



# SEEKING PROTECTION IN A PANDEMIC: COVID-19 and the Future of Asylum

April 2021

# INTRODUCTION

The COVID-19 pandemic has not diminished the need to provide safety for millions of people around the world who have fled war, persecution, and violence. Systems to provide protection to the forcibly displaced have been tested over the last year. The pandemic has reinforced the need for a renewed commitment to building stronger asylum mechanisms that can withstand public health emergencies.

By mid-2020, there were 4.2 million recorded asylum seekers (individuals and family units) across the globe<sup>1</sup> who crossed a border seeking protection but whose claims have not yet been processed or approved in their host country. Not every asylum seeker will ultimately be recognized as a refugee, but every refugee was initially an asylum seeker.

The inadequacies of global asylum systems have been exposed by the COVID-19 pandemic. In response to the initial outbreak of COVID-19 in early 2020, 167 countries closed their borders, including to asylum seekers.<sup>2</sup> One year later, the right to asylum is still under threat in a number of countries. As of March 2021, 57 countries continue to deny access to their territory with no exception for asylum seekers.<sup>3</sup>

From the beginning of the global response to the pandemic, the UN Refugee Agency (UNHCR) made it clear that pandemic responses should not prevent people from seeking asylum. While governments may put in place public health measures, these should not deny people the opportunity to seek asylum or result in their deportation to places where they would be subject to danger, known as “refoulement.”<sup>4</sup>

Enshrined in the 1951 Refugee Convention and the 1967 Refugee Protocol, the principle of “non-refoulement” has become international customary law. Asylum seekers are granted refugee status if they can prove that they were subject to persecution based on their race, religion, nationality, membership in a particular social group, or political opinion.

The US response to COVID-19 has been particularly devastating for the forcibly displaced. Since March 2020, the government has implemented COVID-19 restrictions that prevent most asylum seekers from petitioning for protection. These restrictions violate forcibly displaced peoples’ fundamental right to seek asylum and threaten to permanently alter the US asylum landscape for the worse.<sup>5</sup>





JRS Croatia distributes food and other essential items to refugees in May 2020.

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# 167 countries

closed their borders, including to asylum seekers.

However, this issue is not confined to the United States. All people have the right to seek protection from persecution, but asylum seekers face growing barriers worldwide. Even before COVID-19, in response to record levels of global displacement, the world's richest countries had established complex migration controls in what amounts to a global "deterrence paradigm."<sup>6</sup>

The result is an ever-growing number of refugees and asylum seekers concentrated in low- and middle-income countries — countries with fewer resources to bear the responsibility of protecting and assisting them. Those who do attempt to seek refuge in higher-income countries are often subject to exploitation and violence.

The COVID-19 pandemic has only exacerbated these challenges, providing a convenient justification for policies that betray the spirit of international refugee law and threaten the lives and well-being of thousands. These policies have been accompanied by mounting xenophobia and discrimination against asylum seekers, who are often portrayed as public health threats and carriers of disease.

This brief, a joint project by Jesuit Refugee Service/ USA (JRS/USA) and the Institute for the Study of International Migration, summarizes the effects of COVID-19 on US and global asylum policy. It highlights case studies from JRS programs around the world and provides recommendations for policymakers. Related topics such as refugee resettlement, while profoundly impacted by the pandemic, are beyond the scope of this brief. Above all, the report underscores that it is critical for governments to honor their responsibilities to the forcibly displaced and for communities to work together to devise solutions that welcome those who are forced to flee their countries.

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# IMPACT OF COVID-19 ON GLOBAL ASYLUM SYSTEMS AND FRAMEWORKS

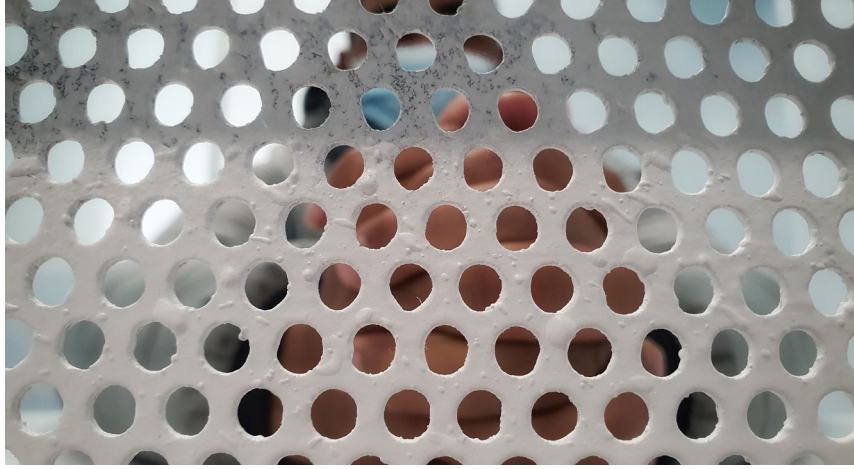
The spread of COVID-19 in 2020 triggered worldwide mobility restrictions. By May 2020, an estimated 167 countries had fully or partially closed their borders, and at least 57 made no exception for asylum seekers.<sup>7</sup> Though mobility has recovered somewhat since then, COVID-19 restrictions will have long-term ramifications for asylum systems around the world.

