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Human rights of migrants

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, in accordance with Assembly resolution 74/148 and Human Rights Council resolution 43/6.

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Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales

One and a half years after: the impact of COVID-19 on the human rights of migrants

Summary

The present report outlines the main activities undertaken by the Special Rapporteur on the human rights of migrants, Felipe González Morales, during the reporting period since his most recent report to the General Assembly.

In the report, the Special Rapporteur reviews the impact that the coronavirus disease (COVID-19) pandemic has had on the human rights of migrants, who have been disproportionally affected by the pandemic, in particular those who are undocumented or in an irregular situation, and how it has exacerbated existing vulnerabilities.

One and a half years after the beginning of the pandemic, the Special Rapporteur takes stock of the measures and responses put in place to address the fulfilment of migrants' human rights and promote an inclusive recovery process.

On the basis of the information and analysis provided by States, international organizations, civil society and other stakeholders, the Special Rapporteur identifies good practices, on-going efforts and existing challenges and provides a set of recommendations aimed at closing the human rights gaps in recovery efforts and build back better, including by fully integrating migrants' human rights.

I. Introduction

1. In the present report to the General Assembly, the Special Rapporteur on the human rights of migrants, Felipe González Morales analyses, the impact of the coronavirus disease (COVID-19) pandemic on the human rights of migrants.

2. In preparing the report, the Special Rapporteur issued a questionnaire on the impact of the COVID-19 pandemic on the human rights of migrants. He expresses his gratitude to all States, United Nations entities, national human rights institutions and civil society organizations who provided their contributions. Replies were received from 21 States, 3 United Nations entities and 1 other international organization, 9 national human rights institutions and ombudspersons and 46 civil society organizations.[1]

3. The report is based primarily on the inputs and submissions received, complemented by additional research, data and legal documentation issued by the United Nations, international organizations and States, as well as civil society organizations, academics and other open resources, that were publicly available as of June 2021.

II. Activities[2]

4. On 12 April, the Special Rapporteur participated in a session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. On 14 April, he attended a session of the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

5. On 26 to 28 April, the Special Rapporteur participated in the Latin American and Caribbean regional review of the Global Compact for Migration, organized by the Economic Commission for Latin America and the Caribbean. On 29 April, he attended a conference on promoting the rights of migrants, refugees and internally displaced persons to quality education, organized by Education International African Region and the Special Rapporteur on the right to education.

6. On 5 May, he took part in the launch of a feminist COVID-19 story book on migration, convened by the Asia Pacific Forum on Women, Law and Development, the National Alliance of Women Human Rights Defenders and Aaprabasi Mahila Kamdar Samuha Nepal.

7. On 6 May, the Special Rapporteur participated in a webinar on advancing deinstitutionalization, organized by the Institute for Lifecourse and Society at the National University of Ireland, Galway, at which he spoke about the situation of migrants on this matter.

8. On 14 May, he spoke at a conference to commemorate the tenth anniversary of the finding of massive clandestine graves in San Fernando, Mexico, organized by the Foundation for Justice and the Rule of Law.

9. On 21 May, he was the keynote speaker at a workshop organized by the University Carlos III of Madrid about the right to health of migrants and the non-refoulement principle. On 24 May, he gave a lecture at the School of Diplomacy

[1] Submissions are available at: https://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/COVID.aspx.

[2] For activities of the Special Rapporteur on the human rights of migrants between July 2020 and March 2021, see the *Report on means to address the human rights impact of pushbacks of migrants on land and at sea*, https://undocs.org/A/HRC/47/30.

of Spain about migrations and culture in Latin America. On 27 May, the Special Rapporteur was the keynote speaker at a panel about the situation of migrants in the Canary Islands, Spain, convened by the Caja Canarias Foundation.

10. On 31 May, he participated at the Economic Community of West African States (ECOWAS) multi-stakeholder consultation, in preparation of the ECOWAS subregional review of the Global Compact for Migration.

11. On 10 June he participated at a webinar organized by the Catholic University Andrés Bello and the Espacio Público of the Bolivarian Republic of Venezuela on the right to freedom of association of Venezuelan migrants and refugees, and at a panel entitled "Migrants and Human Rights: Advancements and Pending Challenges", convened by the American University Washington College of Law.

12. On 15 June, the Special Rapporteur participated at the biannual meeting of the steering committee of the United Nations multi-partner trust fund to support the Global Compact for Safe, Orderly and Regular Migration.

13. On 17 June, he was the keynote speaker at a round table on migration in Latin America, organized by the University of Los Andes, Colombia, and the Konrad Adenauer Foundation, and gave a lecture on childhood and migration at the invitation of the State University of Rio de Janeiro, Brazil.

14. On 23 June, the Special Rapporteur presented his annual report to the Human Rights Council (A/HRC/44/42), in which he addressed the issue of "pushbacks".

15. On 24 June, he participated at a global round table on protection and solutions for lesbian, gay, bisexual, transgender, questioning, intersex and other (LGBTQI+) people in forced displacement, co-convened by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

16. On 29 June, the Special Rapporteur spoke at a multi-stakeholder consultation in preparation for the African regional review of the Global Compact for Migration.

17. On 6 July, the Special Rapporteur spoke at a workshop organized by Cornell University, United States of America, and the non-governmental organization (NGO) Action Committee about advocacy strategies for promoting migrants' rights.

18. On 7 July, the Special Rapporteur, along with OHCHR and Amnesty International, co-sponsored an event to launch his report about "pushbacks".

III. Impact of COVID-19 on the human rights of migrants

A. Introduction

19. The COVID-19 pandemic has led to a worldwide crisis. The full effects in terms of loss of human lives and impact in all spheres of live and society are still unaccounted for. It has particularly affected the health, social and economic fabric of societies, putting a strain on countries and response efforts.[3]

[3] Globally, as at 1 July 2021, there had been 181,930,736 confirmed cases of COVID-19, including 3,945,832 deaths (see https://covid19.who.int/). In 2020, the equivalent of 255 million full-time jobs was lost globally (see https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_767028.pdf). The International Monetary Foundation indicates that, while the recovery is under way, too many countries are falling behind and economic inequality is worsening (see https://www.imf.org/en/About/FAQ/imf-response-to-covid-19).

20. In the meantime, the pandemic has unveiled systemic inequalities, including those affecting mostly migrants. Some measures adopted by Governments to contain the pandemic further exposed existing human rights and governance deficits and exacerbated the vulnerabilities of those in low socioeconomic status, including migrants.

21. Migrants and their families, especially those already in vulnerable situations, have been disproportionally affected by the pandemic owing to three interrelating factors that have exacerbated existing vulnerabilities. First, many migrants and people on the move endure a low socioeconomic status. They live in precarious conditions and have limited access to health care and other essential services. Second, they often work in the informal economy, with unfavourable conditions of work and limited access to social protection systems, and are more exposed to exploitation, in particular women and girls. Third, in the absence of effective and adequate protection measures, some asylum seekers face barriers in gaining access to asylum procedures and risk being sent to places where they may be subject to persecution and other irreparable harm; and some migrants have been forcibly returned to their countries of origin, where they might not enjoy adequate health systems.[4]

22. Due to the pandemic, States have faced a multiplicity of exceptional challenges that have tested their capacity to respond to them, in particular in the health and socioeconomic sector. Through the call for inputs, the Special Rapporteur received information indicating that, despite the circumstances, a number of countries have taken affirmative steps to mitigate the negative impact of the pandemic, implement a human rights approach and include migrants in COVID-19-related responses and recovery efforts.

