

THE COVID-19 CRISIS: KEY PROTECTION MESSAGES

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In the face of the COVID-19 pandemic, we are all vulnerable. Governments around the world are rightly adopting increasingly stringent measures to protect public health. Yet as they do so, fundamental principles of refugee and human rights laws are also challenged. Asylum seekers, refugees and the internally displaced are especially vulnerable to health risks and other protection concerns.

In this context, UNHCR would like to share the following key protection messages, based on international refugee and human rights law, for advocacy by other organisations. These will be updated as needed, and feedback and suggestions are welcome.

Key message 1: States can and should ensure access to asylum while also protecting public health

States have a responsibility to protect public health and may temporarily close their borders to limit COVID-19 transmission, provided that any such measure is non-discriminatory, necessary, proportionate and reasonable in all the circumstances.

Asylum seekers also have a right to seek international protection at those borders, and may not be returned – either directly or indirectly – to a country of persecution or danger. The principle of non-refoulement is one of the most widely recognized norms of customary international law, and is reflected in the 1951 Refugee Convention and other international instruments.

The challenge is to strike a balance between these obligations. Blanket measures precluding the admission of refugees or asylum-seekers without measures to protect against refoulement will breach international law.

With good faith and creativity, a country can both secure public health and the rights of asylum seekers to protection. States can, for example, impose measures at the border such as health screening, testing, quarantine and self-isolation to manage health risks while also respecting the principle of non-refoulement.

Note: UNHCR estimates that about 123 countries have fully or partially closed their borders to contain the spread of the virus, with some 30 States making no exception for access for asylum-seekers. Many have suspended the right to seek asylum, with risks of refoulement as asylum seekers are turned away at the border

Key message 2: Even where a State has closed its borders, reception of asylum seekers and the processing of asylum claims should continue, with priority for the most vulnerable.

The COVID-19 pandemic has made it more challenging for many countries to receive asylum seekers and to assess their claims for protection. International solidarity and support may be required for host countries, including to help decongest reception facilities.

Technology may enable remote interviewing and case processing where health restrictions prohibit face-to-face interviews. Technical advice, guidance, and financial support might be necessary and should be provided. Other protection measures such as automatically extending registration cards, or extending residency permits to enable refugees and asylum-seekers to access health and other services, may be put in place.

Key message 3: Restrictions on freedom of movement should not be arbitrary nor discriminatory.

Quarantine measures may be a legitimate restriction on freedom of movement provided they meet international human rights standards. Health concerns do not, for example, justify the systematic or arbitrary use of immigration detention.

Key message 4: Restrictions on the exercise of rights should be maintained for no longer than necessary.

There is a real risk that temporary measures to respond to the virus will be maintained long after they are needed, diminishing respect for international refugee and human rights norms. We need to be vigilant in upholding fundamental rights to protection.

Key message 5: Public health and other responses should include refugees, the internally displaced, and other marginalized groups, and address the particular risks affecting them.

While COVID-19 does not discriminate, it will most severely impact the marginalized and poor, including refugees and the internally displaced.

Three-quarters of refugees live in overcrowded camps, settlements, makeshift shelters or reception centers in urban areas, where they lack access to adequate health care and sanitation. Social distancing and handwashing in clean water are difficult, if not impossible.

COVID-19 will be only controlled through an inclusive approach that protects every individual's right to life and access to adequate health services.

Host countries and local communities need international support to strengthen health facilities and ensure the pandemic does not have disproportionate impacts on certain individuals or groups. Special attention is needed to the risks faced by elderly people, children and those with disabilities or specific health conditions.

Additional protection concerns arise from lack of access to life-saving services and income generating activities disrupted by restrictions on freedom of movement, curfews and state of emergencies.

The closure of schools worldwide has dramatically impeded the right to education. Children are especially vulnerable to exploitation through child labour, even trafficking. Special efforts are needed to ensure their protection where families face economic stress.

Confinement, loss of income and livelihood activities, isolation, and increased psychosocial needs have led to a spike in sexual and domestic violence, including among refugees and the internally displaced.

Lack of documentation is impeding access to national health systems and other protective services. There has been an increase in incidents of xenophobia, stigmatization, and attacks against non-nationals.

Communications with refugees and the internally displaced should be enhanced, including through expanded networks, hotlines/call centers and internet platforms. Cash support programs may also be expanded. Refugees and the internally displaced are often the first responders and frontline advocates for their protection. They should be included in decision-making and have access to all relevant information.

International solidarity and support is needed to help hosting states put these protection measures in place, and pursue inclusive responses, in the spirit of burden- and responsibility-sharing, as set out in the Global Compact on Refugees.