Some of the first global responses to the pandemic were tight travel restrictions with devastating consequences for asylum seekers who were prevented from entering and seeking protection in other countries. Restrictions that made no exception for asylum seekers were enacted in March 2020 by countries throughout the Middle East, North Africa, most of South America, and in other regions.<sup>8</sup>

As early as April 2020, reports emerged of illegal expulsions and pushbacks at international borders.<sup>9</sup> For example, police violence against asylum seekers at the Croatian border was well-documented and appeared to have been tacitly supported by the European Union and the Croatian public.<sup>10</sup> Some countries, including Italy, Malta, and Malaysia, simply refused to allow those arriving by sea to disembark, sending them back into treacherous conditions with sometimes deadly consequences. In Kenya, authorities arrested and returned all those who were found to have crossed the border after COVID-19 restrictions were enacted.<sup>11</sup>

Mobility restrictions have also led to a number of secondary consequences for asylum seekers. They have increased asylum seekers' reliance on human smugglers and irregular migration routes, as happened with people fleeing Venezuela and the Northern Triangle countries, exposing them to danger and exploitation.<sup>12</sup> Nicaraguan asylum seekers in Costa Rica who wanted to return home often resorted to illegal or dangerous routes, as borders are open only to those with a negative COVID-19 test, which can be difficult for migrants to secure.<sup>13</sup>

Additionally, already-crowded informal settlements housing asylum seekers became even more vulnerable to disease outbreaks as lockdowns impeded regular food deliveries and water supplies. Conditions in the Calais settlements in France, which housed 1,200 asylum seekers and migrants,<sup>14</sup> deteriorated considerably as a result of these pressures.<sup>15</sup> One study found that the risk of COVID transmission increased by 17 percent for asylum seekers and refugees living in collective housing.<sup>16</sup>



Social distancing regulations in some countries also led to a marked decrease in government and civil society's asylum capacities. The Colombian government, for example, ordered organizations working with displaced people from Venezuela to halve their capacities in March to slow the spread of the virus.<sup>17</sup>

Emerging research shows that COVID-19 and related restrictions also amplified existing inequalities between displaced and host populations. In South Africa, for example, shutdowns disproportionately impacted asylum seekers and migrants, who lost their jobs, were evicted from their homes, and experienced food insecurity at higher rates than South African citizens.<sup>18</sup>

In some countries, migrants and asylum seekers became convenient scapegoats for host governments. In Italy, politicians falsely linked COVID-19 outbreaks to African asylum seekers.<sup>19</sup> Far-right movements in Germany, France, and Spain exploited pandemic panic to advocate for border closures and tougher migration restrictions. Migrants, including asylum seekers, were also subjected to verbal harassment and violent attacks due to COVID-related stigma. In Cameroon, foreigners and visiting members of the diaspora were attacked after being blamed for spikes in infection rates.<sup>20</sup>

The crisis has also exacerbated disparities within displaced communities, including among women and girls. Estimates indicate that COVID-19 has directly put 4 million girls worldwide at risk of child marriage in the next two years.<sup>21</sup> At the same time, public health measures such as lockdowns have disrupted access to vital services, including law enforcement, legal assistance, counseling, and safe shelters, for displaced women experiencing intimate partner violence.<sup>22</sup>

Of course, not all countries responded harshly. Sweden permitted asylum seekers arriving at the border to enter and file claims even at the start of the pandemic. By early April 2020, South Sudan affirmed that asylum seekers would have access to their territory to seek protection.<sup>23</sup> In West Africa, Niger preserved access to territory for asylum seekers, while Benin and the Central African Republic imposed no COVID-related mobility restrictions.<sup>24</sup> Likewise, Cote d'Ivoire opened a novel "humanitarian corridor" for vulnerable groups.<sup>25</sup>

**Left: An asylum seeker waits at a detention center in Spain.**

**Right: In Ethiopia, refugees trained by JRS to produce reusable sanitary pads are now making face masks to protect against COVID-19.**

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# SUBSEQUENT RESPONSES

Over time, some governments with restrictive policies relaxed mobility and asylum restrictions. Though Germany initially closed its borders to asylum seekers, the country soon reversed the policy in recognition of international protection rights.<sup>26</sup> Likewise, in mid-2020, both Uganda and Ethiopia reopened borders and reception centers to accommodate large numbers of Congolese and South Sudanese asylum seekers amassing at their borders.<sup>27, 28</sup>

In some cases, the pandemic prompted governments to extend new benefits to asylum seekers and other vulnerable groups. For example, Portugal elected to grant asylum seekers and migrant workers temporary residency permits. Peru deployed a virtual asylum application system, and numerous countries established protocols for conducting virtual screenings and interviews with asylum seekers.

In fact, one potential long-term benefit of the pandemic is states' increased confidence in digital technologies, making them more likely to grant remote access to asylum systems and counseling services.<sup>29</sup> On the other hand, there is some concern that video interviews could become the norm, disadvantaging asylum seekers who may struggle to follow or participate in virtual proceedings.