B. Severe impact on the human rights of migrants

23. Migrants, including asylum seekers, have been disproportionally affected by restrictions and measures taken by public and private actors in the context of the pandemic. Migrants, especially those who are undocumented or in an irregular situation, are often in a state of particular vulnerability concerning the enjoyment of their human rights. Disruptions and delays in immigration and asylum procedures, closures of borders, lock-downs, restrictions in the freedom of movement and other emergency measures, together with their pre-existing vulnerabilities, such as lack of access to health care and other essential services, poor living conditions, precarious and unsafe working conditions, as well as discrimination, racism and xenophobia, have had negative impacts on migrants' ability to exercise their rights and exacerbated existing inequalities.

Restrictions of movement, disruptions and delays in immigration and asylum procedures

24. The closure of borders and movement restrictions in an effort to contain COVID-19 transmission have not always prioritized the protection of the most vulnerable. By February 2021, 144 States had closed their borders or had restricted access to their territory,[5] over 60 of which had made no exemptions for those seeking asylum.[6] Globally, a drop of 33 per cent of applications was registered in the first half

[4] See https://unsdg.un.org/sites/default/files/2020-06/SG-Policy-Brief-on-People-on-the-Move.pdf.
[5] See https://reporting.unhcr.org/sites/default/files/UNHCR%20COVID-19%20appeal%202%20pager%20-%2017%20February%202021.pdf.
[6] See www.un.org/ruleoflaw/wp-content/uploads/2020/05/UN-SG-Policy-Brief-Human-Rights-and-COVID-23-April-2020.pdf.

of 2020, compared with the same period of the previous year, primarily owing to the lockdown restrictions and the disruptions on service delivery.[7]

25. Some States have allowed entry to asylum seekers and migrants while ensuring public health protocols and others have facilitated online applications. In many other cases, migrants, including asylum seekers, got stranded in countries of destination or transit and were unable to return home; others were forced to rely on smugglers and unregulated intermediaries[8] and use unsafe routes; and some were forced to return to their countries of origin. Some of these forced returns were carried out through administrative decisions and without due process guarantees, with a severe impact on human rights protections and increasing the risks of human rights violations, in some cases at the cost of lives.[9]

Impact on the right to health

26. While not inherently more vulnerable to contracting COVID-19 virus than other people and communities, many migrants are at a much higher risk of infection owing to increased health-related vulnerabilities. Migrants, in particular those undocumented or in an irregular situation, often face a higher incidence of poverty, overcrowded and unsanitary housing conditions, discrimination and lack of access to health services and social protection entitlements, lack of safe drinking water and sanitation, unsafe work conditions – where physical distancing may be difficult to practise – as well as digital exclusion or language and cultural barriers that can increase health-related vulnerabilities.[10]

27. Socioeconomic insecurity related to COVID-19, such as employment loss, reduced income, inaccessible health services, fear of deportation and discrimination, have affected the mental health and psychosocial conditions of many migrants. The Swiss Red Cross Outpatient Clinic for the victims of torture and war indicates that the general uncertainty surrounding the COVID-19 pandemic triggers considerable fears among migrant and refugee patients.[11]

28. Women and children, including unaccompanied and separated children, may also face specific vulnerabilities in the context of the pandemic.[12] Owing to containment measures, movement restrictions, closed clinics or disrupted service delivery, migrant women have struggled to gain access to health care, including sexual and reproductive health care, and other essential support services for victims of sexual violence in need of prompt medical assistance.[13] Children have also been affected. The loss of income and livelihoods of parents or guardians affect the physical and mental health and education of children and increase the risk of child

[7] See https://www.unhcr.org/5fc504d44.pdf; see also https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Table2_-_Asylum_applicants,_Q3_2019_%E2%80%93_Q3_2020.png&oldid=509073.

[8] See www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_748839.pdf.

[9] See https://migrationnetwork.un.org/sites/default/files/docs/kms_refoulement_detention_and_deportations_of_children_in_the_context_of_covid-19.pdf; see also https://unsdg.un.org/sites/default/files/2020-06/SG-Policy-Brief-on-People-on-the-Move.pdf.

[10] Organization for Economic Cooperation and Development (OECD), “What is the impact of the COVID-19 pandemic on immigrants and their children?” (October 2020).

[11] See www.redcross.ch/it/ambulatorio-per-vittime-della-tortura-e-della-guerra.

[12] See www.iom.int/news/enhancing-access-services-migrants-context-covid-19-preparedness-prevention-response-and-beyond.

[13] Submission by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

labour, child marriage and child trafficking, as families are pushed into negative coping mechanisms.[14]

29. According to the International Organization for Migration (IOM), as of May 2021, in more than 53 countries, territories and zones, the most vulnerable did not have actual access to COVID-19 vaccines. Migrants and their families face obstacles, including the lack of access to information in a language they understand, costs and legal, administrative and practical barriers, such as identity cards, residence permits or pre-registration with the national insurance. In other cases, foreigners were not being included in vaccination campaigns.[15] Some countries lack protocols to facilitate equitable access to vaccination for undocumented migrants or the relevant procedures are unclear or burdensome, and some others require information on migration status as a requirement, often without effective firewall protection mechanisms.[16]

Impact on employment and working conditions

30. The COVID-19 pandemic has shown how migrants, including migrant women, provide a key contribution to local economies and societies and play a critical role in essential sectors of society – such as health and personal care, agrofood processing, transport, storage and delivery – enabling countries to continue to operate and provide services during the crisis. The importance of remittances in countries of origin has also showed the key role of migrants.

31. While essential, the sectors in which migrants work can also be deeply precarious. Many migrants carry out temporary and informal work exposed to unjust, unfavourable and unsafe working conditions, which are exacerbated by the COVID-19, to the extent of risking their lives.[17] Owing to fear of layoffs and need of income, many undocumented low-skilled and low-paid migrant workers have had to continue in-person work without the social protections enjoyed by other workers.

32. As soon as COVID-19 restrictions were put in place, many migrants experienced large-scale layoffs, withdrawal of wages and income losses. They were also victims of differential treatment, often being the first to face layoffs, compared with national workers. Loss of jobs and expiration of work permits have pushed many migrants into irregular situations, creating the conditions for abuse, trafficking and unscrupulous recruitment practices.[18]

33. Migrant women have also been under great pressure to accept precarious working conditions, increasing their risk of labour and human rights violations, including sexual harassment and violence at work. In 2020, owing to the pandemic, 8.5 million women migrant domestic workers on insecure contracts faced income loss and much greater risks of abuse and exploitation, in particular those women who could not return to their home country because of travel bans and border controls.[19] Within workplaces, including in informal and domestic settings, migrant women were more likely to experience gender-based violence.[20] Migrant health-care workers, the majority of whom are women, also faced serious risks during the COVID-19

[14] Submission by the United Nations Children's Fund (UNICEF).

