, and xenophobia. Migratory phenomena, be they driven by economic or security considerations, must therefore receive priority attention from states in accordance with the principles of solidarity, cooperation, and joint responsibility during the current pandemic.[[2]](#footnote-2)/

The following paragraphs highlight some relevant issues regarding this vulnerable group from the ***Practical Guide to Inclusive and Rights-Based Responses to COVID-19 in the Americas***, which was prepared by the OAS Department of Social Inclusion. This publication sets out some of the challenges facing the region’s countries and, in turn, offers specific recommendations for better dealing with them.

1. Brief overview of the Situation in the Americas:

In this context, COVID-19 and its effects on access to employment, health, housing and livelihoods are already having serious impacts on migrants, asylum seekers and refugees in various countries in the region. In turn, the impacts of the isolation, quarantine, physical and social distancing measures, restrictions on free movement, and the closings of borders that are being adopted by states in the region to counter the spread of COVID-19, on the economy and way of life of numerous people will be a determining factor in many people’s decision to migrate in the near future.

Frequently, migrants and refugees face barriers to accessing health services and social security for reasons related to their immigration status, language and cultural barriers, costs, lack of access to information, discrimination and xenophobia. In addition, these people live with the fear, real or assumed, of being placed in immigration detention and deported to their country of origin where they may be at high risk of infection or where the health system is not solid enough to monitor the number of people infected and to provide health care in accordance with international and inter-American norms and standards.

1. Recommendations:

COVID-19 represents an unprecedented challenge for States, the international community, and the daily lives of all people. In order to not leave anyone behind in the responses that are being developed, approaches that are tailored to international and inter-American norms and standards for the protection of human rights are required. In this regard, the following recommendations are intended to contribute to the development of public policies and to the responses that states must adopt to face the direct and indirect impacts that COVID-19 has on migrants, asylum-seekers, refugees, deportees and returnees, and their host communities:

* Guarantee that measures legitimately geared to protecting public health and that imply restrictions or curtailments of the right to freedom of movement are carried out in such a way that they are temporarily limited, have defined objectives, and are strictly necessary and proportional to the objective pursued.
* Guarantee that people who require international protection can access the territory of the country in which they seek protection, as well as guarantee the right to seek and receive asylum, the principle of non-refoulement, including the prohibition on rejection at the border.
* Ensure continuity of the procedures for recognition of refugee status under the principles of due process. In particular, states must avoid excessive delays in the resolution of cases, as well as implement measures to continue with the different stages of the procedure that do not require the applicant to be there in person provided that they do not limit the rights of the person seeking asylum.
* Guarantee the right of every person to return to their country of nationality. This obligation must be compatible with international health standards and the guidelines issued by the national health authorities, and must cover, in accordance with the conditions of each State, protection measures, access to information and assistance. In addition, the measures adopted by States for the return of their nationals must prioritize people in situations of vulnerability and guarantee their safety.
* Integrate migrants and refugees in the national plans that states have created to prevent and combat COVID-19, so that they are provided with protection together with the host communities. It should be considered that migrants and refugees have, in many cases, difficulties in accessing decent health care and health programs due to their nationality or immigration status. This should include ensuring equitable access to information, testing and medical care for all migrants and refugees, regardless of their immigration status, as well as establishing firewalls to separate migration control activities from the capacity of migrants and refugees to access health, education, justice, and other essential services.
* Take the necessary steps to guarantee the protection of personal data and information provided while migrants or asylum seekers access health services. States, in accordance with the right to privacy, should not require that health or other social services provide, exchange, or share information about the immigration status of these people with immigration authorities.
* Include within social programs offered to migrants, particularly those who do not have access to social protection or paid sick leave, the possibility to benefit from vouchers or temporary financial aid, subject to the state resources available.
* Take measures to allow for extensions of work visas and other appropriate measures to alleviate the difficulties faced by migrant workers and their families due to the closure of companies, and to ensure continued protection of their human rights, including their labor rights.
* Avoid containment and other measures to reduce the COVID-19 pandemic based on discriminatory justifications. States must recognize that even general policies can have discriminatory effects if they have a disproportionate impact on individuals or groups in vulnerable situations.
* Adopt urgent international cooperation measures to support and help host countries to strengthen services, both for migrants and refugees and for local communities, and include them in national surveillance, prevention, and response agreements.
* Prevent and combat xenophobic speech and, in particular, discourse aimed at associating COVID-19 with migrants, foreigners, or nationals of a particular country.
* Include provisions for internally displaced persons, migrants, asylum seekers, refugees, and their host communities within economic recovery measures, as they will also be affected by the economic impact of COVID-19, due to loss of income, restrictions on circulation, reduced access to employment and livelihoods, and inflation.

We live in times unprecedented in the recent history of humanity, which is why it is essential that the responses developed by States, to combat the global threat and crisis that COVID-19 has generated, are rooted in multilateralism, international cooperation, and solidarity. COVID-19 has proven to be a virus that does not discriminate with respect to the origin, situation or condition of the more than 920 thousand confirmed cases and the more than 46 thousand deaths that it had caused as of April 1, 2020. In turn, this disease has shown, if anything, how interconnected we are as a human species. That is why responses should focus on the preservation of life, regardless of national origin, migratory situation or statelessness, and on ensuring the effective safeguards for human rights norms and standards.

The *Practical Guide* and its recommendations will be presented by the Director of the OAS Department of Social Inclusion and, to explore further the impact that COVID-19 has had on migrant populations, representatives of PAHO, the IACHR, and the ICRC will be in attendance.

In accordance with the foregoing, this meeting will examine the different challenges that the region’s countries have faced during the current health emergency and the responses they adopted in dealing with them. The floor will be opened up to hear remarks from the member states.

1. . Message and recommendations of the International Committee of the Red Cross on the impact of COVID-19 on the migrant population. [↑](#footnote-ref-1)
2. #  [*The IACHR urges states to protect the human rights of migrants, refugees, and displaced persons in the face of the COVID-19 pandemic*. Press Release. April 17, 2020.](http://www.oas.org/es/cidh/prensa/comunicados/2020/077.asp)

 [↑](#footnote-ref-2)