Of course, challenges persist. As of March 2021, there are still 57 countries where access to territory is denied with no exceptions for asylum seekers<sup>30</sup> Among these are Russia, Australia, much of the Middle East, South America, and the United States. Despite the gradual re-opening of borders in some countries, the pandemic threatens to have long-term consequences on the state of global asylum policies and the well-being of displaced populations.

These long-term consequences include the precipitous decrease in international funding for refugee-hosting countries and widespread loss of employment for refugees and asylum seekers, which may further limit their self-reliance and trigger a vicious cycle of mutually-reinforcing vulnerabilities.<sup>31</sup> The spread of xenophobic sentiments and COVID-related stigma may lead to further degradations in asylum seekers' treatment and quality of life in host communities. Perhaps most importantly, countries' decisions to prioritize public health at the expense of fundamental human rights at the outset of the pandemic undermine global asylum frameworks and may embolden governments to do the same in the future.



JRS Colombia team from Cúcuta delivered humanitarian aid to 100 indigenous families in coordination with the Municipal Secretary for Disaster Risk Management of the Mayor's Office of San José de Cúcuta during COVID-19 pandemic.

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# IMPACT OF COVID-19 ON ASYLUM IN:

## UNITED STATES

For decades, the United States has been a global leader in welcoming people seeking protection from violence in their home countries. Yet, in the past year, more than 500,000 asylum seekers,<sup>32</sup> including unaccompanied children, have been turned back at the US southern border after the government implemented travel and asylum restrictions under a public health regulation known as Title 42.

Issued in March 2020 by the Centers for Disease Control along with the Department of Health and Human Services, Title 42 prohibits all non-essential travel from Canada or Mexico, including for asylum seekers. The rationale behind the implementation of this policy was “to protect the public health from an increase in the serious danger of the introduction of COVID-19.”<sup>33</sup> As a result, the US has expelled asylum seekers rather than allowing them to present their petitions for asylum.

Public health experts have since pointed out that these restrictions do little to prevent the actual spread of COVID-19.<sup>34</sup> Instead, the policy targets asylum seekers while providing broad exemptions to US citizens, permanent residents, and those traveling to the United States for education, trade, or commercial purposes.

The current ban on asylum is one of the latest in a series of efforts by the government to limit long-held legal protections in the US asylum

system. In January 2019, the US government announced the Migrant Protection Protocols (MPP), also known as the “Remain in Mexico” program, which forced asylum seekers to wait in Mexico while waiting for their court date.

Since it was launched, MPP has returned more than 70,000 people<sup>35</sup> to wait in Mexico to petition for safety in the United States. The return to Mexico forced asylum seekers to live in dangerous and uncertain circumstances. There have been at least 1,314 public reports of murder, torture, rape, kidnapping, and other violent attacks against asylum seekers and migrants returned to Mexico under MPP.<sup>36</sup> Stranded without resources, many have faced prolonged homelessness with little means to manage their asylum claims.<sup>37</sup>

As a result of Title 42, court hearings for MPP cases were suspended through most of 2020. Due to distance and the lack of resources, MPP also led to lower rates of representation and asylum approval, with fewer than 8 percent<sup>38</sup> of MPP cases able to secure legal representation. With few exceptions, most individuals and families expelled during the implementation of Title 42 have had no opportunity to petition for asylum at all. Title 42 expulsions allowed the government to circumvent the normal asylum process and prevented asylum seekers from being screened for credible fear before being turned back at the US border.



In May 2020, the US government extended Title 42 indefinitely; it would remain in place until it was “no longer necessary to protect the public health.”<sup>39</sup> Since assuming office in January 2021, President Joe Biden has taken some steps to rebuild the asylum system, notably suspending MPP and processing those who had been forced to return to Mexico, but the government is still enforcing Title 42. However, in response to a court challenge, the Centers for Disease Control released a notice in February 2021 that temporarily halted expulsions of unaccompanied children under Title 42.<sup>40</sup>

Domestic law and treaties signed by the US government protect individuals fleeing violence and arriving at US borders. For decades, people seeking protection from violence in their home countries have been able to enter the US and petition for asylum. The United States signed on to the 1951 Refugee Convention<sup>41</sup>, which required it under international law not to send asylum seekers back to dangerous conditions. Passage of the 1980 Refugee Act also aligned US asylum and refugee policy with UNHCR standards. Respecting this fundamental obligation is critical to the US maintaining its position in the global community.

Jesuit Refugee Service/USA, JRS Mexico, and other Jesuit and Catholic partner organizations, have witnessed the impacts of COVID-19 restrictions on asylum seekers and migrants. Most stranded asylum seekers had to rely on nonprofit organizations to meet their basic needs and assist them in their search for safety and security.

In early 2021, JRS/USA staff met with families stranded in Ciudad Juarez, some waiting for two years. “These people are just seeking safety and very much fear the violence and gangs in the places they fled from like Honduras,” said Maria Torres, JRS/USA border response Program Manager. “I’ve met with some people who have very sick children, who do not have a choice to return, but the consequences of waiting could be incredibly detrimental.”