[15] See https://reliefweb.int/report/world/covid-19-l-oim-alerte-sur-les-difficult-s-d-acc-s-des-migrants-aux-vaccins.

[16] Submissions by: Human Rights 360; Lawyers for Human Rights; PICUM.

[17] International Labour Organization (ILO), "Protecting migrant workers during the COVID-19 pandemic" (April 2020). Available from www.ilo.org/global/topics/labour-migration/publications/WCMS_743268/lang--en/index.htm.

[18] ILO, "Ensuring fair recruitment during the COVID-19 pandemic" (June 2020). Available from www.ilo.org/global/topics/labour-migration/publications/WCMS_748839/lang--en/index.htm.

[19] Submission by UN-Women.

[20] Forthcoming publication by ILO, entitled "Locked down and in limbo: The global impact of COVID-19 on migrant worker rights and recruitment".

pandemic, including owing to inadequacies in or shortage of personal protective equipment and clothing (E/C.12/2020/1).

Immigration detention and other congested settings

34. Some States have used public health concerns to justify immigration enforcement measures.[21] In some contexts, quarantine orders have translated into discriminatory treatment of migrants, converting dormitories, shelters and reception facilities into de facto detention centres with conditions making physical distancing impossible to observe.[22]

35. Migrants in immigration detention centres face a high risk of infection because of the conditions to which they are confined, often for prolonged periods. In some cases, conditions of detention have been so disproportionate and unnecessary or degrading that they could amount to ill-treatment.[23] Despite the fact that placing children immigration detention is against the best interest of the child, and always a child rights violation, children have continued to be detained during the pandemic,[24] including in confined and overcrowded spaces with inadequate access to nutrition, health care and hygiene services. Staffing levels and care have been negatively affected by the pandemic, increasing the risk for neglect, abuse and gender-based violence.[25]

36. In the light of travel restrictions preventing the repatriation of migrants, a number of States have released migrants in pre-deportation detention; established moratoriums on the use of migration-related detention; and opted for placements in non-custodial community-based shelters run by civil society, with access to services and referral mechanisms.[26] Some migrants have been released however, without being granted temporary or permanent regular status and without assistance for continued engagement with their migration procedures or access to benefits and essential services, with the risk of being detained again at any time.

Racial discrimination and xenophobia

37. Emergency responses and polarized narratives have fuelled health fears and constructed perceptions exacerbating discrimination, racism, xenophobia and stigmatization. Such negative rhetoric and some media reports have portrayed migrants as threats and have falsely scapegoated them as COVID-19 carriers, leading to discriminatory behaviours and attacks.

38. Migrants belonging to racial, ethnic and religious groups not only are among the main groups at risk, but also are more likely to be excluded from health care because of discrimination or stigma or due to a lack of resources, or official documentation. The COVID-19 pandemic has aggravated long-standing structural inequalities in terms of access to equitable access to health-care facilities, goods and services. This is contrary to the human rights obligation to protect the right to health for everyone and to promote an equitable access to health care, without discrimination of any kind, in particular against individuals or groups of individuals who are victims

[21] See https://unsdg.un.org/resources/policy-brief-covid-19-and-people-move.
[22] Submission by Global Detention Project.
[23] See www.hrw.org/report/2021/03/04/future-choices/charting-equitable-exit-covid-19-pandemic; submission by Elizka Relief Foundation.
[24] Submissions by: Young Center for Immigrant Children's Rights; Center for the Human Rights of Children-Loyola University; Global Detention Project.
[25] Submissions by: UNICEF; Center for the Human Rights of Children-Loyola University.
[26] See https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention.pdf.

of racism, racial discrimination, xenophobia and related intolerance. Such a discriminatory situation may also constitute a threat for public health.[27]

39. Hate speech and fake news have also circulated on media and social media platforms, presenting migrant workers as competing with local community members over vaccines or over jobs in time of crisis. A study conducted by the Inter-American Development Bank found that expressions carrying prejudices against migrants increased by 70 per cent in the first two months after the COVID-19 pandemic was declared. Messages on Twitter fuelled fear about migrants being vectors of contagion or responsible for the collapse of national health systems.[28] Increased discrimination was also experienced by migrants forced to return to communities of origin.[29]

40. A number of Governments have taken measures to counter these negative trends, such as anti-discrimination policies and campaigns to refute racism and scapegoating in the context of the pandemic and to promote social cohesion between migrants and host communities.

Role of civil society

41. In the context of the COVID-19 pandemic, many civil society organizations have contributed to front-line responses, stepping in to fill gaps in essential services.[30] Their work has included decongestion of crowded displacement camps; community awareness on COVID-19 risks and prevention; strengthening health, water, sanitation and hygiene systems; and coordinating advocacy for the inclusion of internally displaced persons, refugees and migrants in national COVID-19 responses. Some of those organizations have been affected by negative perceptions and hostile narratives because of their assistance to migrants, triggering concerns for possible shrinking of civic space.[31]

42. Several Governments have consulted and worked together with civil society organizations and other stakeholders in their programmes to reach out to migrants, tailor awareness campaigns and provide migrants, including women migrants, with access to essential services and support.

IV. International human rights framework

43. All migrants, regardless of their migration status, are entitled to the protection of the human rights framework, without any discrimination. States have the obligation to respect, protect and promote the rights of everyone in their territory or within their jurisdiction, including migrants, and regardless of their status. The Universal Declaration of Human Rights and the core international human rights treaties provide the legal framework to address the human rights challenges of migrants in the context of the COVID-19 pandemic.

[27] See www.ohchr.org/Documents/Issues/Racism/COVID-19_and_Racial_Discrimination.pdf.

[28] Submission by Center for Justice and International Law.

[29] See www.hrw.org/fr/news/2020/05/12/le-covid-19-attise-le-racisme-anti-asiatique-et-la-xenophobie-dans-le-monde-entier; www.hrw.org/fr/news/2020/05/05/chine-discrimination-contre-les-africains-dans-le-contexte-du-covid-19; https://eea.iom.int/publications/countering-xenophobia-and-stigma-foster-social-cohesion-covid-19-response-and-recovery. Submissions by Mixed Migration Center; Iraqi Al-Amal Association; Al-Namaa Center for Human Rights; Organizing Committee for East Asia; Maat for Peace, Development and Human Rights.

[30] See www.un.org/ruleoflaw/wp-content/uploads/2020/05/UN-SG-Policy-Brief-Human-Rights-and-COVID-23-April-2020.pdf.

[31] See www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2020)659660; and www.focsiv.it/wp-content/uploads/2020/12/BackGround-Document-n.-8-ITA-15.12.2020.pdf.

44. The COVID-19 multidimensional crisis has challenged the whole spectrum of human rights, including economic, social and cultural as well as civil and political rights. Public health emergencies, the closing of borders, lockdowns and other restrictive measures, as well as the socioeconomic dimension of the crisis, with massive layoffs and unsafe working conditions, and racism and xenophobia have had a deep impact on migrants' lives, exacerbated pre-existing vulnerabilities, in particular of those who are undocumented or in an irregular situation. Some of their human rights have been particularly affected, including, inter alia, the right to liberty of movement, liberty and security of person, the right to health and equitable access to health services, the right to work and just and favourable conditions of work, and the right to an adequate standard of living and freedom from discrimination.

A. Emergency powers

45. The protection of human rights is particularly significant during times of crisis and public emergency. The COVID-19 pandemic has required many countries to take extraordinary legal measures aimed at addressing the pandemic and preventing its further spread. Measures adopted have included declarations of states of emergency as provided by their constitutions and have led to strict limitations on the exercise of fundamental rights and in some cases to exceptional powers granted to security forces.[32]

46. In the context of the COVID-19 emergency, States have imposed restrictions, including partial ones, on specific human rights and with different intensity. These have included, inter alia, the right to liberty, freedom of movement, privacy and protection of personal data, freedom of expression, assembly and association, and the right to work and education.

47. The United Nations, as well as regional organizations such as the Council of Europe and human rights bodies such as the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights, have expressed concern about the impact of such emergency measures on human rights and have called on States to comply with international obligations.[33]

48. The Human Rights Committee acknowledged that, in the face of the COVID-19 pandemic, States should take effective measures to protect the right to life and health of all individuals within their territory and those under their jurisdiction, and that such measures might result in restrictions on the enjoyment of individual rights (CCPR/C/128/2). At the same time, the Committee gave a reminder that article 4 of the International Covenant on Civil and Political Rights acknowledges the possibility of States to derogate from their obligations under the Covenant in time of public emergency with threatens the life of the nation.

49. In such situations, the state of emergency needs to be proclaimed, derogation measures must be strictly necessary and proportional in relation to the exigencies of the situation (in particular in relation to its duration, geographical coverage and material scope), non-derogable rights must be respected, and the measures need to be in conformity with other international obligations, including the principles of non-discrimination, non-refoulement and the prohibition of collective expulsions.[34] In total, 10 United Nations treaty bodies reminded States in the context of COVID-19

[32] More than 35 countries have relied on armed forces to enforce rules, which has not been without casualties. See COVID-19 Civic Freedom Tracker, available at www.icnl.org/covid19tracker/.

[33] See www.coe.int/en/web/congress/covid-19-toolkits; www.oas.org/en/iachr/media_center/PReleases/2020/076.asp; and www.achpr.org/pressrelease/detail?id=483.

[34] Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency (art. 4).

that "a state of emergency, or any other security measures, should be guided by human rights principles".[35]

50. The Human Rights Committee recalled specific situations of particular relevance to migrants in the context of COVID-19 pandemic, including the following: the need to respect the principles of non-refoulement and the prohibition of collective expulsions; the need to treat persons deprived of liberty with humanity and respect and the need to pay special attention to the adequacy of health conditions and health services in places of incarceration; the particular situation of vulnerability of migrant domestic workers due to the aggravated threat of domestic violence; the right to access to court and due process guarantees; and the prohibition of racial hatred.[36]

51. The Special Rapporteur has called on States to ensure that emergency responses are guided by legitimate public health goals and are never used arbitrarily against particular groups, and to ensure that migrants, including those undocumented or in an irregular situation, are integrated into national COVID-19 prevention and response plans in line with a gender, age and diversity responsive approach. The Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants,[37] issued by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Special Rapporteur on the human rights of migrants, provides specific guidance on emergency responses in the context of migration.

B. Migrants' right to health

52. International human rights law affirms the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health" and requires States to take steps to ensure health services, goods and facilities to all without any discrimination.[38] However, health care for migrants, in particular those who are undocumented or in an irregular situation, often becomes inaccessible, unavailable, unaffordable or of unreliable quality, and even more so during the pandemic. Migrants do not only have limited access to equitable health services, but also to other rights that are strongly related and dependent upon for the realization of the right to health, such as the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, privacy, access to information and freedom of movement, among others.

53. Non-discrimination and equality are fundamental human rights principles and critical components of the right to health.[39] States are under the obligation to respect the right to health and should not deny or limit equal access for all persons – including undocumented migrants and migrants in an irregular situation – to preventive, curative and palliative health services, and they should abstain from discriminatory practices.[40] In fact, the minimum core obligations imposed by the International Covenant on Economic, Social and Cultural Rights should be prioritized by every State and also applied to all migrants.[41] In relation to COVID-19, the Committee on Economic, Social and Cultural Rights stated that, in responding to the pandemic, the inherent dignity of all people must be respected and protected; that States should mobilize resources to combat COVID-19 in the most equitable manner; and that

[35] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E.
[36] Human Rights Committee, general comment No. 29 (art. 4).
[37] www.ohchr.org/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf.
[38] International Covenant on Economic, Social and Cultural Rights, art. 12.
[39] See www.ohchr.org/documents/publications/factsheet31.pdf.
[40] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health (art. 12).
[41] Committee on Economic, Social and Cultural Rights, general comment No. 3 (1993) on the nature of States parties' obligations.

resource allocation should prioritize the special needs of the most marginalized groups,[42] such as undocumented migrants and those in an irregular situation.

54. Grounded in international human rights law, the 2030 Agenda for Sustainable Development offers critical opportunities to further advance the realization of human rights for all people everywhere, without discrimination. Under target 3.8 of the Sustainable Development Goals, Member States are committed to "achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all".

C. Equitable access to COVID-19 vaccines

55. The right to health includes the obligation to provide immunization against major infectious diseases as a means to prevent, treat and control epidemic and other diseases, without discrimination of any kind.[43] In order to comply with such principle, an equitable access to vaccines is required. The World Health Organization (WHO) indicates that the allocation and prioritization of COVID-19 vaccination should take into consideration the vulnerabilities, risks and needs of groups that are at risk of experiencing greater burdens from the COVID-19 pandemic, including low-income migrant workers, asylum seekers, and vulnerable migrants in irregular situations.[44]

56. The Special Rapporteur is concerned that too many migrants are still struggling to access vaccines, and together with the Committee on Migrant Workers and regional independent experts, he has urged States to provide equitable access to COVID-19 vaccination to all migrants regardless of nationality, migration status or other prohibited ground of discrimination.[45]

D. Firewall protections and data protection

57. In order to ensure that migrants, in particular those undocumented or in an irregular situation, can effectively enjoy the right to health in the context of the pandemic, effective firewalls between immigration enforcement and the provision of essential services should be enacted. The absence of such firewalls and data protection protocols may raise concern and fear of reporting, detention, deportation and other penalties as result of their migration status among migrants in irregular situations. Such deterrence from seeking health care and COVID-19 vaccination can have dire consequences for their own health, as well as for community life and public health at large.[46]

58. The Special Rapporteur has repeatedly emphasized the importance of enacting "firewalls" between immigration enforcement and public services, so that all migrants, irrespective of their migration status, can have access to essential services

[42] Committee on Economic, Social and Cultural Rights, general comment No. 14 (art. 12).

[43] Ibid.