The US government could reinstate access to asylum at its borders while putting in place measures that manage risks to public health. Indeed, safety precautions were put in place to facilitate the processing of active MPP cases beginning in February 2021. This included mandatory face coverings, social distancing, and COVID-19 testing before entering the United States. Indeed, early indicators have shown no evidence to support claims that asylum seekers crossing the southern border into Texas are spreading the coronavirus.<sup>42</sup>

The Biden administration has committed to ending inhumane border policies, upholding US laws and treaty obligations to protect refugees and immigrant children, and adopting COVID-19 measures based in science. In this vein, Title 42 must be repealed so that asylum seekers will once again be able to lawfully petition for asylum. While the long-term impact of the US government’s response to COVID-19 is yet to be seen, the US can take steps now to stop expelling people seeking US humanitarian protection, ensure appropriate infrastructure and support for asylum seekers, and allow these individuals and families to pursue their asylum claims in safety and without fear.

# MEXICO

Mexico has a recent history of mixed migration flows consisting primarily of migrants fleeing Central America for North America. It has served as a country of origin, transit, destination, and return for forcibly displaced populations and people in need of international protection. Recently, Mexico has also experienced an increased number of applicants from outside the Americas, who flee their countries for diverse reasons.

The 2011 Law on Refugees, Complementary Protection, and Political Asylum was a landmark piece of legislation, surpassing regional protection standards. However, Mexico's refugee and asylum system has grown weaker since its enactment, reflected in recent budget cuts to the Mexican Commission for Refugee Assistance (COMAR), which is responsible for implementing policy on refugees and complementary protection.

This has resulted in a lack of institutional capacity to respond to increasing numbers of asylum applications, leading to delays in application processing. Though the Law on Refugees established a 45 business day limit on application processing, this limit has not been met, discouraging asylum applicants who must wait for longer periods for a response.

The effects of the pandemic have only exacerbated the challenges facing Mexico's displaced populations. The pandemic has resulted in an

increase in unemployment, evictions, school dropouts, crowded living conditions, and xenophobia. Difficulties in accessing health care and increased returns to countries of origin have also harmed asylum seekers' mental health.<sup>43</sup> Since the start of the pandemic, psychologists in the JRS Mexico office observed high levels of stress among the asylum seekers they serve, including more cases than normal of psychiatric issues.

Mexico, however, did not close its borders during the COVID-19 pandemic, unlike other Central American countries, and granted access to virtual asylum procedures conducted by COMAR officials. Those detained in immigration centers were permitted to present their applications for asylum, although they suffered from unsanitary conditions and overcrowded conditions, which worsened during the pandemic. These conditions made it nearly impossible to comply with public health measures to prevent the spread of COVID-19.

JRS Mexico responds to the needs of asylum seekers in a variety of ways, including the provision of legal assistance and psychosocial support to those petitioning for asylum in Mexico. A team of lawyers assists the most vulnerable with the legal processing of their asylum claims to the Mexican government. While asylum applications in Mexico have risen over the past few years, in 2020, the Mexican



**Hidalgo City Bridge at the border of Mexico with Guatemala.**

government received 41,329 asylum applications from individuals representing 80 countries, a 42 percent decrease from 2019.

During the pandemic, the JRS Mexico team faced challenges in maintaining contact with their clients during lockdown. “Since face-to-face appointments are limited and asylum seekers don’t have the ability to make phone calls, it was difficult to maintain the necessary communication to provide legal or counseling support,” said Marilú Cárcamo, JRS Mexico psychologist in Tapachula, Chiapas.

For those who were able to communicate with the JRS Mexico team, crowded living conditions made it difficult to secure the privacy necessary to provide critical information about their cases, making legal accompaniment difficult. JRS Mexico’s legal team also noted that while asylum applications typically take about three months to process, the pandemic has left many in limbo, often doubling the processing time.

The long-term impact of COVID-19 on Mexico’s asylum system and the secondary impact of US asylum policy on those waiting in Mexico has yet to be seen. While the pandemic has aggravated the protection environment for asylum seekers, JRS Mexico will continue to address the needs of those it is able to serve.



**Border fence that separates the city of Tijuana from San Diego. On the other side you can see an American soldier.**

# AUSTRALIA

The COVID-19 pandemic has emerged in the context of sustained restrictive deterrence policies in Australia. Over many years, Australia has introduced laws and policies to restrict access to asylum, particularly for those arriving by sea.<sup>44</sup> Against this backdrop, COVID-19 has impacted access to asylum in Australia in a number of ways including border closures, travel restrictions, and the temporary suspension of offshore humanitarian visa grants.

Interception and turn-back policies enacted in 2013 have prevented hundreds of people from reaching Australian territory by boat and claiming asylum onshore. In the intervening years, the majority of asylum seekers arriving in Australia by boat have been transferred to Australian-funded detention centers on the island of Nauru or to Papua New Guinea (PNG). While these centers are now closed, the Australian government retains the ability to transfer asylum seekers to both countries under memoranda of understanding signed in 2012.<sup>45</sup>

As of March 2021, a significant proportion of asylum seekers previously held in these offshore detention centers and subsequently transferred back to Australia for medical treatment were released into the community on short-term visas. But they are prevented from accessing asylum procedures or settling in Australia through other visa pathways.<sup>46</sup> A small number of asylum

seekers are currently still in Nauru and PNG and do not have access to any long-term protection options.

The closure of Australia's borders to all non-citizens and non-residents since March 2020 has further restricted access to asylum onshore. These closures have blocked all prospective onshore asylum seekers from entering the country. This primarily affects asylum seekers arriving in Australia by plane who typically can claim asylum either at an airport or once in the community.<sup>47</sup> Nonetheless, there was a monthly average of 1,108 new onshore applications for asylum between April 2020 and January 2021, predominantly from temporary migrants already living in the community on tourist, skilled, or other visas.<sup>48</sup>

For those already in Australia, lockdowns and mobility restrictions have impacted the quality of asylum procedures in a number of ways. Applicants have found it harder to acquire personal documents from overseas and to print necessary documents in a timely fashion, creating delays in submission or interview scheduling. JRS Australia is also aware of asylum interviews conducted by phone which have impacted the applicant's ability to engage with the interpreter, and the way decision-makers perceive applicants' tone, body language, and credibility.

“ People seeking asylum have lost jobs or had hours reduced as a result of the pandemic. They have been unable to access government support available to citizens and permanent residents. My message to Australia and the world is that people seeking asylum are human beings: **They need to eat good food, attend university, have access to good medical care, and be given the opportunity to reach their potential.** ”

AN ASYLUM SEEKER FROM WEST AFRICA

Due to the economic slowdown associated with lockdowns, a significant proportion of people seeking asylum have also lost employment. As of late last year, 47 percent of people assisted by JRS Australia's employment program had lost their job during the pandemic. But unlike citizens or permanent residents, they have not had access to a financial safety net from the Australian government.<sup>49</sup> As a result, they are at ongoing risk of homelessness and destitution, affecting mental and physical well-being and the ability to engage meaningfully with asylum procedures.

Since the pandemic began, JRS Australia has seen a 263 percent increase in demand for its services. This includes remote case management and psychosocial support, the provision of emergency financial assistance for housing and medication, sexual and gender-based violence prevention and response service, and a food bank. As of March 2021, more than 1,000 people, including 300 children, rely on JRS Australia's food bank service each week.

The future for people seeking asylum in Australia is uncertain. There are thousands of people seeking asylum who have already waited years for their claims to be resolved. There are also increasing numbers of recognized refugees, previously granted forms of temporary protection, whose visas are expiring and who are going through complex and onerous reassessment procedures.<sup>50</sup>



**JRS Australia staff members help to pack fresh food for the daily run to support refugees and asylum seekers.**

In the context of a pandemic, a recession, and the absence of an Australian government safety net, all of these people are facing serious economic hardships, particularly if unemployed or underemployed. They must not be left behind or excluded in national recovery planning. There are also serious, unanswered questions about how those subject to offshore detention and unable to claim asylum in Australia will be able to access protection.

# COLOMBIA

Before the pandemic began, massive arrivals of Venezuelan forced migrants and people in need of international protection in Colombia had already overwhelmed the country's response capacity. In the last five years, the number of Venezuelans in need of protection increased by 5,350 percent, leading to profound challenges and institutional backlogs.<sup>51</sup> As of December 2019, Colombia had received 8,824 asylum requests from Venezuelans, but only 425, or 4.8 percent, were successful.<sup>52</sup> What's more, an estimated 950,000 Venezuelans in Colombia were undocumented. In order to provide effective protection to those who seek it, Colombia's asylum system is in serious need of reform.

The Colombian government's response to COVID-19, including the closure and militarization of land borders, has limited Venezuelans' right to access the territory and request asylum. Refugee applications and procedures are currently only accepted virtually by the Advisory Commission for the Determination of the Status of Refugees. Likewise, appointments to apply for and renew residency permits are carried out virtually through a flawed web page, resulting in delays.

JRS Colombia provides assistance and legal advice to migrants and refugees, educates them on their rights, and provides guidance on navigating access to local services. They have seen first hand that virtual processes represent a principle barrier for forced migrants, who may not have internet access, an email address, or the requisite computer skills to apply for asylum or access social services. Due to these complications, many migrants cannot access these critical services.

Even before the outbreak, the asylum system in Colombia was deeply flawed. As stipulated by Decree 1067 of 2015, Colombia's asylum system does not provide a time limit for processing asylum applications. As such, response times can take up to three years.<sup>53</sup> This uncertainty is unacceptable. Further challenging asylum seekers, residency permits do not provide the right to work, making it difficult for asylum seekers and refugees to make a living in the formal sector. These shortcomings dissuade asylum seekers from requesting protection in the country.



Venezuelans crossing the border with Colombia.