[44] See "WHO SAGE values framework for the allocation and prioritization of COVID-19 vaccination", available from https://apps.who.int/iris/handle/10665/334299; and "WHO SAGE roadmap for prioritizing uses of Covid-19 vaccines in the context of limited supply", available from www.who.int/publications/i/item/who-sage-roadmap-for-prioritizing-uses-of-covid-19-vaccines-in-the-context-of-limited-supply.

[45] See www.ohchr.org/Documents/Issues/Migration/JointGuidanceNoteCOVID-19-Vaccines-for-Migrants.pdf; see also Security Council resolution 2565 (2021), para. 9.

[46] See www.medact.org/wp-content/uploads/2020/06/Patients-Not-Passports-Migrants-Access-to-Healthcare-During-the-Coronavirus-Crisis.pdf; and www.compas.ox.ac.uk/project/city-initiative-on-irregular-migrants-in-europe-c-mise/.

without fear of detection, detention and deportation, and so that disaggregated data and indicators in all areas relevant to migration can be collected, while ensuring data protection and respect for the right to privacy of migrants.[47]

E. Immigration detention in the context of COVID-19

59. International human rights states that "no one shall be subjected to arbitrary arrest or detention" and that anyone deprived of his liberty, including in cases of immigration control, is entitled to take proceedings before a court and be released in case of unlawful detention.[48] Immigration detention of adults should be a measure of last resort, and immigration detention of children is against their best interest and is always a child rights violation and should therefore be banned.[49]

60. In the context of COVID-19 pandemic, and using public health concerns as justification, some reception facilities, shelters, hotspots and places of quarantine have been converted into de facto detention centres. The Working Group on Arbitrary Detention has clarified that a mandatory quarantine in a premise where the quarantined persons may not leave for any reason, is de facto a deprivation of liberty (A/HRC/45/16, annex II). The situation of migrants who have been forced to remain in such centres for prolonged periods or lacking clarity on the duration, without access to effective judicial remedies, and often in substandard conditions with limited opportunities to gain access to medical care, would amount to arbitrary detention.[50]

F. Non-discrimination and enhancing tolerance in the context of COVID-19

61. International human rights law establishes that States must prohibit and eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction, to equality before the law.[51] In its resolution 74/270, the General Assembly emphasized the need for full respect for human rights and stressed that there is no place for any form of discrimination, racism and xenophobia in the response to the pandemic. However, the COVID-19 pandemic has exposed underlying structural inequalities and exacerbated racism, discrimination and hate speech in many parts of the world.[52] In May 2020, the Secretary-General expressed concern as "the pandemic continues to unleash a tsunami of hate and xenophobia, scapegoating and scaremongering".[53] The Special Rapporteur has also noted with concern

[47] As the Special Rapporteur said in his contribution to the report of the Secretary-General on the Global Compact Migration: "States should collect disaggregated data and indicators in all areas relevant to migration, while ensuring data protection and respect for the right of migrants to privacy, in particular by establishing firewalls in order to enable societies to conduct better-informed public debates and States to make evidence-based policy decisions." See also joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

[48] International Covenant on Civil and Political Rights, art. 9; Human Rights Committee, general comment No. 35 (2014) on liberty and security of person.

[49] See www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf, para. 32; and A/75/183, paras. 82–86.

[50] Submissions by: Global Detention Project; Centro por la Justicia y el Derecho Internacional; Global Rights Advocacy; Fundación para la Justicia y el Estado Democrático de Derecho.

[51] International Convention on the Elimination of All Forms of Racial Discrimination, arts. 1 and 5.

[52] See www.un.org/en/un-coronavirus-communications-team/we-are-all-together-human-rights-and-covid-19-response-and.

[53] See www.un.org/press/en/2020/sgsm20076.doc.htm.

xenophobic speeches or expressions associating the disease of COVID-19 with migrants or on the basis of their ethnicity.

V. Emerging practices for the protection of the human rights of migrants in the context of the COVID-19 pandemic

62. The Special Rapporteur notes with appreciation different initiatives taken by States and other relevant stakeholders to support and include migrants in COVID-19 response and recovery plans, regardless of their migration status.

Extension of visa and regularization processes

63. A number of States have adopted measures related to the extension of visas and regularization processes. Colombia decided to grant 10-year temporary protection status to the 1.7 million Venezuelan refugees and migrants living in the country.[54] Italy undertook a regularization programme for undocumented migrants in the agricultural and domestic sectors.[55] Other States, in view of pandemic-related travel restrictions, automatically extended visas and work and residence permits of migrants. Croatia automatically extended a number of short-term stay visas and continued with its international protection procedures;[56] Israel extended automatically visas for workers and asylum seekers whose visas were set to expire;[57] and the Russian Federation extended temporary visas and limited deportations. Argentina, Ireland, Romania, Spain and Tunisia also extended visas and permits.[58]

64. Australia, Azerbaijan, Germany, Maldives, the Russian Federation, Switzerland and Tunisia adapted procedures and eased criteria for applying for residence and work permits extensions, including electronically.[59] Portugal granted temporary residence permits to all migrants with a pending application on any ground.[60] Migration taxes and levy fees for specific sectors were removed or reduced (in Argentina and Maldives) and health-care fees for migrants lifted (in Portugal and Singapore).

65. Chile, Czechia, Germany, Ireland, Israel, Italy, Portugal and Spain provided blanket relief measures to migrants who were unable to leave their country.[61] El Salvador provided cards and social protection coverage to essential seasonal and cross-border migrant workers.[62] Caritas Andorra provided food vouchers to seasonal workers stranded in the country.[63]

66. While positive, the Special Rapporteur notes that the above-mentioned initiatives are temporary in nature and will expire once the pandemic ends. Considering that the social and economic negative effects of the pandemic are expected to persist well beyond the public sanitary crisis, it would be essential to adopt more permanent regularization measures. This has been the approach adopted

[54] See www.unhcr.org/en-us/news/press/2021/2/60214cf74/unhcr-iom-welcome-colombias-decision-regularize-venezuelan-refugees-migrants.html.
[55] See https://picum.org/regularising-undocumented-people-in-response-to-the-covid-19-pandemic/.
[56] Submission by Croatia.
[57] Submission by Israel.
[58] Submissions by States; Asylum Information Database for Spain.
[59] See https://picum.org/regularising-undocumented-people-in-response-to-the-covid-19-pandemic/.
[60] Submission by Portugal.
[61] See www.oecd.org/coronavirus/policy-responses/managing-international-migration-under-covid-19-6e914d57/.
[62] Submission by El Salvador.
[63] See www.caritas.eu/caritas-andorra-and-the-covid-19-crisis/.

by Argentina, the Dominican Republic, Ecuador and Peru, which have started regularization processes.[64]

Health responses and vaccination plans

67. A number of Governments have indicated that migrants, including undocumented migrants, enjoy the same access to health care as their national population. Argentina, Chile and Morocco indicated that access to health services is provided to all foreigners, regardless of their immigration status.[65] El Salvador provides free-of-charge health services for all, including prevention, treatment and testing for the detection of COVID-19.[66]

68. In Switzerland, emergency assistance, including basic medical care, is provided to all people in a situation of distress, regardless of their residence status. In Germany, asylum seekers are entitled to a range of health services during the first 15 months of their stay. In Sri Lanka, asylum seekers can receive health care free of charge if they are registered with UNHCR. In Croatia, health care is provided to asylum seekers.[67] The Philippines established a migrants health unit to deal with all health matters related to migrants and returning migrants.[68]

69. In some States, authorities have prepared policies and protocols to better respond to public health and security requirements imposed by the pandemic, including in settings affected by overcrowding and unhygienic conditions. Given the scarcity and limitation of resources, many countries have established prioritization criteria for access to testing, treatment and vaccine taking into consideration the specific vulnerabilities and risks experienced by migrants (e.g. asylum seekers in crowded reception centres, migrant women in vulnerable situations, children, undocumented migrants, etc.).