While JRS welcomes Colombia's recent announcement that it will grant temporary protection status for 10 years to 1.7 million Venezuelans, allowing formerly undocumented migrants and asylum seekers to work legally in Colombia, there is more to be done. "Colombia's ability to respond effectively to asylum requests needs to improve. Asylum applicants must be offered protection, and Colombia must move towards the widespread recognition of refugee status for Venezuelan forced migrants," commented Astrid Rivera, a member of the legal team in the Arauca-Apure Binational Office, JRS Latin America/Caribbean Regional Office.



JRS helping Venezuelan Asylum seekers in Norte de Santander, Colombia.

# EUROPEAN UNION

Since 1999, the European Union (EU) has been working on the establishment of the Common European Asylum System, a series of standards for the fair treatment of asylum seekers that all EU member states must abide by. Despite this attempt to coordinate, considerable differences still exist among EU member states, both in terms of reception conditions and interpretation of refugee protection needs. Moreover, as a reaction to the large increase in sea arrivals in 2015-16, the EU has increasingly pursued a policy of externalization, in which it seeks to prevent irregular arrivals by outsourcing migration controls to foreign countries.<sup>54</sup>

COVID-19 has prompted a further degradation of asylum seekers' rights in Europe. Reduced travel possibilities and confinement policies adopted by countries in the European Union in response to COVID-19 resulted in a sharp decrease both in arrivals and in asylum applications in Europe in 2020. In fact, applications for asylum in the EU dropped by more than 30 percent in 2020 compared to the previous year.<sup>55</sup>

With the exception of Italy and Malta, which initially closed their ports to boat arrivals, no country in Europe officially closed its borders to asylum applicants. On the contrary, the European Commission stated very clearly at the beginning of the pandemic that COVID-19 restrictions could not prevent asylum seekers from accessing EU territory.<sup>56</sup>

However, in practice, asylum applications were suspended for a number of weeks between March and April 2020 in many European countries, mainly because applicants could not be received in person. Eventually, registration of new asylum applications resumed everywhere, but many obstacles remained. This was the case particularly in countries where asylum seekers were required to make appointments to register their applications and faced busy phone lines and long delays.

The governments of Italy and Malta declared in April 2020 that the countries' ports were unsafe due to COVID-19.<sup>57</sup> This led to episodes where hundreds of asylum seekers lived in squalid conditions on ships for several weeks. Following international criticism, both countries eventually allowed those rescued at sea to disembark.





**JRS Bosnia and Herzegovina distribute clothing and other items in January 2021.**



**Language course in Italy in March 2021.**

Research conducted by JRS in several EU countries found that the COVID-19 crisis has magnified and aggravated pre-existing flaws in asylum systems across Europe. Before the pandemic, the reception of asylum seekers had been insufficient, and even inhumane, in many countries.

For example, many governments failed to provide reception facilities to which asylum seekers are entitled under EU law. The risk of contracting and spreading the virus also aggravated the already harsh situations in which displaced people found themselves, including those living in overcrowded and unsanitary spaces and those facing homelessness.

COVID-19 also impacted migrants in detention, as visits were heavily reduced or suspended, further isolating detained populations. The near absence of flights also made the enforcement of returns practically impossible. Although detention is unlawful when there is no reasonable prospect for return under EU law, only one country in Europe — Spain — released detainees during the lockdown.

Other countries continued to detain asylum seekers and irregular migrants, and in some cases, detention periods became even longer. In Portugal, the negative effects of detention are being felt more acutely during the pandemic as detention periods last longer and the uncertainty of the outcome of return processes weighs enormously on those waiting. Sofia Teles, legal assistant for JRS Portugal, stated that, “Since flights are suspended, borders are closed, and returns are not possible, the legal basis for detention is lacking. The pandemic could prove to be an excellent opportunity to look at detention from a new perspective and consider alternative options.”

One year after the COVID-19 pandemic began, JRS Europe continues to serve asylum seekers through its programmatic efforts in 22 countries. This is done in a wide range of ways: providing reception, distributing necessary items (e.g. food and sanitary products), visiting detention centers, providing legal and social assistance and supporting integration (e.g. through language courses). In addition, advocating for improved asylum systems throughout Europe will continue to be a priority.

# SOUTH AFRICA

During the apartheid era, South Africa was a country of origin for refugees and asylum seekers who sought protection from the apartheid regime. After the democratic transition in 1994, South Africa began to welcome asylum seekers and provided support for integration, such as access to education and housing. However, since the enactment of the Refugee Acts in 1998, the social and policy environments have become increasingly hostile toward asylum seekers.