70. Singapore has administered vaccines to the 320,000 migrant workers residing in State dormitories. Switzerland has provided free and voluntary vaccination to all migrants, regardless of migration status, with priority given to asylum seekers in common dormitories. In Romania, asylum seekers and migrants in detention have been included in its vaccination strategy.[69] The Maldives started free vaccination to all migrants, including undocumented migrants.[70] Germany has included persons without legal residence as a priority group in national vaccination strategies.[71] Australia, Azerbaijan, Chile, Israel Malaysia, Morocco and Qatar indicated that migrants, including those in irregular situation, have been entitled to receiving vaccines, as well as tests and treatments.[72] Uruguay, with the support of civil society, has raised awareness on migrants' access to vaccination.[73] In several countries of the European Union, authorities have waived formal requirements.[74] At the time of writing the present report, several countries were still defining their vaccination strategy plans in line with their contexts, capacities and the evolution of the virus.

[64] Submission by States; see also www.unhcr.org/en-us/excom/excomrep/432fcbb42/update-unhcrs-operations-americas-executive-committee-2005.html; www.migrationportal.org/insight/regularization-initiatives-venezuelan-migrants-dominican-republic-curacao-step-towards-inclusion/.
[65] Submissions by States.
[66] Submission by El Salvador.
[67] Submissions by States.
[68] Submission by the Commission on Human Rights of the Philippines.
[69] Submissions by States.
[70] Submission by Migrant Workers Maldives.
[71] Submission by Germany.
[72] Submissions by States.
[73] Submission by Uruguay.
[74] See www.oecd.org/migration/mig/00-eu-emn-covid19-umbrella-inform-en.pdf.

Firewalls and data protection

71. In Ireland, no information on immigration status is sought from persons coming forward for social support or medical attention, including undocumented migrants.[75] In Switzerland, medical insurance companies and federal cantons are only allowed to pass on the personal data of an insured person to the immigration authorities if the person concerned has consented to it in writing or, if it is not possible to obtain that person's consent, when the circumstances allow it to be presumed that it is in the interest of the insured.[76]

Addressing spreading risks in immigration detention

72. Some countries have taken positive steps to contain the spread of virus in the context of immigration detention. Measures include releasing migrant detainees, avoiding new placements in detention facilities and improving hygiene, health and security standards in immigration detention centres.

73. In Spain, authorities have ordered the release of detainees from the main detention centres and provided accommodation in State-funded reception programmes run by NGOs. Belgium, Germany, Italy and the Netherlands have released hundreds of detainees on an individual basis. In Germany, in some cases, alternatives to detention have been applied, with reporting requirements, an obligation to surrender passports or travel documents, or requirements to reside at a specific address. In Canada, immigration authorities have reduced the detainee population by more than half.[77] In Mexico, following an injunction filed by several civil society organizations because of the lack of measures to protect the life, integrity and health in migratory stations and shelters, a federal judge ordered the release of more than 60 people in a vulnerable situation, including older adults and pregnant women.[78] National human rights institutions and national preventive mechanisms, such as those of Australia, Romania and Serbia, have visited or followed up the situation in immigration detention and reception centres and have provided advice and guidance on improving detention and living standards during the COVID-19 pandemic.[79]

Socioeconomic integration of migrants

74. States and other stakeholders have promoted the socioeconomic integration of migrants with a view to restoring human rights and conditions for sustainability. Within the framework of the Quito Process on the Human Mobility of Venezuelan Nationals in the Region and the Coordination Platform for Refugees and Migrants from Venezuela, and supported by the International Labour Organization (ILO) and the United Nations Development Programme (UNDP), Latin American and Caribbean countries of destinations are promoting socioeconomic integration of refugees and migrants in order to address access to services, protection, inclusion in labour markets, social cohesion and other COVID-19 pandemic-related challenges.[80] In Athens; Beirut; Bristol, United Kingdom of Great Britain and Northern Ireland; Buenos Aires; Freetown; Montreal, Canada; São Paulo, Brazil; Zurich, Switzerland and other localities, local governments have taken direct action to support migrants,

[75] Submission by Ireland.

[76] Submission by Switzerland.

[77] Submissions by Global Detention Project and Germany; see also www.who.int/publications/i/item/9789240028906.

[78] Submissions by: Comisión de Derechos Humanos de la Ciudad de México; Centro por la Justicia y el Derecho Internacional.

[79] Submissions by: Australian Human Rights Commission; Ombudsperson of Romania; Ombudsperson of Serbia.

[80] See www.latinamerica.undp.org/content/rblac/en/home/presscenter/pressreleases/2021/una-estrategia-de-integracion-socioeconomica-para-convertir-a-la.html.

including by providing access to testing and vaccines, housing and shelter, water and sanitation, regularization processes, employment and direct relief.[81] Qatar indicated that all migrant workers in isolation, quarantine or under treatment would receive a basic salary and allowances irrespective of whether they are entitled to sick leave benefits. The Ministry of Administrative Development, Labour and Social Affairs has conducted awareness campaigns and inspected work sites, workers' housing and their means of transportation to verify safety measures.[82] In Botswana and South Africa, trade unions and NGOs, in collaboration with ILO, have made available cash and food support to migrant domestic workers.[83] Ireland has extended its illness benefit scheme to migrants with insufficient social insurance contributions. In Tunisia, the Union générale tunisienne du travail has granted membership to several sub-Saharan workers to strengthen protection and social dialogue and counter exploitation and racism. Argentina has established four orientation centres to provide migrants with information on immigration procedures and legal support, including on the prevention of institutional and gender-based violence, and training to facilitate insertion in the labour market.[84]

Fighting racism and discrimination against migrants in the context of the pandemic

75. Governments and stakeholders have developed campaigns and initiatives to improve narratives about migrants and fight discrimination, xenophobia and racism. The Council of Europe issued guidelines on upholding equality and protecting against discrimination and hate during the COVID-19 pandemic, covering also the situation of migrants.[85] In Germany, the federal programme entitled "Live democracy!" addresses racist reporting, provides counselling and supports projects in partnership with self-help organizations set up by migrants.[86] In Portugal, the Commission for Equality and Against Racial Discrimination informs victims of racial discrimination of their rights and forwards complaints to competent authorities.[87] In Chile, the programme entitled "Sello Migrante" has been created to certify municipalities that adopt human rights based measures for the inclusion of migrants; and the "Compromiso Migrante" seal recognizes the work of institutions and companies that implement measures aimed at improving labour conditions of migrants.[88] Australia has launched an information campaign in 64 languages to provide rights awareness and support victims of racism in the context of COVID-19.[89] In Maldives, NGOs have developed social media campaigns to promote vaccine equity and acceptance, and a series of stories on migrant workers of Maldives has showcased migrants and promoted their inclusion.[90]

Reintegration of returning migrants

76. Several Governments and stakeholders have provided different levels of support to returning migrants. Cambodia, in coordination with United Nations agencies, has provided support to provinces expecting large numbers of returning migrant workers.