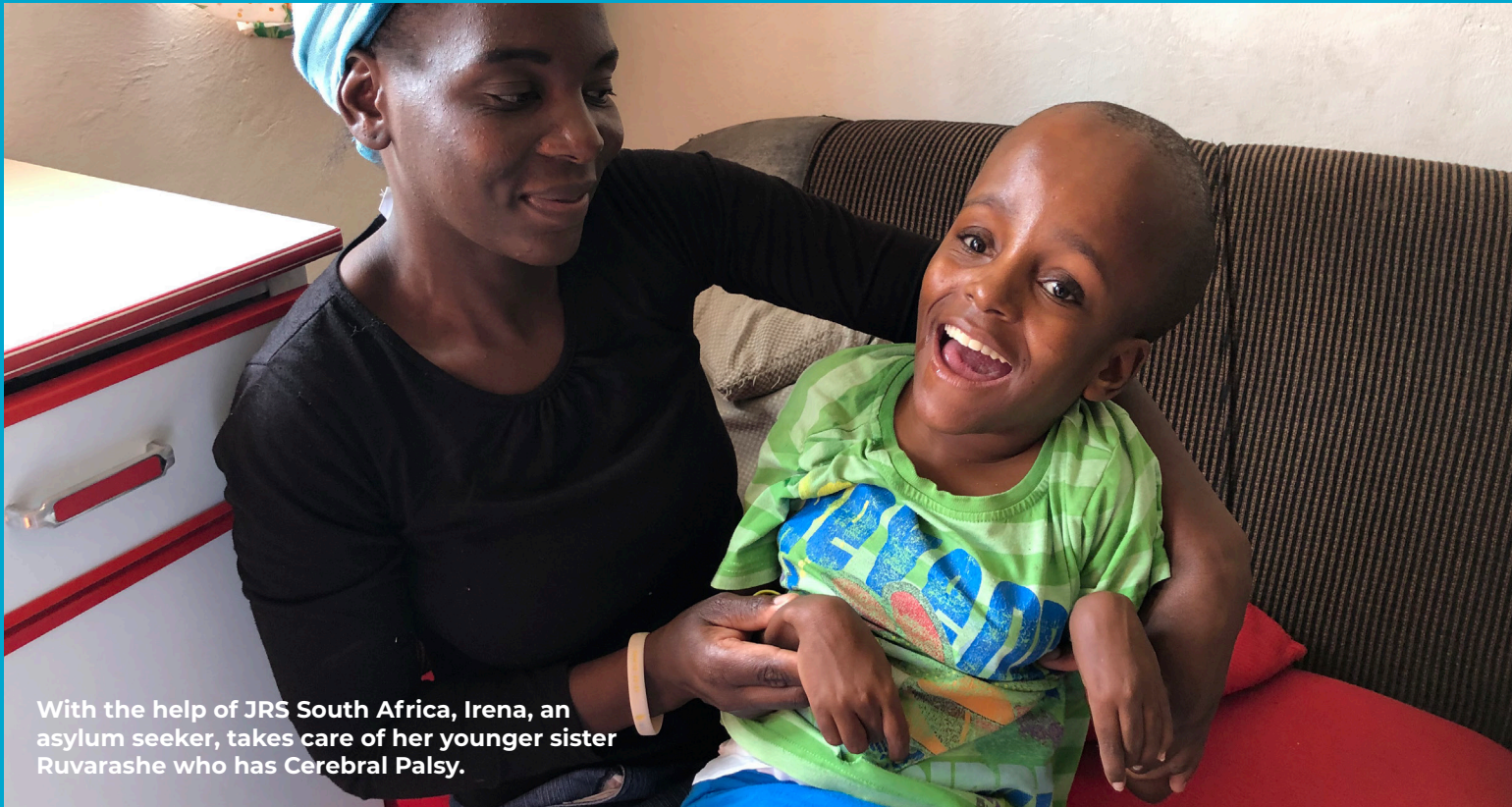
Xenophobic attitudes pervade South Africa's policy, administrative frameworks, justice system, and social services. Xenophobic public discourse has been accompanied by a shift to more restrictive policy. For example, the Refugee Amendment Act of January 2020 expanded the grounds for exclusion and cessation of refugee status. It can be argued that many of the new provisions violate South Africa's international obligations and the South African Constitution.<sup>58</sup>

The Department of Home Affairs (DHA) estimates that there are 80,758 recognized refugees currently in South Africa, with 188,296 additional active asylum files registered in its systems.<sup>59,60</sup> There are likely more asylum seekers in South Africa than indicated in the

DHA system as a result of barriers to accessing documentation, expiration of documentation, and general maladministration on the part of DHA.<sup>61</sup>

South Africa's asylum system has become severely overburdened and lacks the capacity to effectively administer protection. Though asylum numbers have been steadily declining, the DHA is unable to adequately process asylum seekers. The average processing time for new arrivals is seven months because of a lack of translation services and a backlog of tens of thousands of cases.<sup>62</sup> It would take the Refugee Appeals Board 68 years to clear its backlog even if no new cases are filed.<sup>63</sup> This leaves asylum seekers in South Africa in a continuous cycle of having to renew their documentation every one, three, or six months, a time-consuming and costly ordeal.

The COVID-19 pandemic has compounded existing concerns and backlogs in the South African asylum system. In March 2020, when South Africa first went into lockdown, refugee reception offices were temporarily closed alongside other DHA services in an attempt to prevent the spread of the virus. Asylum seekers and refugees were granted blanket extensions until March 31, 2021.