[81] Submission by the Mayors Migration Council; see also GFMD, Ad Hoc Working Group on the impacts of COVID-19 on migrants, migration and development, "Lessons Learned From COVID-19 Prevention, Response And Recovery, Working Paper", available from www.gfmd.org/gfmd-ad-hoc-working-group-impacts-covid-19-migrants-migration-and-development.
[82] Submission by Qatar.
[83] Submission by ILO.
[84] Submissions by States.
[85] Submission by the Council of Europe.
[86] Submission by Germany.
[87] Submission by Portugal.
[88] Submission by Chile.
[89] Submission by Australia.
[90] Submission by Migrant Workers Maldives.

Spain has kept its borders open to facilitate return. Sri Lanka, in coordination with IOM and ILO, has developed projects for the return of Sri Lankan migrant workers in line with the national COVID-19 response plan for migrant workers. The Philippines has provided returning migrants with loans and other financial support, training on financial literacy, entrepreneurial development business counselling and job referrals for both local and overseas employment. ILO has worked with the Ethiopian Ministry of Labour and the Amhara Credit and Savings Institution to provide cash transfers for vulnerable returned migrants. The Salvadoran Institute for the Comprehensive Development of Childhood and Adolescence has provided health-care support and testing for returned migrant children and adolescents, before assisting with their reintegration into their families.[91]

Working with civil society organizations and stakeholders

77. Civil society organizations have provided humanitarian emergency support and livelihood assistance, including food, hygiene kits, health care, mental health care, sexual and reproductive health items and cash for the payment of other living costs. They have carried out research and provided psychosocial support and legal advice, as well as information, including on immigration procedures, education and ways to counter xenophobia and discrimination. In coordination with national human rights institutions, they have monitored and intervened with authorities on detention related abuses.[92]

78. Several Governments have engaged in consultations with civil society organizations and have included them in the development of COVID-19 responses. In many countries, the COVID-19 pandemic has strengthened the partnership and alliance with and between civil society organizations, humanitarian organizations and other stakeholders on the front line of assistance. In Azerbaijan, a public council consisting of NGOs has been established under the State Migration Service overseeing relief activities and other projects in favour of migrants in vulnerable situations.[93] Portugal has provided financial support to some 41 civil society organizations, most of which work with migrants and refugees, including within the context of COVID-19.[94] In Cambodia and other Asian countries, such as Bangladesh, Pakistan and Thailand, as well as in Ecuador, Greece, Peru, Tunisia and the United States, and in many other contexts, civil society organizations – including humanitarian and faith-based organizations, community-based networks and associations, volunteers and grass-roots groups, as well as migrant worker resource centres – in coordination with national and local authorities and other stakeholders, have led solidarity

[91] Submissions by Sri Lanka and El Salvador; Submission by ILO; Submissions by University of the Philippines and the Commission on Human Rights of the Philippines. See also ILO, "COVID-19: Impact on Cambodian migrant workers", available from www.ilo.org/asia/publications/issue-briefs/WCMS_752836/lang--en/index.htm.

[92] ILO, "COVID-19: Impact on Cambodian migrant workers"; Submissions by: Migration Forum Asia; Center for Migration, Gender, and Justice; CARE Ecuador; Instituto de Democracia y Derechos Humanos; Europe Must Act.

[93] Submission by Azerbaijan.

[94] Submission by Portugal.

initiatives and assisted migrants, including returning migrants, regardless of their migration status.[95]

VI. Conclusions

79. **The COVID-19 pandemic has strongly affected all orders of life, but in particular the health, social and economic fabric of societies, unveiling systemic inequalities, severe human rights gaps and governance deficits. Migrants, in particular those in a vulnerable situation, have been disproportionally affected by the pandemic, including by the restrictive measures taken to counter it and the discrimination and abuses stemming from private actors. Several of their rights have been particularly affected, including the right to liberty of movement, the right to liberty and security of person, the right to health and an equitable access to health services, the right to work and to just and favourable conditions of work, and the right to an adequate standard of living and freedom from discrimination.**

80. **The public emergency provoked by the pandemic has led to restrictions of several rights, including liberty of movement. The closure of borders and other emergency measures at international borders from countries of origin, transit and destination have led to migrants in some countries being stranded; others have been forced to return to their countries of origin, and a number of asylum seekers have not been able to gain effective access to asylum procedures.**

81. **Ensuring equitable access to health services for all became most relevant in the collective efforts to contain the pandemic. However, migrants, in particular those who are undocumented or in an irregular situation, face difficulties in gaining access to health services, due to, inter alia, legal and policy barriers, including strict requirements for documentation, fees, lack of accessible information and lack of effective protection firewalls that would help to overcome concerns about and fear of migrants. Migrants who are deprived of their liberty or in other settings characterized by confinement, overcrowding, unsanitary conditions and lack of sanitation protocols and their implementation, are at a heightened risk of infection in the case of an outbreak.**

82. **Migrant workers, including those who are undocumented or in an irregular situation, contribute robustly to the health-care sector, the agrofood industry, the delivery sector and other essential sectors that have been critical during the pandemic. However, the pandemic has further exposed their vulnerabilities, the fragility of their status in society and the economy and the neglect for their human rights and entitlements, such as unsafe working conditions, lack of social protections, withdrawal of wages, discrimination, etc.**

83. **One and a half years since the beginning of the COVID-19 pandemic, while uncertainty remains owing to the evolution of the virus, positive signs of recovery exist in a number of countries, associated with progress made in vaccination**

[95] See www.ilo.org/asia/publications/issue-briefs/WCMS_746979/lang--en/index.htm; ILO, "COVID-19: Impact on Cambodian migrant workers"; ILO, "Impact of COVID-19 on Bangladesh Overseas Migrant Workers", available from www.ilo.org/dhaka/Whatwedo/Projects/WCMS_762473/lang--en/index.htm; ILO, *The impact of COVID-19 on labour migration governance, recruitment practices and migrant workers* (2020), available at www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_780964.pdf; ILO, "COVID-19: Impact on migrant workers and country response in Thailand", available from www.ilo.org/asia/publications/issue-briefs/WCMS_741920/lang--en/index.htm; submissions by: Migration Forum Asia; Center for Migration, Gender, and Justice; CARE Ecuador; Instituto de Democracia y Derechos Humanos; Europe Must Act.

programmes and the lifting of restrictive measures. Governments have been offered an opportunity to address existing gaps and define long-term measures, ensuring that recovery plans and efforts include fully migrants, promoting their effective participation and contribution.

84. **Several countries have recognized the contribution of migrants and have implemented regularization processes, extended visas and work and residence permits and relaxed administrative procedures for migrants facing grim employment and social prospects. Some States have suspended deportations and improved conditions of reception centres. These positive steps call for coherent and fair long-term policies in support to the recovery from the pandemic.**

85. **A significant number of States have facilitated access to health services for migrants during the pandemic, regardless of their migration status, and have taken action to mitigate health risks in line with international standards and relevant guidance. In those countries, migrants have been integrated into national COVID-19 response and recovery plans, including vaccination plans.**

86. **While the pandemic has highlighted the relevant role of migrants and the need to strengthen equality, it has also provided a pretext for new episodes of xenophobia, racism and discrimination, including on social media. The implementation and monitoring of measures to combat xenophobia and discrimination remains key. Many States, civil society organizations and migrants themselves have developed remarkable initiatives and campaigns for advice and addressing complaints.**

87. **A number of States continue to work and consult with civil society organizations, national human rights institutions, employers' and workers organizations and United Nations and humanitarian partners to ensure migrants' rights are protected in reception and detention centres, health centres, workplaces and camps, common accommodations and dormitories. Stakeholders have been essential in providing health-care assistance, information and counselling, including in cases where institutional reach has been more difficult. The fact that many States have limited resources has raised concerns for the fair and equitable distribution of vaccines and has brought about a call for international cooperation to ensure immediate and equal access to COVID-19 vaccines for all sectors of the population, without discrimination of any kind, including migrants.**

VII. Recommendations

88. **The Special Rapporteur acknowledges the efforts made by States and other stakeholders to promote and protect the human rights of migrants while managing the global health emergency and responding to its socioeconomic impact. He stands ready to provide advice and assist States and stakeholders through the COVID-19 response and recovery phase to ensure the full integration of migrants in all relevant efforts and plans.**

89. **More specifically, the Special Rapporteur urges States:**

(a) **To conduct independent and regular reviews of the restrictions adopted within the framework of the emergency measures, ensuring that they are consistent with international human rights law and principles and that they are non-discriminatory, necessary and proportionate; and to hold regular consultations with concerned migrants and communities and relevant stakeholders to assess the impact of emergency measures;**

(b) **To ensure that measures and restrictions adopted to contain the pandemic do not result in denying effective access to asylum and other protection procedures under international law, and that the principle of non-refoulement and the prohibition of collection expulsions are upheld;**

(c) **To include effectively all migrants at all stages of the migration cycle, regardless of their nationality and migration status, in national health systems and procedures, including those specific to the pandemic, such as national COVID-19 health prevention and response plans; and to guarantee migrants have full access to treatment in a non-discriminatory manner and in line with WHO technical guidance,[96] and can receive information in a language they understand;**

(d) **To include all migrants in equitable vaccination plans and protocols on a non-discriminatory basis, regardless of their nationality and migration status, and to ensure that prioritization criteria for vaccination takes into consideration the vulnerabilities, risks and needs of migrants, including migrant women and children; the prioritization criteria should be developed in consultation and cooperation with relevant agencies and stakeholders, in coordination with other countries and in line with international human rights standards and relevant guidance;**

(e) **To ensure the full realization of the right to health; and to provide migrants, regardless of their nationality and migration status, with access to mental health and psychosocial support, as well as assistance for conditions exacerbated by the pandemic or more severe mental health conditions;**

(f) **To enact firewalls between immigration enforcement and public health or social support services, in order to prevent fear or risk of reporting, detention, deportation and other penalties as result of migration status; not to use testing, treatment and vaccine registration to collect or share information about migration status; and put in place data protection protocols for the collection and disaggregation of data, as well as for the transfer of medical files;**

(g) **To carry out campaigns informing undocumented migrants and those in an irregular situation that they will not be penalized or targeted for immigration enforcement in testing, treatment or vaccination processes;**

(h) **To ensure the full realization of the right to an adequate standard of living, as well as the enjoyment of just and favourable conditions of work and effective access to justice, taking into consideration the particular needs of migrants, in particular women, children and all those who have suffered disproportionately from the negative impact of the pandemic;**

(i) **To ensure just, favourable and safe conditions of work, including through protection from contagion at the workplace; to protect jobs, pensions and other social benefits of migrant workers; and to take the measures necessary to alleviate the impact of the economic crisis on migrant workers, through, for example, access to social services;**

(j) **In coordination with health personnel, United Nations agencies, national human rights institutions and civil society organizations, constantly**

[96] See www.euro.who.int/en/health-topics/health-determinants/migration-and-health/publications/technical-guidance; see also WHO, “Preparedness, prevention and control of coronavirus disease (COVID-19) for refugees and migrants in non-camp settings”, available from www.who.int/publications/i/item/preparedness-prevention-and-control-of-coronavirus-disease-(covid-19)-for-refugees-and-migrants-in-non-camp-settings; and https://unhabitat.org/sites/default/files/2020/06/final_network_wg_policy_brief_covid-19_and_access_to_services.pdf.

assess health protocols and living and working conditions of migrants, including shelters, dormitories, detention and reception centres, workplaces, public transportation and other settings where migrants and their families work and live; to guarantee the availability and accessibility of medical services, protective materials, water, sanitation and hygiene facilities and opportunities for physical activities at these places; and to make accessible protocols and relevant information in the above settings, and in a language they understand;

(k) **To implement mechanisms to review the use of immigration detention, with a view to reducing its use to the lowest possible level; and immediately to release families with children and unaccompanied or separated children from immigration detention facilities to non-custodial and community-based alternatives with full access to rights and services, including health care;**

(l) **To support the extension of work and residence visas and work and residence permits, and promote the regulation of undocumented migrants or those in an irregular situation, privileging long-term and permanent solutions, with a view to ensuring public health, sustainable socioeconomic integration and inclusive recovery;**

(m) **To address the stigma associated with returning migrants and ensure their access to health care and other essential services and support for migrants returning to countries and communities of origin; and to promote the portability of social protection and skills recognition and development, with a view to ensuring sustainable reintegration and inclusion in national responses and recovery plans to the pandemic;**

(n) **To investigate, prosecute and provide effective remedies to cases of racism, discrimination and xenophobia affecting migrant individuals and communities, including on social media and in the public debate; to promote campaigns and narratives addressing stigma and discrimination grounded in migration status and avoid rhetoric and terminology that stigmatize and reinforce harmful narratives against migrants that may result in the exclusion of migrants and those in irregular situation from health care and other essential services; and to keep and publish updated data relating to the efforts carried out in this area;**

(o) **To include migrants, regardless of their nationality and migration status, in socioeconomic recovery and response plans and policies, ensuring that they are guided by international human rights principles and frameworks, such as the Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Special Rapporteur himself, and coordinated with local authorities, civil society organizations and other relevant actors;**

(p) **To promote civic space and support all stakeholders providing assistance to migrants, including migrant associations, and humanitarian and civil society organizations, increasing cooperation and coordination with them and supporting their continuity of services and the assistance they provide;**

(q) **To promote international cooperation and solidarity measures, with a view to ensuring support to those countries that have fewer resources to address the pandemic and its consequences, including their equitable access to vaccines.**