**With the help of JRS South Africa, Irena, an asylum seeker, takes care of her younger sister Ruvarashe who has Cerebral Palsy.**

While the extensions have provided some relief for recognized asylum seekers and refugees, they have resulted in barriers to basic services. Most serious has been impeded access to health care services, banking services, and social grants. What's more, DHA has failed to inform other government departments about the blanket extensions, leaving many asylum seekers in continuous fear and without services to which they are entitled.

The DHA is not communicating its plans to re-open or provide services for asylum seekers and refugees in the near future. Unfortunately, JRS suspects that while these blanket extensions have provided temporary relief in the context of a health crisis, the extensions will compound existing backlogs and further barriers in documenting asylum seekers and refugees.

During this challenging time, JRS South Africa has continued to serve asylum seekers through its health, education, livelihoods, advocacy, and pastoral care programming. Patrick Illunga, a qualified nurse and community health care worker in JRS South Africa's health program, has seen first hand the impact COVID-19 has had on the lives of those he serves.

Mr. Illunga notes that asylum seekers have not had access to the social assistance provided by the government and that COVID-19 has exacerbated the discrimination that refugees and asylum seekers face in their daily lives. "COVID-19 has made it worse for them," he says.

# RECOMMENDATIONS

COVID-19 has caused death and disruption across the globe, but access to asylum does not have to be another casualty of the pandemic. Those who have been forced to flee their homes to escape violence and persecution have the right to seek asylum, and to do so in a safe, protective environment. Although the effects of the pandemic have caused hardships for asylum seekers, this time also presents an opportunity to strengthen the asylum system and to redress some of the long-standing weaknesses in asylum processes.

**In response to the impact the COVID-19 pandemic has had on asylum policies and the opportunity this moment presents to generally strengthen asylum systems, JRS and the Institute for the Study of International Migration urge policymakers to implement the following recommendations:**

- 1** Reinstate access to asylum, including at the US border, putting in place measures that manage risks to public health, but that do not deny persons seeking international protection from persecution and other threats from doing so.
- 2** Provide blanket extensions for asylum processes and effectively communicate plans for a staggered re-opening of services for asylum seekers already enrolled in asylum proceedings.
- 3** Provide adequate resources to meet the needs of asylum seekers during COVID-19 and beyond, including provision of safe accommodations, educational opportunities for children and youth, livelihood support, and legal assistance, through government entities, UN agencies, and civil society organizations.
- 4** Increase investments in asylum systems to boost operational capacity and ensure that backlogs exacerbated by the pandemic are addressed and future application processes are efficient.
- 5** Ensure that asylum officers are adequately trained and that asylum processes are fair and equitable. Stable systems will allow for more appropriate responses during public health and other emergencies.
- 6** Conduct analyses at the national level regarding the costs and benefits of virtual tools in the asylum process, as implemented during COVID-19.

7

Support small-scale reception models that allow for autonomous living and adapted accompaniment, including private sponsorship where it doesn't exist, to support asylum seekers and refugees to start integrating in the host country as soon as they arrive.

8

Cease the detention of children and indefinite detention of adult asylum seekers. Explore the use of community-based alternatives to detention, which will provide safe and hygienic spaces and have demonstrated past success.

9

Provide safe and legal pathways for protection to those who are eligible including resettlement, family reunification policies, and humanitarian visas.

10

Support a global narrative that encourages citizens to keep an open mind as they encounter people from different cultures and backgrounds so that such encounters can be mutually enriching and build stronger and more inclusive communities.

11

Address the root causes of displacement by providing effective and strategic investments in development assistance and diplomatic efforts in countries of origin.

## CONCLUSION

All people have the right to seek protection from persecution. However, in recent years, all around the globe, this fundamental right has been under siege. From the US to South Africa to Australia, national governments have adopted strategies to deter asylum seekers from seeking protection and to prevent them from claiming asylum. As a result, states less-equipped to contend with large influxes bear the brunt of the world's displacement.

COVID-19 has only worsened these existing vulnerabilities. Closed borders, backlogged asylum systems, and widespread economic devastation have imposed real and disastrous consequences on asylum seekers, refugees, and migrants alike. In order to ensure that protection is available to those who require it, states must not allow temporary public health-related restrictions on asylum to become permanent. Rather, the pandemic offers a valuable opportunity for world leaders to recognize the interconnectedness of all people in society, including the displaced, and to strengthen asylum and social systems to fully accommodate the needs of the most vulnerable.

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**English class at the JRS Greece office in Athens. Due to the COVID-19 pandemic, the classes are online on computers provided by JRS.**

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**JRS Australia volunteers ration rice and sugar for food deliveries.**

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**Gardening at the Pedro Arrupe integration house for unaccompanied refugee minors in Serbia in April 2020.**



Jesuit Refugee Service (JRS) is an international Catholic organization serving refugees and other forcibly displaced people. JRS's mission is to accompany, serve, and advocate on behalf of refugees and other forcibly displaced persons, that they may heal, learn, and determine their own future. Founded as a work of the Society of Jesus (Jesuits) in 1980, JRS today works in 56 countries worldwide to meet the educational, health, and social needs of more than 800,000 refugees.